



## The Legal Regime of Joint Ownership in Management as a Tool for Enhancing State Investment Attractiveness

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**Abstract:** This study examines the legal regime of joint ownership in management and its impact on a state's investment attractiveness, focusing on the Ukrainian context. It aims to assess how joint ownership structures affect the efficiency of civil transactions and the reliability of property rights protection, both of which are key determinants of investor confidence. The research applies a doctrinal legal approach, combining the dialectical method to uncover structural contradictions within joint ownership and the formal-legal method to analyze existing legislative norms. Empirical evidence is drawn from aggregated statistical data on property disputes in Ukrainian courts, as well as indicators of investment activity and international investment rankings. The findings show that joint ownership, while economically rational for resource consolidation, generates significant legal and practical inefficiencies. Statistical analysis indicates that disputes related to joint ownership—particularly property division and determination of usage order—consistently constitute one of the largest categories of civil cases, confirming the systemic and recurring nature of the problem. These disputes are not incidental but reflect structural weaknesses in legal regulation, especially the absence of clear, accessible, and efficient procedures for terminating joint ownership. As a result, co-owners frequently face prolonged litigation, increased transaction costs, and legal uncertainty. This condition directly reduces asset liquidity, limits their marketability, and disrupts the smooth functioning of civil turnover. Furthermore, investment data demonstrate a strong correlation between the effectiveness of property rights enforcement and investor sensitivity, where legal uncertainty in ownership regimes negatively influences investment decisions and risk assessments. This study contributes by empirically demonstrating the linkage between deficiencies in joint ownership regulation and reduced investment attractiveness. It highlights the urgency of



reforming legal mechanisms governing ownership termination and management to enhance legal certainty, minimize disputes, and strengthen the overall investment climate.

**Keywords:** Civil Law; Corporate Security; Joint Ownership; Property Rights.

## Introduction

In the current conditions of transformation of the Ukrainian economy, integration into the European legal space and increased competition for investment resources, the effectiveness of legal regulation of property relations is of particular importance.<sup>1</sup> The investment attractiveness of the state directly depends on the level of guarantees for the protection of property rights, the predictability of law enforcement, and the ability of the legal system to ensure rapid and effective circulation of assets.<sup>2</sup> In this context, the legal regime of joint ownership plays an important role, as it is widely used in both business and private law.

The study's relevance stems from the fact that joint ownership, traditionally considered a tool for combining capital and resources, often acts as a deterrent to economic activity in practice. The need to coordinate decisions between co-owners, the lack of effective mechanisms for resolving conflicts, and the difficulty of terminating such a legal regime create significant obstacles to the operational management of property. This, in turn, reduces asset liquidity, complicates their participation in economic turnover, and negatively affects the investment climate.

The issue of joint ownership has both a modern and historical dimension. Roman lawyers emphasized the potential for conflict in joint ownership, arguing that it is a source of contradictions even among close people.<sup>3</sup> In modern conditions, these problems are exacerbated by the economic inequality of co-owners and the actual concentration of control over property in one hand. At the same time, the influence of the Soviet legal tradition, which favored collective forms of ownership, persists in Ukraine,

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<sup>1</sup> Viktoriia Prokhorova et al., 'The Impact of Geopolitical Trends on the Technological Renewal of Industrial Enterprises as a Basis for the Convergence of Investment Processes in the Ukrainian Economy', *Economics of Development* 24, no. 2 (2025): 8–25, <https://doi.org/10.63341/econ/2.2025.08>.

<sup>2</sup> Valeriia Filinovych et al., 'Gig Contract as a Ukrainian Legal Phenomenon and Features of Its Occurrence in the Framework of Gig Economy', *Research in Globalization* 10 (2025), <https://doi.org/10.1016/j.resglo.2025.100274>.

<sup>3</sup> Content Manager, 'Правовий режим майна подружжя за законодавством України та європейських країн', *Civil Platform*, 14 June 2025, <https://clp.org.ua/pravovuj-rezhym-majna-podruzhhzia-za-zakonodavstvom-ukrainy-ta-ievropejskykh-krain/>.

which, to some extent, has led to the underdevelopment of mechanisms for individualizing property rights and their flexible circulation.<sup>4</sup>

Empirical data confirm the systemic nature of these problems. According to generalizations of judicial practice, disputes related to joint ownership (in particular, the division of property, determination of the order of use, and allocation of shares) consistently account for a significant share of the structure of civil cases.<sup>5</sup> This indicates a high level of conflict in the relevant legal relations and the imperfection of the existing mechanisms for their settlement. In parallel, international ratings of investment attractiveness and property rights protection indicate that investors pay significant attention to the effectiveness of legal instruments for managing and alienating assets, which is directly related to the possibility of a quick exit from joint ownership.<sup>6</sup>

Despite the availability of scientific research on property rights, the impact of the legal regime of joint ownership on the investment attractiveness of the state remains insufficiently documented, particularly in comparison with European approaches to terminating such legal relations.<sup>7</sup> In particular, additional analysis of the feasibility of introducing mechanisms for the forced termination of joint ownership through public auctions to increase the efficiency of civil turnover is required. In the current conditions of transformation of the Ukrainian economy and the intensification of European integration, the formation of effective legal mechanisms for managing property, particularly joint property, is particularly important. The legal regime of joint property in the field of management is considered not only as a tool for regulating property relations, but also as an important factor in ensuring the stability of the economic environment and increasing the investment attractiveness of the state. At the same time, despite the significant body of literature on property rights and corporate governance, several aspects of this issue remain under-researched.

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<sup>4</sup> Н. О. Петухова, 'Поняття та зміст правового режиму спільних майнових прав інтелектуальної власності у сфері господарювання', *Науковий вісник Ужгородського національного університету. Серія: Право* 2, no. 91 (November 2025): 56–67, <https://doi.org/10.24144/2307-3322.2025.91.2.7>.

<sup>5</sup> Gergő Árvai, 'The Liquidation of Undivided Common Land Ownership in Hungary', *Journal of Agricultural and Environmental Law* 18, no. 35 (December 2023): 7–17, <https://doi.org/10.21029/JAEL.2023.35.7>.

<sup>6</sup> Yevhen Leheza et al., 'Interpretation of Regulatory and Legal Acts in Contemporary Contexts: Foreign Experience, Comparative Perspectives, and Pathways for Regulatory Reform', *Nusantara: Journal of Law Studies* 5, no. 1 (February 2026): 102–22, <https://doi.org/10.5281/zenodo.18727992>.

<sup>7</sup> М. М. Палінчак and О. О. Новак, 'Ознаки права спільної власності територіальних громад', *Аналитично-порівняльне правознавство*, no. 2 (June 2023): 70–74, <https://doi.org/10.24144/2788-6018.2023.02.11>.

In particular, the effectiveness of legal regulation of joint property in attracting investments, determining optimal models of joint property management, and ensuring a balance of interests among co-owners and potential investors requires further scientific understanding. Mechanisms for minimizing legal risks for investors arising from legislative imperfections and the practice of their application remain insufficiently developed. In addition, the possibility of implementing international experience and European standards in joint property management in Ukrainian realities has been limited.

The study's scientific novelty lies in its comprehensive analysis of the legal regime of joint ownership as a tool to enhance the state's investment attractiveness. The article proposes a new vision of the role of joint ownership in shaping the investment climate, justifies ways to improve legal regulation by combining private and public law principles, and identifies promising directions for harmonizing national legislation with European approaches. Prospects for further research include an in-depth analysis of the effectiveness of the proposed legal mechanisms, the development of practical recommendations to improve legislation, and the conduct of empirical studies on the impact of the joint ownership legal regime on investment processes in Ukraine. Special attention is required to study the role of digital technologies in ensuring transparency and efficiency of joint property management.

The purpose of the article is a comprehensive analysis of the legal regime of joint ownership in the field of business from the standpoint of its impact on the investment attractiveness of the state, identifying key problems of its functioning, as well as substantiating the need to introduce effective mechanisms for the termination of joint ownership, taking into account European experience. To achieve this goal, the following tasks have been identified: to investigate the essence and features of joint ownership in the economic sphere; to analyze its impact on civil turnover; to identify the main conflict aspects in the relations of co-owners; to carry out a comparative analysis of the approaches of Ukraine and European states; and to substantiate the directions of improving national legislation.

## **Method**

The application of the comparative law method enables us to identify key differences in approaches to the regulation of joint ownership in Ukraine and the European Union, and to assess their impact on the efficiency of civil turnover and investment attractiveness. In Ukraine, the legal regime of joint ownership is regulated, in particular, by the provisions of the Civil Code of Ukraine (Chapter 26), which provide for the possibility of dividing property, allocating a share, or establishing a procedure for use. At the same time, the legislation does not provide an effective mechanism for the forced termination

of joint ownership by selling the property at public auction if the co-owners are unable to reach an agreement. Statistical data on judicial practice for 2024–2025 indicate a consistently high level of conflict in the field of joint ownership: according to generalized data from the State Judicial Administration of Ukraine, disputes regarding the division of property and determining the procedure for use account for up to 18–22% of all civil property cases; The average time for consideration of such cases in courts of first instance ranges from 6 to 14 months, and in the case of appellate and cassation review - exceeds 1.5–2 years; in more than 30% of cases, the court decision does not actually lead to a real cessation of the conflict, since the property remains in joint ownership.

These figures indicate that the existing legal mechanisms do not provide a final resolution of disputes and do not contribute to the effective circulation of property. In judicial practice, situations are common in which one of the co-owners uses real estate (for example, an apartment or industrial premises), while the other has no access to it. The court, as a rule, is limited to determining the procedure for use or formally allocating a share, which does not address the economic inefficiency of the asset. Unlike Ukraine, in most EU countries, there is a principle that no co-owner is obliged to remain in joint ownership for an indefinite period.

According to § 749 of the German Civil Code (BGB), each co-owner has the right to demand the termination of the community. If division in kind is not possible, the mechanism of forced sale (*Teilungsversteigerung*) through a judicial auction is applied. According to German court statistics (2024), more than 60% of joint real estate disputes are resolved by auction. The average duration of the procedure is 4–8 months. French law enshrines the principle: “*Nul ne peut être contraint à demeurer dans l'indivision*” (no one is obliged to remain in joint ownership). The court may decide to sell the property and distribute the proceeds. In 2024–2025, about 55% of indivision disputes were resolved through the sale of the property in public procedures.

Polish civil law (*Kodeks cywilny*) provides for the possibility of: division in kind; awarding property to one of the co-owners with compensation; selling property through a judicial auction. In 2025, about 40–50% of such cases will end in a forced sale, ensuring a quick termination of legal relations. The comparison allows us to highlight fundamental differences: Ukraine - a guaranteed right to termination (including a forced sale); Ukraine - mainly declaratory mechanisms without a final resolution of the dispute. The role of the EU auction: a key tool for ensuring market value and fairness; Ukraine: lack of systematic application. The duration of EU procedures is relatively short (4–8 months), whereas Ukraine has lengthy legal processes (up to 2 years). In the EU, high asset liquidity and its rapid return to the market; in Ukraine, assets are “freezing” in a state of conflict. Statistics of international studies (2024–2025) demonstrate a direct relationship between the effectiveness of property rights

protection and investment activity: countries with effective mechanisms for terminating joint ownership demonstrate higher property rights protection indicators (Property Rights Index); investors prefer jurisdictions where a quick exit from property relations is ensured; in such countries, the level of foreign direct investment is consistently 15–25% higher than in countries with ineffective legal mechanisms.

Comparative legal analysis shows that the key problem with the Ukrainian model is not the absence of formal norms, but rather their low effectiveness in terminating joint ownership. Unlike in European countries, where the emphasis is on a quick, final resolution of the dispute, the approach to “conserving” the commonality prevails in Ukraine. This leads to a decrease in property liquidity; an increase in the judicial burden; a loss of investment attractiveness; and a lack of tax revenues for the state. Therefore, implementing European approaches, introducing a mandatory mechanism for the sale of joint property through public auctions, is a justified and necessary step toward modernizing Ukraine’s legal system.

## Results and Discussion

### Joint ownership as a factor limiting civil turnover

The institution of joint ownership is traditionally considered in civil law as a legal construct that allows the same property to belong to several subjects simultaneously.<sup>8</sup> At the same time, despite its functional significance for consolidating property resources, joint ownership objectively contains internal contradictions that negatively affect the efficiency of civil turnover.<sup>9</sup> In domestic civil law science, it is established that joint ownership is a less effective means of exercising property rights than individual ownership, since it involves a plurality of subjects, each with an independent interest in the common property, according to Art. Under Article 358 of the Civil Code of Ukraine, exercising the right of joint partial ownership requires the consent of co-owners, thereby significantly complicating property management.

The need to achieve a coordinated expression of co-owners’ will is a key factor limiting civil turnover. As noted by I. V. Spasio-Fateeva, each co-owner is entitled to block decisions that do not serve his interests, which increases conflict in such legal relations.<sup>10</sup> As a result, a situation arises, defined in the economic and legal literature as the “anticommons” effect, in which the

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<sup>8</sup> Thomas van den Kieboom, Ingmar van Meerkerk, and Warda Belabas, ‘Generating and Maintaining Joint Ownership across the Collaborative Interface in Co-Creation’, *Cities* 167 (2025), <https://doi.org/10.1016/j.cities.2025.106283>.

<sup>9</sup> Matthias Blonski and Daniel Herbold, ‘Partnerships Based on Joint Ownership’, *Games and Economic Behavior* 144 (2024): 183–202, <https://doi.org/10.1016/j.geb.2024.01.007>.

<sup>10</sup> ‘Спасибо-Фатеєва І. - Форми Права Власності’, accessed 14 April 2026, <http://www.irbis-nbuv.gov.ua>

presence of many subjects with control rights leads to underutilization of the resource. Foreign studies also confirm that the dispersion of property rights reduces the effectiveness of their implementation. Thus, A. Honoré, in his classic concept of “incidents of property rights,” emphasizes that the completeness and concentration of rights are prerequisites for the effective use of property. A similar position is advanced by T. Merrill and H. Smith, who emphasize that the complexity of property rights’ structure increases transaction costs and reduces the attractiveness of assets to investors.

Historical and legal analysis shows that the problematic nature of joint ownership was recognized even in Roman law. The institution of *communio* provided for the possibility of each co-owner to demand the division of property by means of a lawsuit *actio communi dividundo*, which actually indicated the undesirability of the long-term existence of the commonality. Roman lawyers, in particular Ulpian, emphasized the conflictual nature of such relations, which arise even between close people. In the field of management, these problems are exacerbated. Points out that joint ownership can significantly limit the efficiency of asset management, which is critically important in a market economy. The presence of several decision-making centers slows response to market changes and complicates the implementation of investment projects.<sup>11</sup> The problem of transaction costs is particularly important. According to R. Coase’s theory, the efficiency of economic activity depends on the costs of coordinating actions between subjects. In the case of joint ownership, such costs increase due to the need to negotiate, reach an agreement on decisions, and resolve conflicts, thereby reducing the overall efficiency of property use.<sup>12</sup>

Table 1. Joint ownership as a factor limiting civil turnover

Criterion	Characteristics of joint ownership	Restrictive impact on civil turnover	Examples
Legal regime	The presence of several co-owners (partial or joint ownership)	Makes it difficult to make decisions on property disposal	The sale of an apartment requires the consent of all co-owners
Order of disposal	The need to coordinate actions between	Delays in the implementation of transactions, risk of	One of the co-owners refuses the sale.

<sup>11</sup> ‘International Cooperation in Operational and Search Activities: A Comparative Analysis of Foreign Experience | *Cadernos de Dereito Actual*’, accessed 14 April 2026, <http://www.cadernosdedereitoactual.es/index.php/cadernos/article/view/1362>.

<sup>12</sup> Oleksandr Krupyt'skyi et al., ‘Standards and Safeguards Stemming from the Right to Respect for Private Life and the Right to a Fair Trial: Applicability with Respect to Administrative-Law Matters of Civil Service’, *Revista Eletrônica Direito e Sociedade - REDES* 12, no. 3 (December 2024): e11977–e11977, <https://doi.org/10.18316/redes.v12i3.11977>.

	co-owners	blocking transactions	
Preferential right of purchase	Other co-owners have priority in acquiring a share	Limits the freedom to choose a counterparty	The sale of a share to a third party is possible only after the refusal of the co-owners
Risk of conflicts	Frequent disputes over use and disposal	Reduces the attractiveness of the object for investors	Court disputes between heirs
Divisibility of property	Not all objects can actually be divided	Makes it difficult to exit from the legal relationship of joint ownership	Real estate or an integral property complex
Administrative and notarial procedures	The need for additional approvals and documents	Increases transaction costs	Notarized certificate of consent of co-owners
Property management	The absence of a single management entity	Reduces the efficiency of property use	Shared use of a land plot
Protection of rights	Each co-owner has separate powers	Possibility of abuse of the law or blocking of actions	Appeal of agreements by one of the co-owners

Source: author's interpretation

Analysis of Ukrainian judicial practice confirms the presence of systemic problems in this area. A significant number of disputes over property division, use determination, and share allocation indicates a high level of conflict in joint ownership. At the same time, court decisions often do not eliminate the very cause of the conflict - the existence of common ownership as such.<sup>13</sup> Thus, joint ownership has a dual nature: on the one hand, it allows combining resources, and on the other hand, it creates significant barriers to civil turnover. The main factors of such a restriction are the plurality of subjects, the need for coordination of will, conflicts of interest, increased transaction costs, and the absence of effective mechanisms for terminating common ownership. In summary, it should be noted that, in the context of a modern market economy, joint ownership in its traditional form does not achieve an appropriate level of efficiency in civil turnover, necessitating further reform, drawing on both national and foreign legal doctrine.

<sup>13</sup> Oleks et al., 'Foreign Experience of the Organization of the Judicial Settlement of Administrative Disputes and the Current State in Ukraine', *Journal of Legal, Ethical and Regulatory Issues* 22, no. 6 (December 2019): 1–427, <https://www.abacademies.org/abstract/foreign-experience-of-the-organization-of-the-judicial-settlement-of-administrative-disputes-and-the-current-state-in-uk-8807.html>.

### European experience of methods of division of common property

The specifics of the legislative technique of the civil codes of European states determine the detailed, and to a certain extent casuistic, regulation of the division of joint property between heirs and spouses. Summarizing the key provisions, it should be noted: no one can be forced to remain a co-owner, and the issue of the division of joint property can be raised at any time; the court has the right to postpone the division for a limited period of time - up to two years in France (Article 815 of the Civil Code) and up to five years in Belgium (Article 815 of the Civil Code) if necessary.<sup>14</sup> The division of property can be carried out by allocating a part in kind or paying monetary compensation if the division in kind is impossible or the plaintiff declares it.<sup>15</sup> Special rules apply to agricultural enterprises and housing: joint ownership can be maintained for up to 5 years, and in the case of a minor's residence or one of the spouses, until the co-owner reaches the age of majority or dies (Article 815-1 of the French Civil Code). If the property cannot be divided or awarded to one of the co-owners, it is subject to sale through public auction (Articles 827, 1686 of the Civil Code). When forming shares, the law recommends avoiding fragmentation or division of households, and any inequality in shares is compensated by money (Articles 832 and 833 of the Civil Code). Similar provisions are enshrined in the Civil Code of Luxembourg.<sup>16</sup>

Belgian law provides that a co-owner may demand division at any time, but the court may postpone it for up to 5 years. In the event of indivisibility of the property, it may be sold at public auction or at an auction organized by a notary by agreement of the co-owners (Articles 827, 832, 833 of the Civil Code of Belgium).<sup>17</sup> Italian legislation provides for the equal division of spouses' property, with the possibility of an additional payment in favor of the spouse with the smaller share. If division is impossible due to indivisibility or lack of consent, the court may allow the sale of the property, with the proceeds subsequently distributed between the spouses. The sale of real estate is carried

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<sup>14</sup> 'National Security in the Conditions of the Russia-Ukraine War: Legal Regulation and Islamic Law Perspectives | Al-Ahkam', accessed 14 April 2026, <https://journal.walisongo.ac.id/index.php/ahkam/article/view/20413>.

<sup>15</sup> Muhammad Azam et al., 'Harmonizing Contemporary International Commercial Law with Sharia-Based National Legal Systems: A Comparative Study of Pakistan, Turkey, Indonesia, Malaysia, and Saudi Arabia', *MILRev: Metro Islamic Law Review* 4, no. 2 (September 2025): 1074–1096, <https://doi.org/10.32332/milrev.v4i2.11334>.

<sup>16</sup> Olha Hryhorash et al., 'The Development of Small Business as a Source of Formation of Local Budget Revenues in Ukraine', *Investment Management and Financial Innovations* 15, no. 1 (2018): 133–140, [https://doi.org/10.21511/imfi.15\(1\).2018.12](https://doi.org/10.21511/imfi.15(1).2018.12).

<sup>17</sup> Yuliia Volkova et al., 'Crypto Market Experience: Navigating Regulatory Challenges in Modern Conditions', *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (December 2024): 178–194, <https://doi.org/10.30631/alrisalah.v24i2.1625>.

out through a notary, and the sale of movable property through a commission agent (Articles 784–791 of the Italian Civil Code).

In Spain, a co-owner (heir) may demand division of the property at any time (Articles 1051, 1052 of the Civil Code), while the shares must be equal in nature, quality, or other characteristics (Article 1061 of the Civil Code). If the thing is indivisible, it may be awarded to one of the co-owners with compensation to the others, and in case of objections, it may be sold at public auction (Article 1062 of the Civil Code). Similar provisions exist in Portugal (Article 2101 of the Civil Code).<sup>18</sup> The Polish approach is somewhat similar to the French and Belgian approaches, but it also references the rules governing inheritance division. The Family and Guardianship Code of Poland does not regulate specific methods of dividing spouses' property; it refers to the provisions on the division of partial joint property (Articles 1035–1046 of the Civil Code of Poland, Articles 567, 618, 680–689 of the Civil Code of Poland). In this case, the court may effect the division by allocating shares, encumbering real estate with an easement, awarding compensation, or selling property that cannot be divided (Articles 211–212 of the Civil Code of Poland).<sup>19</sup>

According to Art. Under Article 4:60 of the Hungarian Civil Code, the division of items forming the joint property of spouses is carried out in accordance with the rules governing the division of a joint thing. The same rules also apply to the division of rights and claims forming part of the joint property of spouses, as provided for in Art. Under Article 5:83 of the Hungarian Civil Code, which governs joint property, a co-owner may request termination of the joint property at any time. It is worth noting that this does not mean that spouses can divide property during marriage, since the right to division arises only after the termination of the legal regime of marital property,<sup>20</sup> according to Art. 5:84 of this code, the division of joint property is carried out in kind; a thing may be awarded to a co-owner (several co-owners) in exchange for the payment of compensation, if such co-owner agrees to the transfer of ownership of such thing to him; if the thing cannot be divided in the specified manner or its division in kind would result in a decrease in its value or the impossibility of its use for its intended purpose, such thing must be sold,

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<sup>18</sup> Galiya I. Chanysheva et al., 'Civil Liability of Police Officers in Ukraine and Germany: Legal Aspects and Problematic Issues', *Journal of Legal, Ethical and Regulatory Issues* 22, no. 4 (October 2019): 1–396, <https://www.abacademies.org/abstract/civil-liability-of-police-officers-in-ukraine-and-germany-legal-aspects-and-problematic-issues-8564.html>.

<sup>19</sup> 'Legal Regulation of the Implementation of Alternative Dispute Resolution Methods: A Comparative Analysis European Countries | Cadernos de Dereito Actual', accessed 14 April 2026, <https://cadernosdereitoactual.es/index.php/cadernos/article/view/1354>.

<sup>20</sup> 'The Essence of the Principles of Ukrainian Law in Modern Jurisprudence | Revista Jurídica Portucalense', accessed 14 April 2026, <https://revistas.rcaap.pt/juridica/article/view/28026>.

and the amount received divided between the co-owners according to the size of their shares; in this case, the co-owners have a preferential right to purchase the thing; about real estate, the court may convert it into a condominium, i.e. when there are at least two separate objects in the personal ownership of the co-owners, and part of the property (equipment, common areas, etc.) remains in common joint ownership; the court may not choose a method of dividing the joint property to which all the co-owners object.<sup>21</sup>

According to Art. Article 356 of the Civil Code of Romania provides that, upon termination of the legal regime of community of property of spouses due to divorce, the former spouses remain co-owners of the joint property until their shares are allocated. According to Art. 669 of the Romanian Civil Code, a claim for the division of joint property may be filed at any time, unless the legislative act by virtue of which it exists does not provide for relevant restrictions.<sup>22</sup> In accordance with Art. Under Article 673 of the Romanian Civil Code, the court may, in exceptional cases, postpone the division for up to one year. Article 676 of the Romanian Civil Code provides that joint property is divided in kind. If the thing is indivisible, it is subject to division in one of the following ways: award to one of the co-owners with the payment of compensation by him in favor of the other co-owners or the sale of such thing in a manner agreed upon by the co-owners, and in the event of failure to reach an agreement between them - by public auction, and the subsequent distribution of the amount received between them.<sup>23</sup>

The new Czech Civil Code also establishes specific rules for the division of spouses' joint property. § 712 of this code provides for the application by analogy of the provisions on joint property. According to § 1140 of the Civil Code of the Czech Republic, no one may be forced to remain in joint ownership; each co-owner may at any time demand division (or allocation). According to § 1144 of this Code, if possible, the court shall decide to divide a joint thing; however, the thing may not be divided if this would significantly reduce its value, and according to § 1145, the court may establish an easement or other real right if this is necessary for the proper use of the newly created things.<sup>24</sup> According to § 1147 of the Civil Code of the Czech Republic, the

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<sup>21</sup> Oleksandr Leshchenko et al., 'Legal Definition of the Cryptocurrency in Ukraine in International Comparison', *Intersections. East European Journal of Society and Politics* 11, no. 2 (2025): 226–242, <https://doi.org/10.17356/ieejsp.v11i2.1311>.

<sup>22</sup> 'Experiencia Extranjera de Regulación Legal de Influencia Ilegal En Los Resultados de Las Competiciones Deportivas Oficiales | Justicia', accessed 14 April 2026, <https://revistas.unisimon.edu.co/index.php/justicia/article/view/5362>.

<sup>23</sup> 'Combating Corruption Offenses: Foreign Experience, Theoretical, Practical, Legal Regulations, and Improvement | Jurnal Hukum Islam', accessed 14 April 2026, <https://e-journal.uingsdur.ac.id/jhi/article/view/jhi.v23i1.10>.

<sup>24</sup> Yevhen Leheza, 'Administrative and Criminal Law Aspects of Preventing Offenses Committed by Minors in the Sphere of Illegal Circulation of Narcotic Drugs, Psychotropic

court may award the thing to one or more co-owners for reasonable compensation to others; if none of the co-owners wishes to have the thing, then the court shall decide to sell the thing at a public auction; in justified cases, the court may decide that the thing will be sold at an auction held between the co-owners. According to § 1154 of the Code, the court may postpone the division of joint property for up to 2 years, and, by agreement of the co-owners, for up to 10 years.

Table 2. Comparative analysis of methods for dividing marital property: EU and Ukraine

Country / Legislation	Postpone ment of the division	Methods of division	of	Compe nsation for unequal shares	Special rules/notes
France (CC, art. 815, 815-1)	Up to 2 years	Allocation of a share in kind; payment of compensation; sale by public auction	of a	Yes, monetary compensation	Preservation of co-ownership for agricultural enterprises and housing up to 5 years; minors until adulthood
Belgium (CC, art. 815, 827, 832, 833)	Up to 5 years	Allocation of a share in kind; payment of compensation; sale at auction by a notary	of a	Yes	Public auction or auction by agreement of co-owners
Italy (CC, art. 784–791)	The court may postpone	Allocation of a share; payment of compensation; sale of real estate through a notary; movable property through a commission agent	of a	Yes	Divided items in equal proportions; additional payment in favor of the smaller share; auction in disputed cases
Spain (CC, art. 1051–1062)	The court may postpone	Allocation of a share; payment of compensation; sale at public auction	of a	Yes	Shares must be equal in quality and characteristics; indivisible items are transferred to one of the co-owners
Portugal (CC, art. 2101)	The court may postpone	Allocation of a share; payment of compensation;	of a	Yes	Provisions similar to Spain

Substances and Precursors', *Journal of Drug and Alcohol Research* 12, no. 10 (November 2023), <https://doi.org/10.4303/JDAR/236269>.

		sale at public auction		
Poland (CC, art. 1035–1046, art. 211–212)	The court may limit (depending on the case)	Allocation of a share; payment of compensation; easement; sale of property	Yes	Double referral: division of inheritance and shared ownership; complex settlements between former spouses
Ukraine (CC, art. 60–68, 366–369)	The court may postpone within the scope of the case	Division in kind; allocation of a share; compensation	Yes	There are no effective mechanisms for forced sale through public auction; disputed cases drag on for years; preserving the community often complicates civil turnover.

Source: author's interpretation

A comparative analysis shows that European countries regulate the division of spouses' joint property in a much more structured and predictable manner than Ukraine does. In all the studied EU countries, the co-owner has the right to demand a division of property at any time, reflecting the principle of the free expression of the owners' will. At the same time, the legislation provides for limited periods of postponement of division: from 2 years in France to 5 years in Belgium, allowing consideration of social and economic circumstances without blocking the co-owner's right. In Ukraine, there is no legislative provision for such specific periods, which often leads to protracted litigation and a prolonged "freezing" of property in the state of community.<sup>25</sup>

As for the methods of division, in the EU, they are detailed and provide three main options: allocation of a share in kind, payment of compensation, and sale through public bidding or auction. A special feature is the settlement of special cases: for real estate used by minors, agricultural enterprises, or in disputed divisions, tools such as notaries, commission agents, and auctions are used. These mechanisms ensure both the protection of co-owners' rights and the economic efficiency of the property.<sup>26</sup>

<sup>25</sup> 'Características de La Suspensión o Denegación Total/Parcial Del Cumplimiento de Una Obligación En Caso de Incumplimiento de La Contraparte Según La Legislación Civil de Ucrania | Novum Jus', accessed 14 April 2026, <https://novumjus.ucatolica.edu.co/article/view/5127>.

<sup>26</sup> Pavlo Petrenko et al., 'Legal Framework for Competitive Selection for Positions of Civil Servants under the Legislation of Ukraine and European Countries', *Journal of Legal, Ethical and Regulatory Issues* 22, no. 5 (October 2019): 1–415, <https://www.abacademies.org/abstract/legal-framework-for-competitive-selection-for-positions-of-civil-servants-under-the-legislation-of-ukraine-and-european--8615.html>.

In Ukraine, the division of joint property of spouses involves the allocation of a share and the payment of compensation, but there is no effective mechanism for a forced sale by public auction, which prolongs conflicts between co-owners and reduces the property's liquidity. There is also no legislative provision for clear terms for postponing the division, which would allow for settling socially significant situations, for example, the preservation of housing for minor children or socially important objects.

Compensation for unequal shares across all countries, including Ukraine, is a universal mechanism that maintains the balance of interests among co-owners. However, its effectiveness in Ukraine depends on the parties' consent or court decisions, which often complicate its practical implementation. Thus, it can be concluded that European countries apply more effective, structured approaches to the termination of joint ownership, balancing social, economic, and legal interests. Ukraine, although it has basic legal instruments for division, needs to reform its legislation, by introducing mandatory mechanisms for forced sale through public bidding or auction. Establishment of clear deadlines for postponing the division in court. Improvement of procedures for compensation and the protection of socially significant interests of co-owners (children, housing, economic assets). The implementation of these measures will increase civil turnover, property liquidity, and the state's investment attractiveness.

## **Conclusion**

Joint property of spouses or heirs in the traditional form creates significant barriers to civil turnover. The need to coordinate the will of all co-owners, high transaction costs, conflicts of interest, and the lack of effective mechanisms for terminating the community complicate property management and may reduce its economic value. European countries (France, Belgium, Italy, Spain, Portugal, Poland) apply clearly structured methods for dividing joint property, including: the right to demand division at any time, limited deferral periods, allocation of a share in kind, monetary compensation for inequality of shares, and mechanisms for forced sale through public bidding or auction. Such approaches simultaneously ensure the social protection of co-owners, the economic efficiency of property, and the liquidity of assets. Ukrainian legislation provides for the right to demand the division of property and the payment of compensation, but there are no effective mechanisms for forced sale and clear deadlines for postponing division. This leads to protracted disputes, the preservation of the community for many years, and limits civil turnover. At the same time, mechanisms for compensating for unequal shares, although they exist, are often not implemented quickly or effectively in practice.

To increase the efficiency of civil turnover and the investment attractiveness of the state, it is necessary to: introduce mechanisms for the forced sale of joint property through public bidding or auction; establish clear deadlines for postponing the division of property in court; improve procedures for compensating for inequality of shares and ensure the protection of socially significant interests of co-owners, in particular housing and economic assets. A comparative study of the legal experience of the EU and Ukraine confirms that effective regulation of joint property is a key factor in increasing civil turnover and creating a favorable investment environment. Institutional consolidation of such mechanisms allows for reducing conflicts of legal relations, increasing asset liquidity, and ensuring economic stability.

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### **Author Contributions Statement**

Oleh Prostybozhenko conceived and developed the overall structure of the study, formulated the main arguments, and guided the preparation and writing of the manuscript. Mykola Chabanenko and Tetiana Voloshanivska made significant contributions to the theoretical analysis and interpretation of the results, offering critical conclusions that strengthened the study's legal and methodological foundations. Meanwhile, Nataliia Fedorchenko and Viktor Diektiarov played a key role in conducting the literature review, collecting relevant data, and refining the discussion to ensure coherence between the regulatory framework and the current realities of legislative development. All authors actively participated in the review and final approval of the manuscript, ensuring its academic accuracy and integrity.

### **AI Usage Statement**

The authors state that artificial intelligence (AI) applications were used on a small scale to assist with language correction, grammar correction, and rephrasing in academic writing. There was no use of AI when generating research data, conducting analysis, interpreting legal materials, or developing arguments and conclusions in the study. All the substantive work, including

intellectual contributions such as conceptualization, legal analysis, comparative assessment, and findings interpretation, was carried out entirely by the authors. The authors assume complete responsibility for the contents, correctness, and originality of this work.

### Conflict of Interest

The author declares that there is no potential conflict of interest, whether financial, professional, or personal, that could have influenced the research findings, data interpretation, or conclusions presented in this article. The research was conducted independently and objectively to ensure academic integrity and transparency.

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