

Lietuvos Respublikos civilinis kodeksas: ar verta reikalauti sutuoktinio įgaliojimo sudarant sandorius dėl finansinių priemonių?

Analizė ir teisėkūros iniciatyvos siūlymas

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1. Iniciatyvos priežastys ir tikslai

Įgyvendinant Kapitalo rinkos plėtros gairėse 2023–2025 m. numatytą 2.11 rekomendaciją dėl sutuoktinio įgaliojimo parduodant vertybinius popierius, kuria siekiama didinti kapitalo rinkos prieinamumą ir jos siūlomas galimybes, taip pat padėti pritraukti naujų investuotojų ir paskatinti esamų investuotojų aktyvumą Lietuvoje, teikiame nuomonę dėl šiuo metu galiojančio reikalavimo gauti sutuoktinio įgaliojimą parduodant finansines priemones (FP) tikslingumo.

Sprendžiama problema nustatyta atsižvelgus į 2021 m. pradžioje Lietuvos banko inicijuotos Lietuvos finansų tarpininkų ir investuotojų apklausos metu išsakytas nuomones ir pasiūlymus, kuriuose, be kita ko, atkreiptas dėmesys dėl Lietuvos Respublikos civilinio kodekso (CK) 3.92 straipsnio 4 dalyje įtvirtintų reikalavimų, konkrečiai – gauti sutuoktinio įgaliojimą parduodant vertybinius popierius tikslingumo¹. Nurodoma, kad toks reikalavimas apsunkina investicinių paslaugų teikimą, yra nesuprantamas užsienio įmonėms, norinčioms veikti Lietuvoje ir sudėtingai įgyvendinamas teikiant paslaugas tik nuotoliniu būdu. Kartu tai riboja investicinių paslaugų plėtrą Lietuvoje.

CK 3.92 straipsnio 4 dalyje nustatyta (visą straipsnio redakciją žr. 1 priede):

*„4. Sandorius, susijusius su bendrąja jungtine sutuoktinių nuosavybe esančio nekilnojamojo daikto ar daiktinių teisių į jį disponavimu ar jų suvaržymu, taip pat sandorius dėl bendros įmonės perleidimo ar teisių į ją suvaržymo bei **vertybinių popierių, kurie yra bendroji jungtinė sutuoktinių nuosavybė, perleidimo ar teisių į juos suvaržymo gali sudaryti tik abu sutuoktiniai, išskyrus tuos atvejus, kai vienas iš sutuoktinių turi kito sutuoktinio išduotą įgaliojimą tokį sandorį sudaryti.**“*

Siekiant įtvirtinti paprastą rašytinę, t. y. ne notarinę, įgaliojimo formą, sutuoktinio įgaliojimo reikalavimas buvo perkeltas į finansų rinkos sektorinius įstatymus.

¹ https://www.lb.lt/uploads/consultations/docs/34586_b974025d076f45c391f53060b1ec3f61.pdf;
https://www.lb.lt/uploads/consultations/docs/34588_7dd09b7e756000bc99e3f42647115852.pdf;
https://www.lb.lt/uploads/consultations/docs/34587_3bfa2f4d9a3cf9afd38319ae219d2b91.pdf.

Pavyzdžiui, Lietuvos Respublikos finansinių priemonių rinkų įstatymo 34 straipsnio 4 dalyje nustatyta paprasta rašytinė sutuoktinio įgaliojimų sudaryti sandorius dėl finansinių priemonių forma:

„4. Sutuoktinio įgaliojimas sudaryti sandorius dėl Lietuvos Respublikos Vyriausybės taupymo lėšų ir finansinių priemonių, kurios yra bendroji jungtinė sutuoktinių nuosavybė, kurios viešai siūlomos ir (arba) kuriomis prekiaujama reguliuojamoje rinkoje ir (arba) daugiašalėje prekybos sistemoje, gali būti išduotas paprasta rašytine forma.“

Lietuvos banko valdybos nutarimu patvirtintų Finansų maklerio įmonių veiklos organizavimo ir investicinių paslaugų teikimo taisyklių 125 punkte paašškintas minėtas Finansinių priemonių rinkų įstatymo reikalavimas dėl sutuoktinių įsitraukimo į prekybą finansinėmis priemonėmis:

„125. Finansų maklerio įmonė, priimdama sutuoktinio pavedimą, privalo laikytis šių reikalavimų:

125.1. pavedimą dėl finansinių priemonių, kurios yra bendroji jungtinė sutuoktinių nuosavybė, gali pateikti tik abu sutuoktiniai, išskyrus atvejus, kai vienas iš sutuoktinių pateikia kito sutuoktinio išduotą įgaliojimą. Sutuoktinio įgaliojimas sudaryti sandorius dėl finansinių priemonių, įtrauktų į prekybą reguliuojamoje rinkoje ir (arba) daugiašalėje prekybos sistemoje, perleidimo ar teisių į jas suvaržymo gali būti išduodamas paprasta rašytine forma. Sutuoktinio įgaliojimas sudaryti sandorius dėl kitų finansinių priemonių perleidimo ar teisių į jas suvaržymo turi būti patvirtintas notaro;

125.2. pavedimas dėl finansinių priemonių, kurios yra asmeninė sutuoktinio nuosavybė, gali būti pateiktas tik kartu su rašytiniais įrodymais, patvirtinančiais asmeninės nuosavybės faktą, išskyrus įstatymų nustatytas išimtis.“

Sutuoktinio įgaliojimo reikalavimas taip pat numatytas Lietuvos Respublikos kolektyvinio investavimo subjektų įstatymo 51 straipsnio 5 dalyje ir Lietuvos Respublikos informuotiesiems investuotojams skirtų kolektyvinio investavimo subjektų įstatymo 37 straipsnio 3 dalyje:

„Paraišką išpirkti investicinius vienetus ar akcijas, bendrosios jungtinės nuosavybės teise priklausančius sutuoktiniams, turi teisę pateikti vienas iš sutuoktinių, turėdamas kito sutuoktinio įgaliojimą, kuris gali būti ir paprastos rašytinės formos.“

Praktikoje retas atvejis, kada abu sutuoktiniai vienodai įsitraukia į investicinę veiklą. Tokiais atvejais sutuoktinio įgaliojimo reikalavimu pasiekama, kad mažiau įsitraukęs sutuoktinis yra bent įgaliojimo sudarymo metu informuojamas, kad bendras turtas – vertybiniai popieriai – parduodami ar jo teisės į juos suvaržomos. Tačiau diskutuotina, ar CK 3.92 straipsnio 4 dalyje reikalaujama notarinė, o įstatymų nustatytais atvejais – rašytinė sutuoktinio įgaliojimo forma, parduodant vertybinius popierius ar suvaržant į juos teises, apsaugo sutuoktinių turtines teises ar tiesiog sukuriamą papildoma administracinę naštą asmenims, prekiaujantiems vertybiniais popieriais.

Lietuvos bankas siūlo panaikinti reikalavimą turėti sutuoktinio išduotą įgaliojimą dėl vertybinių popierių, kurie yra bendroji jungtinė sutuoktinių nuosavybė, perleidimo ar teisių į juos suvaržymo.

2. Dabartinio reglamentavimo tikslingumas

Lietuvos banko nuomone sutuoktinio įgaliojimo reikalavimas ir finansų rinkos dalyviams nustatyta pareiga kontroliuoti šio reikalavimo vykdymą neproporcingai apsunkina investicinių paslaugų teikimą ir jų skaitmenizavimą, sukuria nelygiavertę Lietuvos finansų tarpininkų konkurenciją su kitų šalių paslaugų teikėjais, stabdo kapitalo rinkos plėtrą Lietuvoje, yra papildoma administracinė našta tiek finansų rinkos dalyviams, tiek susituokusiems investuotojams.

Galiojantis reikalavimas, Lietuvos banko nuomone, yra neveiksmingas dėl kelių priežasčių.

Pirma, pagal CK, sutuoktinio sutikimo nereikia vertybinius popierius (VP) įsigyjant, kada yra priimamas sprendimas, turėsiantis vienokių ar kitokių pasekmių. Kitaip tariant, šiuo metu galiojančiu reguliavimu sutuoktiniui suteikiama teisė tik sutikti su prekybos vertybiniais popieriais pasekmėmis, nedalyvaujant turto pirkimo etape.

Investuotojai neretai nustemba, kad reikalingas sutuoktinio leidimas parduoti FP, nupirktus be jokio leidimo. Šis formalumas net gali padidinti nuostolius, jeigu pardavimas yra sustabdomas netinkamu laiku, laukiant sutuoktinio įgaliojimo. Nepateikus įgaliojimo ar neatnaujinus jo pasibaigus terminui, investuotojai susiduria su problema, kad negali parduoti turimų FP norimu metu ir už norimą kainą, o tai kelia investuotojų nepasitenkinimą ir papildomą riziką, kad FP kaina kris, kol bus pasirašytas įgaliojimas ir pateiktas finansų tarpininkui. Situacija yra dar sudėtingesnė investuojant į vertybinius popierius, kuriais nėra prekiaujama viešai, nes yra reikalingas notaro patvirtinimas.

Antra, nepaisant investavimo rezultatų, pagal anksčiau minėtas CK nuostatas, įgytos FP ar lėšos, gautos pardavimo atveju, yra bendroji jungtinė sutuoktinių nuosavybė, kurios vertės išlaikymu ir (ar) didinimu, preziumuotina, kad yra suinteresuoti abu sutuoktiniai. Dėl to aptariamas reikalavimas atrodo perteklinis, formalizuojantis žmogišką elgseną. Be to, finansinių priemonių pirkimo ir pardavimo sandoriai biržoje arba kolektyvinio investavimo subjektų akcijų ar vienetų išpirkimo sandoriai paprastai yra vykdomi rinkos kaina, ir antra sandorio šalis (pirkėjas) biržoje nėra pasirenkama. Todėl, sudarant tokius sandorius, pakenkti kito sutuoktinio interesams (pvz., parduoti FP pusvelčiui) yra neįmanoma.

Trečia, rinkoje egzistuoja įvairovė paslaugų ir prekių (azartiniai lošimai, prabangos prekės ir t. t.), kurios savo esme gali mažinti šeimos turta, be apčiuopiamo potencialo jį išsaugoti ar gausinti, o tokiems sandoriams jokio sutuoktinio leidimo nereikia. Teisės aktuose nereikalaujama mokėjimo paslaugų teikėjų užtikrinti, kad jų klientas turėtų sutuoktinio įgaliojimą klientui pervedant bet kokią pinigų sumą savo pasirinktiems asmenims, nors pinigai taip pat yra laikomi bendrąja jungtine sutuoktinių nuosavybe. Šiuo atveju, skirtingai nei vykdant FP sandorius, nėra jokios garantijos, kad mokėjimas yra susijęs su kokia nors nauda sutuoktiniams. Didelė dalis asmenų, kurie naudojami investicinėmis paslaugomis, nėra stambūs investuotojai, todėl jų įsigytų FP vertė gali

būti mažesnė už kitą jiems priklausančio turto (pvz., automobilio) ar net asmeninės nuosavybės teise priklausančio turto (pvz., rūbų, papuošalų) vertę, tačiau pastarųjų perleidimo atveju nėra taikomas reikalavimas gauti sutuoktinio įgaliojimą.

Ketvirta, nepaisant Lietuvoje galiojančių teisės aktų, finansinių paslaugų rinka yra globali, todėl aptariamas reikalavimas gali būti praktiškai apeinamas, investuojant per užsienyje registruotas finansinių paslaugų platformas. Vengdami šios administracinės naštos, investuotojai renkasi paslaugas kitų šalių (pvz., Airijos, Estijos, Latvijos) tarpininkų, kurie nereikalauja pateikti sutuoktinio įgaliojimo, nes toks reikalavimas nėra taikomas pagal jų įsisteigimo šalies nacionalinius reikalavimus. Pažymėtina, kad Estijos ir Latvijos finansų tarpininkai yra Baltijos šalių *Nasdaq* biržų nariai, todėl Lietuvos gyventojai, naudodamiesi jų paslaugomis, gali pirkti ir parduoti visų Baltijos šalių emitentų išleistus FP lygiai taip pat, kaip ir naudodamiesi Lietuvos finansų tarpininkų paslaugomis. Kadangi griežtesni nacionaliniai teisės aktų reikalavimai galimai skatina Lietuvos investuotojus naudotis ne savo, o kitos šalies finansų tarpininko paslaugomis, tai neskatina kapitalo rinkos plėtros Lietuvoje. Priešingai – ją apsunkina. Atsižvelgiant į platų paslaugų prieinamumą elektroninėje erdvėje, bet kuris Lietuvos investuotojas gali be didesnių kliūčių naudotis kito Europos Sąjungos valstybėje narėje veikiančio tarpininko paslaugomis ir sudaryti FP sandorius, nepateikdamas sutuoktinio įgaliojimo. Nors teoriškai užsienyje registruotos įmonės turėtų laikytis Lietuvos Respublikos įstatymų, praktiškai, ypač tuo atveju, kai investuotojas pats rodo iniciatyvą investuoti, atrodytų, ne visi reikalavimai yra nuosekliai įgyvendinami².

Penkta, sutuoktinio įgaliojimo reikalavimo įgyvendinimas numato papildomas pareigas Lietuvos finansų tarpininkams (rinkti sutuoktinių įgaliojimus ir vertinti jų turinį), o tam reikia specialių žinių ir priemonių. Dėl to Lietuvos finansų tarpininkų, palyginti su kitose ES valstybėse narėse įsisteigusiais tarpininkais, yra nelygiavertė padėtis. Tokia diskriminacija įsisteigimo vietos pagrindu nėra pateisinama Europos Sąjungos laisvių teikti paslaugas ir bendrosios rinkos konkurencijos kontekste.

3. Užsienio praktika

Lietuvoje įtvirtintas sutuoktinio įgaliojimo reikalavimas – analogų kitose ES valstybių narių teisės sistemose neturintis reikalavimas (žr. 2 priedą).

Turimomis žiniomis Europos Sąjungos valstybėse narėse vyrauja principas, kad bendrą turtą vienas iš sutuoktinių gali valdyti be leidimo, išskyrus parduodant šeimos būstą (Austrija, Lenkija, Nyderlandai, Portugalija, Rumunija, Prancūzija, Suomija, Belgija, Bulgarija, Danija, Vokietija, Estija, Airija, Ispanija, Kroatija, Liuksemburgas, Vengrija, Malta) ar imant būsto paskolą (Prancūzija, Belgija, Danija). Nemažai valstybių reikalauja sutuoktinio sutikimo tik sudarant nekasdienius (registruotinus) sandorius (Čekija, Vokietija, Prancūzija, Kroatija, Italija, Latvija, Liuksemburgas, Vengrija).

4. Įtaka finansų tarpininkams ir gyventojams

Finansų tarpininkai sutuoktinių turtinių teisių apsaugai skirtą reikalavimą vertina kaip morališkai atgyvenusį – neatitinkantį finansų rinkos aktualijų, nes kaip minėta investuotojas sudaro FP pardavimo sandorį rinkos kaina ir negali pasirinkti kitos

² [Konsultacijos, klausimai ir atsakymai | Lietuvos bankas \(lb.lt\)](#)

sandorio šalies. Finansų tarpininkų nuomone, šis reikalavimas nepadeda nė vienai šaliai, dalyvaujančiai investavimo procese, t. y. jis sukuria neproporcingą administracinę naštą investicines paslaugas teikiantiems finansų tarpininkams bei jų klientams ir kartu atgraso potencialius investuotojus nuo investavimo.

Dėl šio reikalavimo Lietuvos finansų tarpininkams nustatyta neproporcingai didelė administracinė našta: išaiškinti savo klientams šio reikalavimo pagrindimą, sudaryti sąlygas pateikti įgaliojimus tiek aptarnaujant klientus gyvai tiek nuotoliniu būdu (šis procesas ypač pasunkėja tais atvejais, kai kitas sutuoktinis nėra finansų tarpininko klientas).

Lietuvos finansų tarpininkai galimybę automatizuoti sutuoktinio įgaliojimų surinkimą ir patikrinimą vertina kaip brangų ir netobulą informacinių technologijų sprendimą, nes visiškai automatizuoti įgaliojimų proceso neįmanoma. Sutuoktinių tarpusavio įgaliojimai būna skirtingos apimties bei termino, pasitaiko užsienio teisės elementų ir pan.

Perteklinė administracinė našta tenka ne tik finansų tarpininkams, bet ir Lietuvos gyventojams, kurie naudojami investicinėmis paslaugomis, – jie turi pateikti sutuoktinio įgaliojimus. Investuotojai renka paslaugas kitų šalių, kuriose nereikalaujama pateikti sutuoktinio įgaliojimo, finansų tarpininkų arba apskritai nusprendžia neinvestuoti. Investuotojų nenorą pateikti sutuoktinio įgaliojimą aiškiai iliustruoja vieno iš finansų tarpininko atlikto klientų, besinaudojančių tarpininko teikiama automatizuota (mobiliojoje programėlėje) investicine paslauga, pasitenkinimo tyrimo rezultatai. Tyrimo metu buvo nustatyta, kad didelė dalis klientų atsisako naudotis investicine paslauga, nes reikalavimas pateikti sutuoktinio įgaliojimą yra per daug apsunkinantis – net 50 proc. mobiliosios programėlės vartotojų domėjosi investavimu, 10 proc. investavimu susidomėjusiųjų pradėjo paslaugos užsakymo sesiją, tačiau net 40 proc. iš jų užsakymo sesiją nutraukė būtent tame etape, kuriame buvo reikalaujama pateikti sutuoktinio įgaliojimą. Finansų tarpininkas akcentuoja, kad tik ketvirtadalis šios investicinės paslaugos klientų yra susituokę ir atitinkamai pateikę sutuoktinio įgaliojimą. Tai pakankamai mažas investuojančių susituokusių klientų, besinaudojančių konkrečia skaitmenizuota investicine paslauga, skaičius.

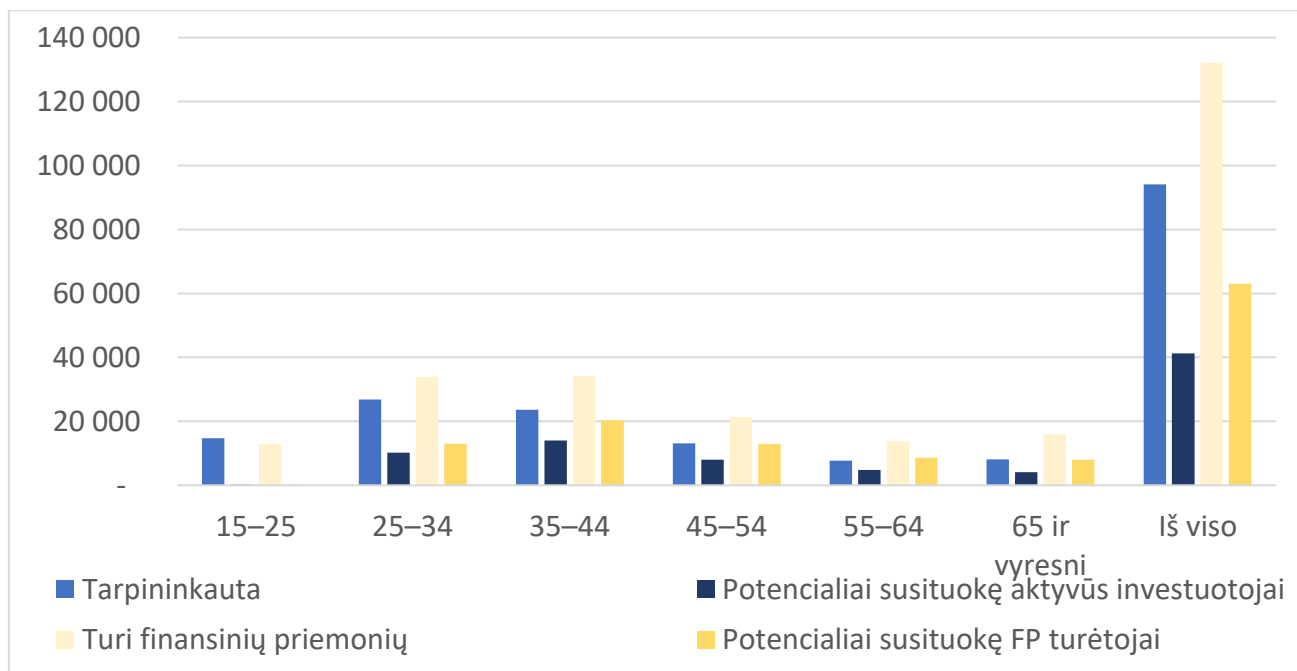
Finansų tarpininkai taip pat mini, kad reikšminga dalis investicinių paslaugų klientų skambučių ir skundų yra susijusi su aiškinimusi, kodėl reikia sutuoktinio įgaliojimo.

Lietuvos banko apklausos³ duomenimis 2023 m. nors vieną FP sandorį sudarė 94 tūkst. asmenų, iš jų 41 tūkst. potencialiai⁴ reikėjo turėti sutuoktinio įgaliojimą. Atitinkamai, kai 132 tūkst. Lietuvos gyventojų turi finansinių priemonių sąskaitas, kuriose yra FP, tai, parduodant FP, 63 tūkst. asmenų gali prireikti sutuoktinio įgaliojimo.

³ <https://www.lb.lt/lt/apzvalgos-ir-leidiniai/category.39/series.7773>

⁴ Lietuvos bankas neturi duomenų, kiek yra susituokusių gyventojų, kurie turi atsidarę FP sąskaitas. Susituokusių asmenų įvertis apskaičiuotas pagal Valstybės duomenų agentūros duomenis – vedusių (išteikėjusių) nuolatinių gyventojų skaičių pagal amžiaus grupes. Šis įvertis atitinka pavienių finansų tarpininkų nurodytus skaičius.

1 pav. **FP prekiavusių, turinčių FP asmenų skaičius ir kiek iš jų galėjo būti susituokę 2023 m.**



5. Teisėkūros iniciatyvos apimtis

Vertinus finansų tarpininkų minimą administracinę naštą, ES valstybių narių praktiką, norimą Lietuvos kapitalo rinkos plėtrą, **Lietuvos bankas siūlo panaikinti reikalavimą turėti sutuoktinio išduotą įgaliojimą dėl vertybinių popierių, kurie yra bendroji jungtinė sutuoktinių nuosavybė, perleidimo ar teisių į juos suvaržymo.**

Teikiama du CK 3.92 straipsnio 4 dalies pakeitimo projektai. Pirmas variantas – sutuoktinio įgaliojimo atsisakymas dėl visų vertybinių popierių, taip pat ir uždarytų akcinių bendrovių vertybinių popierių. Antras pakeitimo projekto variantas – siauresnis: sutuoktinio įgaliojimo atsisakymas tik dėl Lietuvos Respublikos Vyriausybės taupymo lėšų, FP, kurios viešai siūlomos ir (arba) kuriomis prekiaujama reguliuojamoje rinkoje, ir (arba) daugiašalėje prekybos sistemoje, ir dėl kolektyvinio investavimo subjektų investicinių vienetų ar akcijų.

Atsisakant minimo sutuoktinio įgaliojimo reikalavimo, į įstatymų keitimo projektą reiktų įtraukti tiek CK, tiek sektorialių įstatymų – Lietuvos Respublikos finansinių priemonių rinkų įstatymo, Lietuvos Respublikos kolektyvinio investavimo subjektų įstatymo ir Lietuvos Respublikos informuotiesiems investuotojams skirtų kolektyvinio investavimo subjektų įstatymo – nuostatų pakeitimus. Taip pat atitinkamai reiktų pakeisti susijusius Lietuvos banko valdybos priimtus nutarimus.

1 priedas. Civilinio kodekso 3.92 straipsnio 4 dalies pakeitimo pasiūlymo projektas

Teikiami du CK 3.92 straipsnio 4 dalies pakeitimo projektai. Pirmas variantas – sutuoktinio įgaliojimo atsisakymas dėl visų vertybinių popierių, taip pat ir uždarųjų akcinių bendrovių vertybinių popierių. Antras pakeitimo projekto variantas – siauresnis: sutuoktinio įgaliojimo atsisakymas tik dėl Lietuvos Respublikos Vyriausybės taupymo lankstų, finansinių priemonių, kurios viešai siūlomos ir (arba) kuriomis prekiaujama reguliuojamoje rinkoje, ir (arba) daugiašalėje prekybos sistemoje, ir dėl kolektyvinio investavimo subjektų investicinių vienetų ar akcijų.

Pirmas variantas.

CK 3.92 straipsnio 4 dalies pakeitimo projektas

3.92 straipsnis. Turto, kuris yra bendroji jungtinė sutuoktinių nuosavybė, valdymas, naudojimas ir disponavimas juo

1. Turtu, kuris yra bendroji jungtinė nuosavybė, sutuoktiniai naudojasi, jį valdo ir juo disponuoja bendru sutarimu.

2. Kito sutuoktinio sutikimas nereikalingas, kai:

- 1) priimamas palikimas ar atsisakoma jį priimti;
- 2) atsisakoma sudaryti sutartį;
- 3) imamasi neatidėliotinių priemonių bendram turtui apsaugoti;
- 4) pareiškiamas ieškinys dėl bendrosios jungtinės sutuoktinių nuosavybės gynimo;
- 5) pareiškiamas ieškinys dėl savo teisių, susijusių su bendru turtu, gynimo arba savo asmeninių teisių, nesusijusių su šeimos interesais, gynimo.

3. Preziumuojama, kad sutuoktinis sandorius sudaro, kai yra kito sutuoktinio sutikimas, išskyrus atvejus, kai sandoriui sudaryti reikalingas rašytinis kito sutuoktinio sutikimas. Išimtiniais atvejais, kai delsimas padarytų esminės žalos šeimos interesams, o kitas sutuoktinis negali išreikšti savo sutikimo dėl ligos ar kitų objektyvių priežasčių, sandorį sutuoktinis gali sudaryti be kito sutuoktinio sutikimo šio kodekso 3.32 straipsnio 2 dalyje numatyta tvarka.

4. Sandorius, susijusius su bendrąja jungtine sutuoktinių nuosavybe esančio nekilnojamojo daikto ar daiktinių teisių į jį disponavimu ar jų suvaržymu, taip pat sandorius dėl bendros įmonės perleidimo ar teisių į ją suvaržymo ~~bei vertybinių popierių, kurie yra bendroji jungtinė sutuoktinių nuosavybė, perleidimo ar teisių į juos suvaržymo~~ gali sudaryti tik abu sutuoktiniai, išskyrus tuos atvejus, kai vienas iš sutuoktinių turi kito sutuoktinio išduotą įgaliojimą tokį sandorį sudaryti.

5. Kiekvienas sutuoktinis turi teisę be kito sutuoktinio sutikimo atidaryti banko depozitinę sąskaitą savo vardu ir laisvai disponuoti joje esančiomis lėšomis, jeigu tos piniginės lėšos nebuvo perduotos bendrojon jungtinėn nuosavybėn.

6. Jeigu sandoris yra sudarytas be kito sutuoktinio sutikimo, tai sutikimo sudaryti sandorį nedavęs sutuoktinis gali tokį sandorį patvirtinti per vieną mėnesį nuo tos dienos, kai sužinojo apie sandorį. Iki sandorio patvirtinimo momento kita šalis gali sandorio atsisakyti. Jeigu per vieną mėnesį sutuoktinis sandorio nepatvirtina, pripažįstama, kad

sandoris yra sudarytas be kito sutuoktinio sutikimo. Jeigu kita sandorio šalis žinojo, kad asmuo, su kuriuo jis sudaro sandorį, yra sudaręs santuoką, tai sandorio ji gali atsisakyti tik tuo atveju, jeigu sutuoktinis melagingai pareiškė, kad kito sutuoktinio sutikimas sudaryti sandorį yra.

Antras variantas

CK 3.92 straipsnio 4 dalies pakeitimo projektas

3.92 straipsnis. Turtu, kuris yra bendroji jungtinė sutuoktinių nuosavybė, valdymas, naudojimas ir disponavimas juo

1. Turtu, kuris yra bendroji jungtinė nuosavybė, sutuoktiniai naudojami, jį valdo ir juo disponuoja bendru sutarimu.

2. Kito sutuoktinio sutikimas nereikalingas, kai:

- 1) priimamas palikimas ar atsisakoma jį priimti;
- 2) atsisakoma sudaryti sutartį;
- 3) imamasi neatidėliotinių priemonių bendram turtui apsaugoti;
- 4) pareiškiamas ieškinys dėl bendrosios jungtinės sutuoktinių nuosavybės gynimo;
- 5) pareiškiamas ieškinys dėl savo teisių, susijusių su bendru turtu, gynimo arba savo asmeninių teisių, nesusijusių su šeimos interesais, gynimo.

3. Preziumuojama, kad sutuoktinis sandorius sudaro, kai yra kito sutuoktinio sutikimas, išskyrus atvejus, kai sandoriui sudaryti reikalingas rašytinis kito sutuoktinio sutikimas. Išimtiniais atvejais, kai delsimas padarytų esminės žalos šeimos interesams, o kitas sutuoktinis negali išreikšti savo sutikimo dėl ligos ar kitų objektyvių priežasčių, sandorį sutuoktinis gali sudaryti be kito sutuoktinio sutikimo šio kodekso 3.32 straipsnio 2 dalyje numatyta tvarka.

4. Sandorius, susijusius su bendrąja jungtine sutuoktinių nuosavybe esančio nekilnojamojo daikto ar daiktinių teisių į jį disponavimu ar jų suvaržymu, taip pat sandorius dėl bendros įmonės perleidimo ar teisių į ją suvaržymo bei vertybinių popierių, kurie yra bendroji jungtinė sutuoktinių nuosavybė **ir kurie nepatenka į 4¹ taikymo sritį**, perleidimo ar teisių į juos suvaržymo gali sudaryti tik abu sutuoktiniai, išskyrus tuos atvejus, kai vienas iš sutuoktinių turi kito sutuoktinio išduotą įgaliojimą tokį sandorį sudaryti.

4¹. Sandoriai, susiję su bendrąja jungtine sutuoktinių nuosavybe, dėl Lietuvos Respublikos Vyriausybės taupymo lakštų ir finansinių priemonių, kurios viešai siūlomos ir (arba) kuriomis prekiaujama reguliuojamoje rinkoje ir (arba) daugiašalėje prekybos sistemoje, ir dėl kolektyvinio investavimo subjektų investicinių vienetų ar akcijų, gali būti sudaryti tik vieno iš sutuoktinių.

5. Kiekvienas sutuoktinis turi teisę be kito sutuoktinio sutikimo atidaryti banko depozitinę sąskaitą savo vardu ir laisvai disponuoti joje esančiomis lėšomis, jeigu tos piniginės lėšos nebuvo perduotos bendrojon jungtinėn nuosavybėn.

6. Jeigu sandoris yra sudarytas be kito sutuoktinio sutikimo, tai sutikimo sudaryti sandorį nedavęs sutuoktinis gali tokį sandorį patvirtinti per vieną mėnesį nuo tos dienos, kai sužinojo apie sandorį. Iki sandorio patvirtinimo momento kita šalis gali sandorio atsisakyti. Jeigu per vieną mėnesį sutuoktinis sandorio nepatvirtina, pripažįstama, kad sandoris yra sudarytas be kito sutuoktinio sutikimo. Jeigu kita sandorio šalis žinojo, kad asmuo, su kuriuo jis sudaro sandorį, yra sudaręs santuoką, tai sandorio ji gali atsisakyti tik tuo atveju, jeigu sutuoktinis melagingai pareiškė, kad kito sutuoktinio sutikimas sudaryti sandorį yra.

2 priedas. Šeimos turto režimas ES

Analizuojant, ar kitose ES šalyse yra numatytas sutuoktinio sutikimas, kai parduodamas turtas, kuris yra bendroji jungtinė šeimos nuosavybė, o konkrečiai vertybiniai popieriai, daug remtasi šia internetine svetaine: <https://www.coupleseurope.eu/>. Šioje svetainėje išsamiai aprašytas šeimos turto režimas. Toliau lentelėje yra pateiktos ištraukos iš antrojo klausimo "Is there a statutory matrimonial property regime and if so, what does it provide?" su nuorodomis į konkrečios šalies CK ar atitinkamą teisės aktą.

"Is there a statutory matrimonial property regime and if so, what does it provide?"

2.1. Please describe the **general principles**: Which goods are part of community property? Which goods are part of the separate estates of the spouses?

2.4. Who is in charge of **the administration of the property**? Who is entitled to dispose of the property? May one spouse dispose of/administer the property alone or is the consent of the other spouse necessary (e.g. in cases of disposal of the spouses' home)? What effect does the missing consent have on the validity of a legal transaction and on opposability towards a third party?

Lietuva – vienintelė šalis, kurioje prašoma sutuoktinio įgaliojimo parduodant ar kitaip perleidžiant vertybinius popierius. Šis perteklinis apribojimas, finansų tarpininkų teigimu, yra vienintelė techninė problema, dėl kurios Lietuva išsiskiria iš kitų šalių.

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
Belgija	Couples in Belgium	Spouses who have not concluded a marriage contract are, as of the day of their civil marriage, subject to the statutory regime, which is one of community only of the property acquired after the marriage has begun. This regime divides the assets of the spouses into three estates: the two separate estates of the spouses with all of the assets that they owned prior to the marriage and all assets acquired via an inheritance or via a	Each of the spouses can dispose of his/her own assets (Art. 1425 CC), with the exception of the family home, which may never be sold or encumbered by a mortgage by just one of the spouses, without the consent of the other spouse (Art. 215, para. 1 CC). The common property must be administered in the interest of the family. As a general rule it applies that either of the spouses can administer the common

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>gift during the marriage, or the assets that come in replacement of these assets (Art. 1399 – 1404 CC [Code Civil = Civil Code]). Certain assets or rights are separate regardless of the time of acquisition: this includes e.g. the accessories of each spouse's own immovable property, clothing and objects for personal use, right to a pension, etc. (for a complete list see Articles 1400 and 1401 CC). The common property consists of all earnings, both the professional income and the earnings from each spouse's own assets, as well as the assets acquired for valuable consideration during the marriage (Art. 1405 CC).</p>	<p>property. For example, the day –to –day actions (e.g. actions relating to the housekeeping and the upbringing of the children) can be taken separately by the spouses. In certain cases, exclusive administration by only one of the spouses is possible (e.g. when one of the spouses exercises an independent profession – Art. 1417, para. 1 CC). For other matters of greater importance such as entering into a mortgage loan or the sale of immovable property, both spouses must act jointly (Art. 1417, para. 2, Art. 1418 and 1419 CC). If the consent of a spouse is absent, the legal act can be declared invalid. (Art. 1422 and 1423 CC).</p>
Bulgarija	Couples in Bulgaria	<p>In default of a contract between the spouses in which they choose another regime, the statutory regime of community of property shall apply (Art. 18 para. 2 FC). Article 21 and the following Articles of the Family Code regulate the statutory regime of community of property. Assets acquired during marriage as a result of the joint contributions of the spouses belong jointly to both spouses (they are part of the community property), regardless of on whose behalf they have been acquired. The community property does not include assets acquired before the marriage or assets acquired by inheritance or by donation during the marriage.</p>	<p>Both spouses are entitled to manage the community property. Acts concerning the management of the community property can be performed by each of the spouses (Art. 24 para. 1 FC).</p> <p>While the marriage lasts neither of the spouses can dispose of the share of the community property that he/she would receive upon termination of the community of property. Disposition of assets belonging to the community property shall be made jointly by both spouses (Art. 24 para. 3 FC).</p> <p>Disposition of common immovable property made by one spouse alone is contestable. The other spouse may initiate a claim within six months as from the date this disposition</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>Movable property acquired by one spouse during the marriage which serves for his/her personal use, profession or trade, is his/her personal property. Movables acquired by a spouse who is a sole trader during the marriage are also part of his/her personal property. Assets acquired during the marriage entirely by means of personal property are also personal (Art. 22 and 23 FC).</p>	<p>has become known to him/her, but not later than three years as from its performance (Art. 24 para. 4 FC).</p> <p>In case of disposition of common movable property for consideration made by one spouse without the consent of the other, the contract is binding on the other spouse, if the third party did not know or reasonably could not have known that there is no consent of the other spouse. In case of gratuitous disposition of a common movable or in case of disposition which requires writing with legalization of signatures by a civil law notary the rule for disposing of immovable property without the consent of the other spouse is applied (see above) (Art. 24 para. 5 FC).</p> <p>Even if a spouse is the sole owner of the family home, he/she cannot dispose of it without the consent of the other spouse if the spouses do not have another home. If there is no consent, the disposition shall be performed with permission of the district judge, if it is found that it is not harmful to the underage children and the family (Art. 26 FC).</p> <p>Each of the spouses may enter into a contract to dispose of their personal property with third parties or with the other spouse (Art. 25 FC).</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
Čekija	Couples in Czech Republic	<p>The statutory matrimonial property regime in the Czech Republic is the joint property of spouses, which is governed by the Civil Code (Act No. 89/2012 Coll.).</p> <p>A more detailed delimitation of the joint property may be found in Sections 709, 710 and 3040 of the Civil Code, according to which the joint property of spouses includes:</p> <ul style="list-style-type: none"> • Assets acquired by one or both of the spouses together during their marriage, with the exception of assets that: <ul style="list-style-type: none"> ○ serve the personal needs of one of the spouses, ○ were acquired as a gift, inheritance or legacy by only one of the spouses, unless the donor while donating or the deceased in his/her last will manifested a different intention, ○ were acquired by one of the spouses as compensation for other than proprietary harm to his/her natural rights, ○ were acquired by one of the spouses by a legal act relating to his/her exclusive property, ○ were acquired by one of the spouses as compensation for damage, destruction or loss of his/her exclusive property, 	<p>Both spouses (or one of them, in accordance with an agreement) use and maintain jointly the assets which form part of their joint property. The routine management of assets which are part of the joint property may be carried out by either of them (e.g. settlement of common household matters, payment of regular obligations such as rent and connected services, food, purchase of ordinary consumer items). In matters concerning the joint property of spouses that are not ordinary (e.g. transfer of real estate property or assets of a higher value or mortgaging of real estate property), the consent of both spouses is required. If one of the spouses refuses to consent without good reason or is not able to express his/her will, his/her approval may be replaced by the court on the proposal of the other spouse. If one of the spouses acts without the consent of the other spouse in cases where the consent of both spouses is required, the other spouse may seek a declaration of such act to be invalid (Sections 713 and 714 of the Civil Code); however, if he/she fails to seek its invalidity, the act remains in effect (Section 586 para. 2 of the Civil Code). These provisions only apply if not modified by a marriage contract or a court decision.</p>

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		<ul style="list-style-type: none"> ○ were rendered on the basis of restitution legislation to the spouse who had owned them prior to the marriage, or is the legal successor of their original owner. <p>The joint property of spouses also contains the profit deriving from a spouse's personal property, as well as the spouse's share in a company or cooperative, if the spouse became associate of the company or member of the cooperative during the marriage (unless the acquisition of the share came under one of the above –mentioned exceptions). 2) Liabilities incurred by the spouses during their marriage, unless: a) they are related to assets in exclusive ownership of only one of the spouses and their extent exceeds the profit deriving therefrom, or b) they were assumed by only one of the spouses without the approval of the other, without it being a matter of providing for everyday or common needs of the family.</p>	
Danija	Couples in Denmark	The statutory matrimonial property regime in Denmark is the deferred community of property. Everything the spouses own at the time they enter into marriage or acquire later on becomes a part of their joint property. However, the spouses may agree not to apply the legal rules on their property and conclude a full or partial agreement on	In principle, each spouse may administer freely the assets he/she brought into the marriage, as well as the assets he/she has acquired during the marriage. However, if these assets form part of the joint property, he/she must deal with them in a responsible way. (Act on the Legal Effects of Marriage, §§ 16 –17) A spouse cannot, without the

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>separate property (see under 3.1.). A person making a gift or a testator may also decide that the gift or inheritance shall not be a part of joint property.</p> <p>In default of an agreement stipulating otherwise, the joint property does not cover non –transferable rights and rights of a personal type, such as certain forms of copyrights and personal goodwill related to business activities.</p> <p>Besides, on division of property in case of divorce or legal separation each spouse keeps his/her fair pension rights. If the marriage has only lasted for a short period of time, the spouses keep all of their pension rights. (Act on the Legal Effects of Marriage, §§ 15, 16, 16 a and Chapter 4)</p>	<p>consent of the other spouse, dispose of or mortgage real property which is part of the joint property, if such real property is used as the family's residence or if it is related to the spouses' business. Also, a spouse may not dispose of, pledge or mortgage household goods in the spouses' joint dwelling, the other spouse's necessary work tools or goods used by the children for their personal needs, if they form part of the joint property (§ 19 Act on the Legal Effects of Marriage). If a spouse refuses to allow such disposals, the regional state administration may allow the disposal, if there is no reasonable ground for refusal.</p> <p>If the above –mentioned property is disposed of without consent or permission, then the non –consenting spouse may have the disposal annulled in court, if the third party knew or should have known that the disposing spouse was not entitled to such disposal. (Act on the Legal Effects of Marriage, § 16 and §§ 18 –20)</p>
Vokietija	Couples in Germany	<p>The so –called community of accrued gains is the default statutory matrimonial property regime. Basically, this corresponds to a separation of assets. Neither the husband's nor the wife's assets become the spouses' joint property (§ 1363 par. 2 BGB [German Civil Code]). The same applies to assets a spouse acquires after the celebration of the</p>	<p>In general, the spouses may dispose freely of their respective property during their marriage, subject to agreements to the contrary.</p> <p>However, the principle of freedom to dispose of one's property is limited in the following way:</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>marriage. However, any increase in the spouses' assets that occurs during the course of the marriage will be divided equally once this matrimonial property regime ends, in particular as a result of divorce or the death of one of the spouses. In general, the spouses are not subject to any restrictions on disposal of their assets and will not be liable for the other spouse's debts (regarding restrictions on disposal, see point 2.4; regarding conditions of liability, see point 2.5).</p>	<p>1) A spouse may not undertake to dispose of his or her property in its entirety without the other spouse's authorisation. According to the case law, an asset representing 80% of the matrimonial property of the disposing spouse may be considered as "the property in its entirety" (§ 1365 BGB). In practice, these conditions are often met in the case of real estate.</p> <p>2) Furthermore, a spouse may only dispose of household objects (which he or she owns exclusively) with the other spouse's authorisation (§ 1369 BGB). The "marital home" is not included among the household objects. In this case, however, the conditions in § 1365 BGB, referred to above, are often met in practice.</p> <p>If the other spouse does not consent in advance, a contract will remain suspended and deprived of legal effects until the spouse authorises it (§ 1366 par. 1 BGB). If the authorisation is not given, the contract will be invalid. In certain cases, the Family Court may grant consent in lieu of the spouse withholding it. If a third party demands that its contractual partner should submit the consent, said consent must be notified to the third party within two weeks. Otherwise, consent shall be deemed withheld.</p>

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Estija	Couples in Estonia	<p>When concluding the marriage, the spouses are obliged to choose their matrimonial property regime. They can choose between the community of property regime, the community of accrued gains regime or the separation of property regime.</p> <p>If the spouses have not chosen the matrimonial property regime when entering into marriage or by concluding a marital property contract, it is presumed that the statutory regime of community of property is applicable. According to this regime, the property acquired during the marriage is considered the joint property of the spouses. Under the community of property regime, the following is considered separate property:</p> <ul style="list-style-type: none"> • personal belongings (e.g. clothing); • property owned by either spouse prior to marriage; • property acquired during the marriage by disposal without charge, including as a gift or by succession; • assets acquired on the basis of a right belonging to separate property or in exchange for separate property. • Division of joint property is possible only after the community of property regime has ended (either by death of one of the spouses, by divorce or by concluding a marriage contract) 	<p>Under the community of property regime, the spouses exercise the rights and obligations related to their joint property jointly or with the consent of the other spouse. For transactions concerning movable property or a right belonging to the joint property of the spouses, the consent of the other spouse is presumed (consent is not presumed for transactions with immovable property). A spouse may enter into transactions with joint property for the satisfaction of everyday needs of the family himself/herself and without the consent of the other spouse.</p> <p>A transaction with joint immovable property conducted without the consent of the other spouse is null and void.</p> <p>The spouses shall administer their separate property independently and at their own expense and the consent of the other spouse is not required. Spouse may dispose a dwelling which is the spouse's separate property and is used as a housing of the family or used separately by the spouse who is not the owner and grant the use thereof to a third party or terminate the legal relationship on which the use thereof is based only with the consent of the other spouse with the condition that the ownership of the dwelling was obtained after 01.01.2015. A transaction without the consent of the other spouse is void. That</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>establishing a different property regime).</p> <p>Under the community of accrued gains regime and the separation of property regime there is no joint property of the spouses.</p> <p>(Estonian Family Law Act)</p>	<p>does not apply for dwellings obtained before 01.01.2015.</p> <p>Under the community of accrued gains regime, property belonging to a spouse is his/her separate property, of which only the owning spouse can dispose independently (without the consent of the other spouse) regardless of whether the property was acquired before or during the marriage. However, for entering into transactions concerning the dwelling used for the housing of the family or used by the non –owning spouse, the consent of the latter is required. If such a transaction is concluded without the consent of the non –owning spouse, it is void and the other spouse has the right to file a claim arising from invalidity of the disposal against the third party.</p> <p>Each spouse administers his/her separate property independently at his/her own expense.</p> <p>Under the separation of property regime, with regards to their property relations, the spouses are treated as if they were not married and each spouse administers and disposes of his/her property independently at his/her own expense.</p>
Airija	Couples in Ireland	The principle of community of property does not apply under Irish law and property held by each of the spouses prior to the marriage	In the course of a valid subsisting marriage, each spouse is in charge of the administration of his/her property and does

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>or acquired by one spouse in the course of the marriage remains the property of that spouse. Whilst there is no automatic entitlement to a share in the property of the other spouse, upon separation and/or divorce the non –owning spouse can claim an entitlement in some or all of property held legally by the other spouse on the basis that such a claim is made in the interests of justice (section 16(5) Family Law Act 1995 and section 20(5) Family Law (Divorce) Act 1996), in light of the circumstances of the marriage and the impact of the separation/divorce order (section 16(2)(a) – (l) Family Law Act 1995 and section 20(2)(a) –(l) Family Law (Divorce) Act 1996).</p>	<p>not typically require the consent of the other spouse for the administration or disposal of that property. The family home of the parties, as defined by section 2(1) Family Home Protection Act 1976, as amended by section 54(1) of the Family Law Act 1995, receives special protection under Irish law. Even where the family home is held in the sole name of one of the spouses, the spouse with legal ownership is not permitted to convey the family home or otherwise secure a charge on the family home without the written consent of the non –owning spouse (section 3(1) Family Home Protection Act 1976). Where such a conveyance occurs without the consent of the other spouse, the purported conveyance shall be void (section 3(1) Family Home Protection Act 1976). However no conveyance shall be void by reason only of this consent requirement where the conveyance is made to a purchaser for full value without notice (section 3(3)(a) Family Home Protection Act 1976).</p>
Graikija	Couples in Greece	<p>There are two systems regulating the matrimonial property of spouses:</p> <p>a) The separation of property/participation in acquisitions system (Art. 1397 –1402 HCC):</p> <ul style="list-style-type: none"> This system applies if the spouses have not concluded a contract. The separation of property/participation in acquisitions system (Art. 1397 HCC) 	<p>Under the separation of property/participation in acquisitions system, each spouse is responsible for managing and disposing of his/her own property. However, one of the spouses may grant the other spouse the power to manage his/her individual property, without any accountability or obligation to hand over income deriving from the management of</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>establishes a rule whereby the individual property of the spouses remains unaffected by the marriage. The property which the spouses held before their marriage and which they acquire after it continue to constitute their separate property and they are each individually liable for their own debts with their separate property. In case of dissolution of the marriage, however, each spouse is entitled to participate in the augmentation of the property of the other spouse which has occurred since the marriage was entered into if he/she has contributed to this augmentation (see under 5.1.).</p> <p>b) The community of property system (Art. 1403 –1415 HCC):</p> <ul style="list-style-type: none"> • The community of property system, which is not at all wide –spread, means that the spouses opt to establish a community of property with equal shares in each other's property, but without a right for each spouse to dispose of this share in the property. <p>Assets covered by the community of property system (Art. 1405 HCC):</p> <ul style="list-style-type: none"> • Where the contract contains no provision about the extent of the community of property system, this regime will cover all assets which each 	<p>those assets, where terms to the contrary have not been agreed. Such income is considered to be part of the obligation to contribute to meeting the needs of the family (Art. 1399 HCC).</p> <p>Under the community of property system, the question of who will manage the common property and who has the right to dispose of it is a matter to be agreed by the spouses, as is the question of whether there should be a right of consent in the case where it is agreed that one of the spouses will manage the assets.</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
		<p>of the spouses acquires non – gratuitously during the marriage, apart from income derived from property which that spouse owned before the marriage. The common property does not include any of the following, even if acquired non – gratuitously: 1. the assets of each of the spouses intended strictly for personal use or the carrying on of his/her profession and the relevant appurtenances, 2. claims specified in Articles 464 and 465 HCC (claims that due to their nature are so closely related to one person that they cannot be delegated or separated from the person or claims that have been agreed as not to be subjected to delegation) and 3. intellectual property rights.</p>	
Ispanija	Couples in Spain	<p>Spain does not have only one matrimonial property regime or body of legislation, so these answers will specifically relate to the Spanish Civil Code (with the exception of the discussion of the legislation of the autonomous communities in 2.7).</p> <p>The applicable matrimonial property regime is that which the spouses have stipulated in a marriage contract (Art. 1315 CC) (community of acquisitions (<i>sociedad de gananciales</i>), separation of property or</p>	<p>The administration of community property (acquisitions) is regulated by Articles 1375 – 1391 CC. Each spouse administers his/her own personal assets (although there are special provisions regarding the family home, according to which the agreement of both spouses is always necessary (Art. 1320 CC)). Common assets are administered by both spouses jointly (Art. 1375 CC), unless they agree otherwise in a marriage contract.</p>

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		<p>participation). In the absence of a contract, the applicable matrimonial property regime is community of acquisitions Art. 1316 CC). Under this system, the acquisitions and benefits obtained by each of the spouses while the system is in effect are common and are divided equally when the regime is dissolved (Art. 1344 CC). The system provides for the existence of both personal and community property and allows personal property to become community property and vice versa by means of an agreement between the spouses in the form of an authentic act. Assets which are considered to be personal are listed in Article 1346 CC. They include assets which the spouses brought into the marriage and those which they have acquired gratuitously during the marriage.</p> <p>Assets which are considered to be community property are listed in Article 1347 CC. As regards the disposal of assets, each spouse may freely dispose of his/her own assets and is not responsible for the debts of the other (Art. 1373 CC).</p>	<p>In principle, the spouses may freely dispose of their personal assets during the marriage.</p> <p>One spouse may administer and dispose of community property alone in the exercise of domestic authority (Art. 1319 CC and Art. 1365 CC), with the exception of the family home (even if it belongs to only one spouse, the consent of the other is necessary (Art. 1320 CC)).</p>
Prancūzija	Couples in France	Where there is no marriage contract, the spouses are subject to the community of property regime: the community of acquisitions (Art. 1400 –1491 CC). Assets acquired for valuable consideration after the marriage are joint. However, assets already	Each spouse may administer and dispose of his or her separate property (Art. 1428 CC) and of joint property (Art. 1421 paragraph 1 CC). However, because of their seriousness, some transactions relating to joint property must be co –managed. This means that the

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		owned by one of the spouses on the day the marriage is celebrated or acquired through gift, legacy or inheritance and assets of a "personal nature" are owned separately (Art. 1404 CC).	<p>transaction must be made by both spouses or by one of them but with the consent of the other. This requirement applies specifically to: disposals of joint property without consideration and assignments of joint property to guarantee a third –party debt (Art. 1422 CC) and disposals relating to immovables, business assets and non – negotiable corporate shares and associated rights that are jointly owned (1424 CC).</p> <p>Where one or other spouse has infringed these rules the other spouse may apply to have the transaction cancelled (Art. 1427 CC).</p> <p>In the event of the improper exercise of powers or unfitness on the part of one spouse, the other spouse may apply to the court to be substituted for him or her in the exercise of those powers (Art. 1426 CC).</p> <p>Spouses may not separately dispose of the rights whereby the lodging of the family is ensured (Art. 215 paragraph 3 CC).</p>
Kroatija	Couples in Croatia	Pursuant to Croatian law, spouses have separate property and community property (Article 35 of the Family Act). Community property implies all property that spouses earned from their work during marriage or the property accrued from such property (Article 36 of the Family Act).	<p>As pointed out under 2.1, the spouses can own separate property and community property.</p> <p>Administration of separate property is governed by the regime of administering individual property. Administering community property is divided into matters of ordinary and matters of extraordinary</p>

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		The property that a spouse owns at the time of entering into the marriage remains his or her separate property. Separate property also includes property that a spouse acquired during marriage by inheritance or donation.	<p>administration. Declarations made by one of the spouses is sufficient for matters of ordinary administration (ordinary maintenance, exploitation and use of the object for its ordinary purpose) – consent of the other spouse is presumed.</p> <p>For matters of extraordinary administration (change of purpose of the object, major maintenance, selling, establishment of mortgage, etc.) of real estates and movable property ownership of which has to be registered, it is necessary for the spouses to declare will jointly, or for one of the spouses to present written consent with a notarial certification of signature given by the other spouse.</p> <p>If the spouse doesn't present a written consent, this will not affect rights and obligations of the third party acting in good faith (Art 37 Family Act).</p>
Italija	Couples in Italy	<p>The statutory matrimonial property regime is the community of property (Art. 159 of the Italian Civil Code (CC)).</p> <p>The statutory community of property provides for the existence of community property, personal property and deferred community property.</p> <p>Property acquired by the spouses after their marriage, whether individually or together, forms part of the community property, with</p>	<p>The community property may be administered individually by the spouses.</p> <p>Nevertheless, the performance of acts of extraordinary administration and the stipulation of contracts by which personal rights of enjoyment are granted or acquired belong jointly to both spouses. Also the power of representation in judicial proceedings for the related actions belongs jointly to both spouses (Art. 180 CC).</p>

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		<p>the exception of personal property and property which falls into the deferred community of property (Art. 177 CC).</p> <p>The following are part of personal property:</p> <ul style="list-style-type: none"> a. property acquired prior to the marriage or the adoption of the community of property regime; b. property acquired after the marriage whether as a gift or inheritance, unless it was specified in the authentic instrument of gift or the will that it is attributed to the community property; c. property for the strictly personal use of a spouse and its accessories; d. property needed by a spouse for carrying out his/her profession; e. property received as compensation for damages, as well as any pension related to a partial or total loss of the ability to work; f. property acquired with the price of the transfer or exchange of the property listed above, provided that this is explicitly stated at the time of acquisition. <p>For any property indicated in c), d), f) above, where the property is immovable or movable and registered in the specific property register and was acquired after the marriage, in order for it to be excluded from the community property, the exclusion must be declared in the act of acquisition and with</p>	<p>In the case of publicly registered movables or immovables, an act of disposal (sale, etc.) lacking the necessary consent from either party, where required, can be annulled and the action can be brought by the spouse whose consent was necessary within one year from the date on which he/she had knowledge of the act and in any case within one year from the date of transcription; in any other case, the spouse acting without the consent of the other spouse has, upon request of the latter, to re-establish the community property in the state in which it had been before the act was performed or, if this is impossible, to pay an equivalent amount (Art. 184 CC).</p> <p>A spouse may not dispose of his/her own share of the community property until the community of property regime is legally dissolved.</p> <p>In case a spouse refuses to give his/her consent or he/she is absent or otherwise impeded, the other spouse may receive the judge's authorisation to carry out necessary acts (Art. 181 and 182 CC). Moreover, the judge may exclude one of the spouses from the administration if he/she has proven to be a poor administrator (Art. 183 CC). In cases of absolute or relative disability or poor administration by one of the spouses, the judge may declare a judicial separation of property, which constitutes one of the</p>

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		<p>the participation of the other spouse (Art. 179 CC).</p> <p>The following shall be considered deferred community property:</p> <ul style="list-style-type: none"> the fruits of a spouse's personal property and the proceeds from his/her individual activities, provided they still exist at the time of dissolution of the community (Art. 177 lit. b) and c) CC); property intended for the operation of an enterprise of one of the spouses if the enterprise was set up after the marriage and also the increments of an enterprise set up before the marriage, provided they are still in existence at the time of dissolution of the community (Art. 178 CC). <p>Deferred community applies only at the moment when the community of property is dissolved and, depending on the prevailing doctrinal interpretation, does not indicate actual co –ownership of goods or rights, but only a right to credit of one spouse to be paid by the other (the owner), equal to half the value of the property. Should no agreement be reached about this value, it will be determined by the judge.</p> <p>In terms of inheritance, this represents a debt of the deceased spouse to be paid to the surviving spouse.</p>	<p>reasons for dissolving the community of property regime (Art. 193 CC).</p> <p>As for personal property and deferred community property, the owner will be able to conduct all acts of administration and disposal alone (Art. 185 CC).</p> <p>There are no special legal provisions concerning the marital home, or any specific safeguard for the spouse who is not the owner.</p>

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Kipras	Couples in Cyprus	Section 13 of Law 232/91 provides that marriage does not affect the proprietary independence of the spouses; each spouse retains and acquires his/her own property even after the marriage is celebrated. Obviously the spouses may acquire joint property; however, each spouse shall in such a case have an undivided share in such property. If the marriage is annulled, or dissolved, or if the parties have been separated, then either party may claim his/her contribution to the increase of the property of the other spouse (see 5.1).	As stated above, Section 13 of Law 232/91 provides that marriage does not affect the proprietary independence of the spouses; each spouse retains and acquires his/her own property even after the marriage is celebrated. Thus, each spouse administers his/her own property.
Latvija	Couples in Latvia	<p>Under the statutory matrimonial property regime, each spouse retains the property which belonged to him/her before the marriage, as well as the property he/she acquires during the marriage.</p> <p>Everything acquired during the marriage by the spouses together, or by one of them, but from the resources of both spouses, or with the assistance of the actions of the other spouse, is the joint property of both spouses; in case of uncertainty, it shall be presumed that such property belongs equally to both spouses (Art. 89 CC).</p> <p>The separate property of each spouse is:</p> <ul style="list-style-type: none"> property owned by a spouse before the marriage, or property the spouses 	<p>The spouses can freely administer and use their separate property during the marriage (Art. 90 para. 1 CC).</p> <p>The spouses shall jointly administer and use their joint property, but upon agreement between them, it can also be administered by one of them alone. The disposal of this property by one spouse requires consent from the other spouse (Art. 90 para. 2 CC).</p> <p>In the interests of third parties, it is assumed that disposal of movable property received such consent, except for cases when the third party knew or should have known that the consent was not in place or when the property of which one spouse disposed obviously belonged to the other spouse.</p>

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		<p>have, by contract, designated as separate property;</p> <ul style="list-style-type: none"> • assets which serve the personal use of one spouse, or are required for his/her independent work; • property which was acquired gratuitously during the marriage by one of the spouses; • income from the separate property of a spouse that is not assigned to the needs of the family or the joint household; and • property that replaces the property referred to in the previous paragraphs (1 –4) (Art. 91 CC). 	
Lietuva	Couples in Lithuania	<p>Property acquired by the spouses after the commencement of their marriage shall be part of their community property, as well as, among others, the income and fruits collected from the personal property of a spouse or the income from work or intellectual activities collected after the commencement of the marriage.</p> <p>The personal property of each spouse shall consist of:</p> <ul style="list-style-type: none"> • property acquired separately by each spouse before the commencement of the marriage; • property acquired by succession or gift during the marriage unless the will or 	<p>Community property shall be used, managed and disposed of by the mutual agreement of the spouses (Art. 3.92(1) of the CC). When concluding transactions a spouse shall be presumed to have the consent of the other spouse except in cases where entering into a transaction requires the written consent of the other spouse (Art. 3.92(3) of the CC). Transactions related to the disposal or encumbrance of a community immovable property or the rights to it, also transactions on the alienation of a community enterprise or securities or the encumbrance of the rights to them may be made only by both spouses except where one of the spouses has been</p>

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		<p>donation agreement indicates that the property shall be part of the community property;</p> <ul style="list-style-type: none"> • a spouse's personal effects (clothing, assets required for the spouse's profession); • the rights to intellectual or industrial property except for the income derived from those rights; • funds and chattels required for the personal business of one of the spouses other than the funds and chattels used in the business conducted jointly by both spouses; • damages and compensation payments received by one of the spouses for non-pecuniary damage or personal injury, payments as financial aid for specific purposes and other benefits related specifically to only one of the spouses, rights that may not be transferred; • property acquired with the personal funds or proceeds from the sale of a personal property with the express intention of the spouse at the time of the acquisition to acquire it as a personal property (Art. 3.89(1) of the CC). 	<p>given power of attorney by the other spouse to enter into such a transaction (Art. 3.92(4) of the CC).</p> <p>Where a transaction has been concluded without the consent of the other spouse, that other spouse may ratify the transaction within a month of the date when he/she learnt about the transaction (Art. 3.92(6) of the CC). Transactions made without the consent of the other spouse and not ratified by him/her later, may be contested in an action brought by that spouse within a year of the date when he/she learnt about the transaction provided it is proven that the other party to the transaction was in bad faith (Art. 3.96(1) of the CC). Transactions that should have been made with the written consent of the other spouse or could only have been made jointly by both spouses may be declared void irrespective of the other party to the transaction being in good or bad faith except in cases where one or both of the spouses used fraud in making the transaction or made misrepresentations to institutions in charge of public registers or to any other institutions or officials. In such cases the transaction may be declared void only if the other party to the transaction was in bad faith (Art. 3.96(2) of the CC).</p>

Šalis	Šaltinis	Bendro principo aprašymas (angl. <i>General principle</i>)	Nuosavybės valdymas (angl. <i>administration of property</i>)
Liuksemburgas	Couples in Luxembourg	<p>The statutory matrimonial property regime is the community of property regime, also referred to as community of acquisitions (Article 1400 CC). This regime distinguishes between the common property and the separate property of each of the spouses.</p> <p>Common property comprises the acquisitions, i.e. assets resulting from the spouses' professional earnings, the fruits and income of their own personal assets and assets acquired against payment by each of the spouses during the marriage (Article 1401 CC).</p> <p>Separate property comprises assets already owned by one of the spouses on the day the marriage is celebrated, assets acquired by one of the spouses during the marriage as an inheritance or gift (Article 1405 CC), and assets of a personal nature acquired during the marriage and considered to be the separate property of one of the spouses (Article 1404 CC).</p>	<p>Each spouse may administer, enjoy and dispose of his or her separate property (Article 1428 CC), subject to the restriction under Article 215 of the Civil Code which provides that the spouses may not separately dispose of the rights whereby the lodging of the family is ensured, or of the pieces of furniture pertaining thereto. Each spouse alone administers and disposes freely of the property that has been brought into community property on his or her own initiative. (Article 1421 CC).</p> <p>A spouse may not dispose of the property acquired by both spouses during the marriage without the consent of the other (Article 1421 -1 CC).</p> <p>Where one of the spouses proceeds alone with the administration, enjoyment or disposal of a movable asset which he or she holds individually, he or she is considered, with regard to third parties acting in good faith, to have the power to perform that transaction alone. This provision does not apply to transactions effected free of charge. This provision also does not apply to pieces of furniture referred to in Article 215, paragraph 2 of the Civil Code, or to movable tangible property which by its nature gives rise to a presumption of ownership of the other spouse due to its personal nature (Article 222 CC).</p>

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			Each spouse is accountable for any faults committed in his or her management (Article 1421 –1, paragraph 3 CC). The civil liability legal regime will apply. In the event of fraud or misuse of powers, an application may be made to cancel a transaction performed by one spouse in respect of an item of common property. The cancellation application may be made by the other spouse within two years from the day when he/she became aware of the transaction, but never more than two years after the dissolution of the community (Article 1427 CC).
Vengrija	Couples in Hungary	<p>Unless otherwise provided in their marriage contract, after marriage, the spouses are subject to the community of property regime for the duration of their joint marital life (statutory matrimonial property regime). Upon entering into marriage, the statutory matrimonial property regime will become effective also retroactively for the time of the spouses' life partnership preceding marriage. (Art. 4:34 (2) and 4:35 (1) of the Act V of 2013 on the Civil Code [hereinafter: Civil Code])</p> <p>All assets acquired jointly or individually by the spouses during the marital community of property form part of the undivided common property of the spouses, except for assets</p>	<p>Either spouse may use the assets belonging to the common property, according to their purpose. Neither of the spouses should exercise this right with prejudice to the rights and lawful interests of the other spouse. Both spouses together are entitled to administer the assets of their common property.</p> <p>Either spouse can claim the permission of the other spouse for activities that are necessary to protect and maintain their common property. Urgent measures for the protection of assets may be taken by either spouse without the consent of the other spouse. However, the other spouse should be notified thereof without delay.</p>

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		<p>belonging to a spouse's separate property (see below). Profits from separate assets also form part of the common property if these profits were accrued during the joint marital life. Any administrative or maintenance costs and charges for these assets are deducted from the profits.</p> <p>(Art. 4:37 (1) and (3 –4) of the Civil Code)</p> <p>The separate assets of each spouse include:</p> <p>assets acquired before the beginning of the marital community of property;</p> <p>assets inherited or received as a gift and assets received without compensation during the marital community of property;</p> <p>rights of the spouse as the proprietor of intellectual property, except for the royalties due during the marital community of property;</p> <p>any compensation received for personal injury;</p> <p>assets of personal use of customary value;</p> <p>assets substituting separate assets, and anything of value acquired for such assets.</p> <p>If an asset replaces an asset of customary value which was the separate property of one of the spouses and which was used during the spouses' common everyday life, the new asset becomes part of the common property after five years of joint marital life.</p>	<p>(Art. 4:42 (1 –2) of the Civil Code)</p> <p>Special rules are applicable to the use and the administration of the assets belonging to the common property, but serving for the pursuit of the profession or private entrepreneurial activity of one of the spouses. The Hungarian law also prescribes special rules in respect of the exercise of membership or shareholders' rights if the spouse is a member or shareholder of a sole proprietorship, a cooperative society or a company.</p> <p>(Art. 4:43 (1 –2) of the Civil Code)</p> <p>During the community of property the spouses shall be able to make any disposition relating to their community property collectively, or subject to the other spouse's consent. As regards an agreement concluded by one of the spouses during the community of property, no formal requirements apply to the other spouse's consent.</p> <p>(Art. 4:45 of the Civil Code)</p> <p>Any contract for pecuniary interest concluded by a spouse during the community of property shall be presumed – unless otherwise provided for in the Civil Code – to have been concluded with the other spouse's consent if the contracting third party was aware, or should have been</p>

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		(Art. 4:38 (1 –3) of the Civil Code)	<p>aware that the other spouse had not given his/her prior consent for the contract.</p> <p>If the spouse concluded a contract aimed at satisfying his/her everyday needs or within the framework of the pursuit of his/her profession or business activity, the other spouse may invoke the lack of his/her consent only if having specifically expressed to the contracting third party his/her objection before the contract was concluded.</p> <p>(Art. 4:46 of the Civil Code)</p> <p>Neither of the spouses shall be entitled to dispose over the real estate property serving as the jointly owned family home of the spouses during community of property, or during the time period between the termination of the marriage and the division of community property without the other spouse's consent. In that case the other spouse's consent shall not be presumed.</p> <p>(Art. 4:48 of the Civil Code)</p>
Malta	Couples in Malta	In the absence of a marriage contract, the community of property shall apply between the spouses (Art. 1316 Maltese Civil Code (CC)). The community property comprises all property that is acquired by each of the spouses by the exercise of his/her work, the fruits of the property of each of the spouses and the moveable and immoveable property acquired for a consideration by either of the	Acts of ordinary administration of the community property may be exercised by either spouse. Acts of extraordinary administration, however, have to be exercised jointly by the spouses. The law specifically stipulates which acts are considered as being part of extraordinary

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		<p>spouses during marriage. All property acquired by either of the spouses either by donation or through an inheritance is considered personal property of the spouse who receives/inherits it. Acts of ordinary administration of the community property may be exercised by either spouse. Acts of extraordinary administration, however, have to be exercised jointly by the spouses. The law specifically stipulates which acts are considered as being part of extraordinary administration where the consent of both spouses is required (Art. 1322 CC).</p> <p>For example, the consent of both spouses is required for the disposal of immoveable property belonging to the community property and of the matrimonial home, even if it belongs to only one of the spouses. If acts which require the consent of both spouses are performed by only one spouse without the consent of the other, they may be annulled at the request of the latter where such acts concern the alienation or constitution of a real or personal right over immovable property. If such acts concern movable property, they may only be annulled where they confer the rights over such movable property by gratuitous title (Art. 1326 CC).</p>	<p>administration where the consent of both spouses is required (Art. 1322 CC).</p> <p>For example, the consent of both spouses is required for the disposal of immoveable property belonging to the community property and of the matrimonial home, even if it belongs to only one of the spouses. If acts which require the consent of both spouses are performed by only one spouse without the consent of the other, they may be annulled at the request of the latter where such acts concern the alienation or constitution of a real or personal right over immovable property. If such acts concern movable property, they may only be annulled where they confer the rights over such movable property by gratuitous title (Art. 1326 CC).</p>

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Nyderlandai	Couples in Netherlands	<p>From 1 January 2018, a limited community of property regime will apply in the Netherlands, under which assets acquired during the marriage and any associated debts are part of the community of property – (see Art. 1:94 para. 1 BW). Assets that are not part of the community of property include those acquired under inheritance law or as a gift, pension rights and survivor's pensions covered by the Act on Equalisation of Pension Rights in the Event of Separation. This regime applies to marriages contracted on or after 1 January 2018 or to spouses who annul an existing prenuptial agreement after that date and were married under the statutory regime. The community of property also includes assets jointly owned by the spouses before marriage (e.g. while living together). A special scheme applies if one of the spouses runs a business – see Art. 1:95a BW.</p> <p>For marriages contracted before 1 January, the previous statutory regime will remain in effect. The previous statutory regime consists of a comprehensive community of property. All assets which the spouses owned at the beginning of the marriage and all assets which they acquired thereafter belong to the community property so long as the community is not dissolved. Assets which are acquired by inheritance or gift and which shall, according to the last will of the deceased or the intention of the donor,</p>	<p>Assets acquired in name (e.g. real properties and shares in an NV (public liability company) or BV (limited liability company)) are administered by the spouse in whose name they were acquired. All other assets belonging to the community property may be administered by each spouse separately (see Art. 1:97 BW). The matrimonial home may only be disposed of with the consent of both spouses (see Art. 1:88 BW). Consent is also required for establishing a mortgage on the matrimonial home. If the other spouse, due to absence or other cause, cannot give his/her approval or he/she refuses to give approval, the judge can give the consent. If it later appears that the consent is missing, the other spouse can invoke the invalidity of the legal act (see Art. 1:89 BW) within a period of 3 years (see Art. 3:52 BW).</p>

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		<p>remain outside the community (also called an exclusion clause), pension rights as intended in the "Act on Equalisation of Pension Rights in the Event of Separation" and surviving dependants' pensions do not belong to the community. Assets (and debts) that are exclusively connected to one of the spouses do not fall within the community either (see Art. 1:94 para. 5 BW). On the basis of case –law, special pension rights and compensation for immaterial damage are counted among the separate assets. Connexity is not readily accepted in other cases. Fruits of separate assets also belong to the separate estate (see Art. 1:94 para. 6 BW). All debts entered into by each of the spouses with the exception of debts concerning the separate assets also belong to the community and are to be paid out of the community assets (see Art. 1:94 para. 7 BW).</p>	
Austrija	Couples in Austria	<p>The legal matrimonial property regime is that of separation of property. Each spouse retains what he/she brought into the marriage and becomes sole owner of the assets that he/she acquires during the marriage (§ 1237 Allgemeines Bürgerliches Gesetzbuch, ABGB). With regard to disposition over their assets, in principle the spouses are not subject to any limitations</p>	<p>In principle, the spouses can dispose freely of their own property during the marriage. They could limit their freedom of disposition over certain assets by agreeing on a prohibition on alienation and/or encumbrance in favour of the other spouse (§ 364c ABGB). The recording of such a prohibition in the land register is also opposable to third parties, so that henceforth the respective real property can</p>

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		and they are not liable for the debts of the other.	only be disposed of with the consent of the other spouse. When the spouses acquire ownership of a 'condominium' within the meaning of the WEG (Wohnungseigentumsgesetz) together, they may only dispose of the property right and the right of use of the object together as well (§ 13 para. 4 WEG). The condominium property shares may also only be jointly limited, encumbered or subjected to execution. An alienation of an ownership share by one spouse must be approved by the other spouse (§ 13 para. 3 WEG). If the residence serves to satisfy the urgent housing need of at least one of the spouses, the other is prohibited during marriage from filing a claim for termination of the condominium property community under § 830 ABGB (§ 13 para. 6 WEG). If only one spouse has the right to dispose of a residence that serves to satisfy the urgent housing need of the other spouse, the former is generally prohibited from disposing of the residence to the disadvantage of the other spouse (§ 97 ABGB).
Lenkija	Couples in Poland	In the course of a valid subsisting marriage, each spouse is in charge of the administration of his/her property and does not typically require the consent of the other spouse for the administration or disposal of that property. The family home of the parties, as defined by section 2(1) Family	Either spouse may individually possess and use the assets which form part of the community property (Art. 34 ¹ of the Family and Guardianship Code). During the statutory community of property regime, neither spouse may request the division of the community property. In addition to this,

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		<p>Home Protection Act 1976, as amended by section 54(1) of the Family Law Act 1995, receives special protection under Irish law. Even where the family home is held in the sole name of one of the spouses, the spouse with legal ownership is not permitted to convey the family home or otherwise secure a charge on the family home without the written consent of the non –owning spouse (section 3(1) Family Home Protection Act 1976). Where such a conveyance occurs without the consent of the other spouse, the purported conveyance shall be void (section 3(1) Family Home Protection Act 1976). However no conveyance shall be void by reason only of this consent requirement where the conveyance is made to a purchaser for full value without notice (section 3(3)(a) Family Home Protection Act 1976).</p>	<p>neither spouse may dispose of or undertake to dispose of a share of the community property or of a particular asset thereof that would fall to him/her when the statutory regime ceased (Art. 35 of the Family and Guardianship Code). Spouses are obliged to cooperate in the management of their community property (Art. 36 para. 1 of the Family and Guardianship Code). Either spouse may manage the property alone, but such management excludes the activities described below (i.e. activities requiring the consent of the other spouse). A spouse may object to the management of community property by the other spouse, except for acts concerning everyday matters, acts intended to satisfy the everyday needs of the family, or an act performed as part of a profit –oriented activity (Art. 361 para. 1 and 2 of the Family and Guardianship Code).</p> <p>If requested by one of the spouses, the court may, for an important reason, deprive the other spouse of the right to manage the community property on his/her own. The court may also decide that its authorization will be required instead of the spouse's consent for acts stipulated in Art. 37 para. 1 of the Family and Guardianship Code.</p> <p>The consent of the other spouse is required for:</p>

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			<p>1) any legal transaction concerning the disposal, encumbrance or purchase of immovable property or of the right of perpetual usufruct or any other legal transaction concerning the use and exploitation of the immovable property;</p> <p>2) any legal transaction concerning the disposal, encumbrance or purchase of a right in rem on a building or premises;</p> <p>3) any legal transaction concerning the disposal, encumbrance, purchase or lease of an agricultural farm or an enterprise;</p> <p>4) donations made from the community property, except for customarily accepted donations (Art. 37 para. 1 of the Family and Guardianship Code).</p> <p>Any agreement entered into by one spouse without the required consent of the other spouse is null and void, unless it is subsequently approved by the other spouse. A unilateral legal act by one spouse without the required consent of the other is also null and void (Art. 37 para. 2 –4 of the Family and Guardianship Code).</p>
Portugalija	Couples in Portugal	<p>I) Unless there is a marriage contract providing otherwise, the community of property regime applies (Art. 1717 CC).</p> <p>The community property includes, but is not limited to, the following:</p>	The community property is administered by both spouses. The consent of both spouses is necessary for the encumbrance and disposal of immovable property. If such a legal transaction has been concluded

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		<p>(a) the income of the work of the spouses and any property acquired by the spouses during their marriage which is not excluded by law (Art. 1724 CC).</p> <p>The spouses' separate property includes, but is not limited to, the following:</p> <p>(a) the property that each spouse owned at the time the marriage was entered into;</p> <p>(b) any property a spouse acquired during the marriage through succession or as a gift;</p> <p>(c) property acquired during the marriage under a prior entitlement (Art. 1722, 1723 CC).</p>	<p>without the consent of the other spouse, it may be contested.</p> <p>Each of the spouses administers his/her own property independently. In addition, a spouse also exclusively administers the following assets, even if they belong to the community property:</p> <p>(a) income he/she receives for his/her work;</p> <p>(b) his/her author's rights;</p> <p>(c) community property he/she brought into the marriage or acquired gratuitously during the marriage, as well as any rights subrogated to this;</p> <p>(d) any property that is gifted or bequeathed to both spouses where the administration of one spouse is excluded, except in specific cases;</p> <p>(e) movable property belonging to the other spouse or to the community property that is exclusively used by one spouse as work equipment;</p> <p>(f) property belonging to the other spouse, if this spouse is unable to administer the property due to it being situated in a remote or unknown location or for any other reason and provided that an appropriate power of attorney has not been granted for the administration of this property;</p>

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			<p>(g) the property belonging to the other spouse if that spouse grants a mandate for this power (Art. 1678 CC).</p> <p>Either spouse may open bank accounts in his/her own name and dispose of them freely, irrespective of the applicable matrimonial property regime (Art. 1680 CC).</p>
Rumunija	Couples in Romania	<p>If the spouses fail to conclude a marriage contract, the matrimonial property regime applicable to them is the statutory community of property regime. According to this regime, all the assets acquired during the community of property regime by either of the spouses are part of their common property as provided by Article 339 of the Civil Code. The personal property of each spouse, as provided by Article 340 of the Civil Code, comprises the following assets: assets acquired by legal inheritance, legacy or donation, unless the testator or donor expressly provided that the assets shall be part of the common property; assets for the personal use of a spouse; assets for the exercise of a spouse's profession; intellectual property rights over a spouse's works; assets acquired as a prize or as a reward, scientific or literary manuscripts, drawings and artistic projects, invention projects; insurance benefits and compensation for any material or moral</p>	<p>As regards common property, each spouse is entitled to use and administer common property and to acquire common property by him/herself, without the other spouse's consent (Art. 345 of the Civil Code). Legal transactions concerning the alienation and encumbrance of common property may be concluded only with both spouses' consent. However, for the common movable property whose alienation is not subject to any publicity –related formalities, either spouse may dispose of the property by him/herself (Art. 346 of the Civil Code). Otherwise, a legal transaction concluded without the other spouse's express consent may be annulled.</p> <p>The legal transactions regarding the family dwelling, which is the spouses' common dwelling, or otherwise, the dwelling of the spouse where children live, are governed by a special regime. A spouse may not dispose of the rights over the family dwelling by</p>

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		prejudice caused to either spouse; the assets, the amount of money or anything of value replacing personal assets, as well as the assets acquired in exchange for such assets, as well as the fruits of personal assets.	him/herself or conclude acts affecting the use of such dwelling even if he/she were the exclusive owner of the dwelling. However, if the consent of the other spouse is withheld with no legitimate reason, the Court competent in matters of family and guardianship may authorise the conclusion of the act. The spouse who did not give his/her consent may request the annulment of the act if the dwelling had been registered with the land register as a family dwelling. The annulment can be requested even if the family dwelling nature has not been registered, but was known to the acquiring third party for other reasons. Otherwise only damages may be claimed from the other spouse (Art. 322 of the Civil Code).
Slovėnija	Couples in Slovenia	<p>The statutory matrimonial property regime is community of property based on common ownership of assets. This is combined with single ownership of separate assets that one spouse owned before the marriage or which he/she acquired gratuitously during the marriage (e.g. a gift or inheritance) or from separate assets (e.g. interest and fruits).</p> <p>Based on Art. 67 of the Slovenian Family Code, the common property of spouses consists of all property rights which were acquired by work or derived from their common property during the course of</p>	The spouses administer and use common property jointly and consensually, unless they have agreed that one spouse alone shall be entitled to administer the common property and to dispose of common assets for the benefit of both of the spouses. The other spouse may withdraw from such an agreement at any time. If one spouse disposes of common property without the required consent of the other, the latter can challenge the legal transaction if the third party to the transaction knew or should have known that the asset concerned was

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		marriage and common life of spouses regardless of which spouse holds the title to it. The common property of spouses is also the property which was acquired on the basis and with the help of their common property and/or the property derived from it. If the property is to be divided, the shares are assumed to be equal if neither spouse proves that he/she is entitled to a greater share. In such a dispute, the court considers not only the income of each spouse but also other circumstances such as their contribution to the household, care of children and the maintenance of common property. Separate property of each spouse is the property which he/she had acquired before the marriage or gratuitously during the marriage (passage 1, Art. 77 of the Slovenian Family Code). Notwithstanding the origin or type of acquisition, separate property of a spouse refers to things of a smaller value meant exclusively for his/her personal use (passage 2, Art. 77 of the Slovenian Family Code).	part of the common property. Otherwise, the deprived spouse is only entitled to claim compensation from the other spouse. The spouses may not individually dispose of their undetermined share in the common property but may exercise their right of ownership of their separate property independently.
Slovakija	Couples in Slovakia	According to the Civil Code, the spouses have undivided co –ownership of the community property, which means that the spouses’ ownership shares are not quantitatively determined. All tangible assets (movable and immovable), rights and other property titles lawfully obtained by one of	Assets belonging to the community property may be used by both spouses if they do not stipulate otherwise. Furthermore, the spouses share the costs spent on the common assets or their use or maintenance (§ 144 OZ). If only one spouse has covered the costs from his/her own property, he/she may claim reimbursement

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		<p>the spouses during the marriage are subject to the community property, except for:</p> <ul style="list-style-type: none"> • Assets obtained by inheritance; • Assets obtained as a gift; • Assets which, when considering their nature, serve the personal needs or the profession of only one spouse; • Assets returned under the regulations on property restitution to one spouse who owned the returned asset before concluding the marriage or to whom the asset was returned as the legal successor of the original owner. (§ 143 Občianskeho zákonníka (OZ) – Civil Code) 	<p>of his/her expenses in the course of the division of the community property.</p> <p>If the spouses do not agree about the way of using a common asset or about the settlement of costs which must be spent on the asset, any spouse may apply to the court to decide the disputed matter.</p> <p>Ordinary matters concerning the community property may be settled by either of the spouses. The term “ordinary matter” is not defined in the Civil Code, so the legal practice and the circumstances of a particular case must be considered. Legal practice for example does not consider as an ordinary matter the conclusion of a rental contract, the acquisition or sale of real – estate or other valuable assets. In other matters, the consent of both spouses is required, otherwise the legal transaction is invalid, provided the other spouse or the addressee of the legal transaction claims the invalidity.</p>
Suomija	Couples in Finland	<p>According to the Marriage Act of Finland, both the property which a spouse has acquired before entering marriage and which he/she acquires during it belongs exclusively to him/her (§34 Marriage Act). If the spouses have not agreed otherwise, the spouses have a marital right to each other's property irrespective of whether the property is real property or movable property. The</p>	<p>The owning spouse administers his/her property independently during the marriage (§ 36 Marriage Act). However, even if the marital home is solely owned by one spouse, he/she requires consent from the other spouse if he/she wants to dispose of it. If the owning spouse disposes of the marital home without the consent of the other spouse, the latter can contest the</p>

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		property which is covered by the marital right (marital property) is divided in case of dissolution of the marriage. However, a donor of a gift, a testator, or a policyholder can determine that the spouse of a donee, of an inheritor, or of an insurance beneficiary has no marital right to such property which his/her spouse has received as a gift, due to a will, or based on a beneficiary clause of an insurance (§ 35 Marriage Act).	legal transaction. The lawsuit is bound to a time limit, which ends three months after the legal transaction has been concluded (§ 38 Marriage Act). If the spouses own property jointly, they also have to conduct the activities concerning such property together. If a spouse alienates or pledges movable property which belongs to the other spouse or is owned jointly by the spouses without the consent of the other spouse, the latter has the right to redeem it. If the third party was not in good faith, or if the legal transaction was not for consideration, the spouse is entitled to regain the property without redemption (§ 58 Marriage Act).
Švedija	Couples in Sweden	The statutory matrimonial property regime is the deferred community of property system. It is regulated in the Marriage Code (1987:230) (ÄktB) . Each spouse owns his/her property, regardless of whether the property was acquired before or during marriage, and each is responsible for his/her own debts to creditors (ÄktB 1:3). At the same time, however, each spouse has a marital right, which gives him/her a claim to half of the marital property's net value upon dissolution of the marriage. Marital rights thus are not the same as ownership rights. Everything that is not separate property is marital property (ÄktB 7:1). Property can be separate as a result of a marriage contract	Each spouse has the right to dispose freely of his/her property. However, the other spouse's consent can be required for the disposal of the couple's joint home and household goods as well as the disposal of immovable property in general. These restrictions are specified in ÄktB 7:5 and basically mean that a spouse's consent may be required to mortgage, pledge, lease and sell the property, whether it is a spouse's marital property or separate property. The legal consequences of a disposal in violation of the restrictions in ÄktB 7:5 are stated in ÄktB 7:8 –9 . In brief, it can be said that a legal transaction concluded in violation of the restrictions is invalid and as a rule, the property reverts to its original owner.

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		or because of a condition of a third party, for example stipulated in a will (ÄktB 7:2).	However, the owner may apply to a general court and request the right to dispose of certain property without the other spouse's consent (ÄktB 7:8). Further, when an application for divorce is brought (the so – called critical time) an accountability obligation is laid on each spouse, regarding how they proceed with the assets and liabilities to be included in the division of property (ÄktB 9:2 –3). In order to protect one spouse's right at the division of property, it is possible for the court at the request of a spouse to decide to cut off the other spouse's right to use certain property (in Swedish: särskild förvaltning) (ÄktB 9:8), until the division of property is completed.