e-ISSN 3083-6018

SOCIAL DEVELOPMENT:
Economic and Legal Issues

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Legal Models of Investor Protection in Residential Construction in Ukraine

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ARTICLE INFO

Research Article

DOI: 10.70651/3083-6018/2026.6.23

Received: 21 April 2026
Accepted: 22 May 2026
Published online: 24 May 2026

ABSTRACT

The article analyzes the legal models of investor protection in housing construction in Ukraine, based on legislation and Supreme Court practice, and takes into account the approaches of Poland and France. The correlation of special property law, contractual structures and institutional mechanisms (FFB, escrow) is considered. The dependence of the method of protection from the individualization of the object and the stage of construction is determined. The priority of property-legal claims in the event of a violation of title is substantiated. Conclusions are drawn regarding the limits of application of the relevant methods of protection.

KEYWORDS

protection of investor rights, housing construction, special property law, future real estate, state registration, guarantee share, construction financing fund, escrow, case law, primary housing market.

e-ISSN 3083-6018

СОЦІАЛЬНИЙ РОЗВИТОК:
економіко-правові проблеми

https://www.eu-scientists.com/index.php/sdel

Правові моделі захисту інвесторів у житловому будівництві в Україні

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СТАТТЯ

Дослідницька

DOI: 10.70651/3083-6018/2026.6.23

Отримана: 21.04.2026 р.
Прийнята: 22.05.2026 р.
Опублікована: 24.05.2026 р.

АНОТАЦІЯ

У статті проаналізовано правові моделі захисту інвесторів у житловому будівництві в Україні на основі законодавства та практики Верховного Суду з урахуванням підходів Польщі і Франції. Розглянуто співвідношення спеціального майнового права, договірних конструкцій та інституційних механізмів (ФФБ, ескроу). Визначено залежність способу захисту від індивідуалізації об'єкта і стадії будівництва. Обґрунтовано пріоритет речово-правових вимог у разі порушення титулу. Сформовано висновки щодо меж застосування відповідних способів захисту.

КЛЮЧОВІ СЛОВА

захист прав інвесторів, житлове будівництво, спеціальне майнове право, майбутній об'єкт нерухомості, державна реєстрація, гарантійна частка, фонд фінансування будівництва, ескроу, судова практика, первинний ринок житла..

1. Introduction

In the current conditions of transformation of legal regulation of investment relations in the sphere of housing construction in Ukraine, the problem of ensuring proper and effective protection of the rights of investors as participants in the civil turnover of future real estate objects is becoming more urgent. The historically formed model of attracting funds for construction is characterized by the absence of a single normatively agreed approach and the functioning of heterogeneous legal structures, including preliminary contracts, contracts for the purchase and sale of property rights, investment contracts, cooperative mechanisms, construction financing funds and other instruments. Such regulatory fragmentation has led to the heterogeneity of the legal status of the investor, the variability of methods of protecting his rights and an increased level of legal uncertainty in relations with the developer, which is confirmed by generalizations of judicial practice [21].

The adoption of the Law of Ukraine “On Guaranteeing Property Rights to Real Estate Objects to be Built in the Future” initiated a qualitatively new stage of legal regulation of these relations, focused on the implementation of a registration model for the circulation of future real estate objects and the formation of a special property right as an independent object of civil rights. At the same time, the introduction of new mechanisms takes place in the conditions of the simultaneous existence of previous contractual models, which causes conflicting application of law, uncertainty of the legal nature of individual institutions and the absence of established judicial practice regarding their application [10]. The identified limitations of legal regulation indicate the lack of a holistic theoretical and legal substantiation of an integrated model for protecting investors’ rights in residential construction. Existing approaches do not ensure systemic coherence of preventive and restorative legal protection mechanisms, do not fully meet the modern conditions of the functioning of the real estate market and do not take into account the specifics of the legal regime of future real estate objects. The need to solve this problem is due to the transformation of investment processes during the post-war reconstruction period, which is accompanied by an increase in the volume of construction financing and an increase in the risks of violation of investors’ rights.

2. Literature Review

The current stage of development of scientific research in the field of legal regulation of investment relations in housing construction is characterized by the evolution from a general theoretical understanding of the relevant legal relations to their detailed analysis through the prism of special legal institutions, in particular, the future object of real estate and special property law. Within the framework of the civil doctrine, a significant contribution to the formation of a systematic approach to understanding investment relations was made in the dissertation research of T. Ya. Rym, in which the mentioned relations are substantiated as an independent complex of property relations, which requires specialized legal regulation [12]. In addition, before the legislative consolidation of the relevant novelties in the scientific discourse, the issue of the legal nature of special property law was raised, in particular in the works of D. S. Spesivtsev, who considered the conceptual contradictions of its definition and place in the system of civil rights [14].

The development of scientific approaches in this area is associated with the deepening of the study of the legal nature of special property law and the mechanisms of its implementation and protection. In particular, in the works of A. V. Melnyk, a theoretical understanding of the specified institute from the standpoint of the property law doctrine was carried out and the need for its integration into the civil law system was substantiated [7]. Contractual methods of protecting the rights of the parties in transactions regarding property rights to construction objects were developed in scientific research, in particular in the works of V. V. Anatiychuk, where the specifics of the application of civil law remedies depending on the design of the relevant contract were substantiated [1]. In addition, an administrative-legal direction of research is developing, within the framework of which the future real estate object is considered as an element of public law regulation, which is reflected in the works of V. Nikitin and B. Kohut [8]. A separate segment of scientific research is the study of financial and legal instruments of investment in construction, in particular forward contracts, which are analyzed in the works of E. V. Kulaga [6].

In recent years, there has been a tendency to expand the subject field of analysis, in particular regarding the issues of turnover of special property law, its inheritance, primary alienation and procedural aspects of judicial protection, which is directly related to the practice of applying the provisions of the Law of Ukraine No. 2518-IX [10].

A comparative legal approach is of great importance for deepening scientific analysis. In Polish legal doctrine, in particular in the works of W. J. Katner, a modern model of regulation of developer relations is considered, which is based on a combination of contractual mechanisms with imperative guarantees of protection of real estate purchasers, including expanded information obligations of the developer and special financial instruments to ensure the fulfillment of obligations [4]. The French doctrine, represented, in particular, by the works of E. Sourdon, considers the VEFA model as a complex legal structure, within which contractual, financial and insurance instruments function in an interconnected manner, ensuring a high level of investor protection [13].

Thus, based on the analysis of the scientific views of scientists, it was found that the domestic doctrine lacks a coherent theoretical vision of the relationship between special property law and traditional property and obligation structures that continue to be used in practice. The relationship between private law mechanisms for protecting investors' rights with the administrative and digital infrastructure, in particular the Unified State Register of Property Rights and the State Register of Property Rights, remains insufficiently studied. The lack of interdisciplinary research on the integration of legal means into a holistic protection model necessitates its theoretical substantiation.

3. Problem Statement

The purpose of the article is to characterize models of investor rights protection in residential construction based on a comprehensive analysis of Ukrainian legislation, judicial practice, and the effectiveness of legal and financial mechanisms, taking into account the comparative experience of Poland and France.

4. Methods and Materials

The study is based on the analysis of Ukrainian legislation, the case law of the Supreme Court of Ukraine, and scientific publications addressing the protection of investors' rights in residential construction. The research applies formal legal, comparative legal, and systematic methods to examine the legal mechanisms for protecting investors' rights in this area.

5. Results and Discussion

The regulatory basis of the modern legal regulation of investment relations in the field of housing construction in Ukraine is a set of interrelated acts, the key place among which is occupied by the Law of Ukraine "On Guaranteeing Property Rights to Real Estate Objects to be Built in the Future" dated 08/15/2022 No. 2518-IX, the Law of Ukraine "On Financial and Credit Mechanisms and Property Management in Housing Construction and Real Estate Operations" dated 06/19/2003 No. 978-IV, the norms of the Civil Code of Ukraine on property rights, ownership, escrow accounts and methods of protecting civil rights, as well as legislation in the field of urban planning activities and state registration of property rights. Within the framework of the new regulatory model, the future real estate object is considered as an individualized object of civil turnover, which is subject to preliminary fixation in the digital construction system and the State Register of Property Rights even before its alienation, while the developer is obliged to ensure an appropriate level of disclosure of information regarding the characteristics of the object and the conditions of the project implementation. In this regard, publicity and individualization acquire the meaning of system-forming guarantee instruments aimed at minimizing the risks of multiple alienation of the same object, arbitrary change of its parameters and alienation of undefined property rights without their binding to a specific real estate object [10].

Of particular functional importance in the structure of the corresponding model is the guarantee share as an element of the internal mechanism for stabilizing the construction project. The regulatory procedure for the functioning of the system of state registration of special property rights provides for the developer's obligation to form a list of future objects included in the guarantee share, the alienation of which is allowed only after the construction object is put into operation; its approximate volume is from five to ten percent of the total area of future objects, depending on the characteristics of the project. The specified mechanism performs the function of internal asset reservation aimed at ensuring the completion of construction in the event of financial or organizational complications. At the same time, the guarantee share does not provide a full-fledged compensatory function inherent in external guarantee or insurance instruments, and cannot be considered as a universal mechanism for compensating investors' losses in cases of insolvency of the developer or systemic breach of obligations [9].

Under such conditions, the legal regulation of investment relations in housing construction is characterized by the coexistence of two models, which determines its transitional nature. On the one hand, new projects are more often implemented within the framework of the registration model with the use of special property law and the mechanism of primary alienation of an individualized future object. On the other hand, a significant array of legal relations continues to function based on previous contracts, property rights purchase and sale agreements, investment contracts or cooperative schemes. It is legal structures that form the main array of judicial practice, in which the fact of a person's participation in financing construction and the legal nature of the title acquired by him and the correspondence of the chosen method of protection to the stage of implementation of legal relations are decisive. In this regard, the functional content of the transaction becomes crucial, in particular the degree of individualization of the object, the completeness of the fulfillment of financial obligations, the fact of putting the object into operation, the presence of state registration of rights and the good faith of the acquirer [21].

Contractual structures used in the housing construction sector in Ukraine are classified according to the criteria of the level of legal protection of the investor and the degree of institutional certainty of the relevant legal relations. The first group consists of obligation-law models of increased risk, within which the investor acquires exclusively the right to claim for the future alienation of the real estate object; these include preliminary contracts, certain types of investment contracts, as well as simplified cooperative structures. The second group is formed by property-law models that provide for the alienation of property rights to an individualized or future real estate object; the effectiveness of protecting the investor's rights in such legal relations is determined by the proper state registration of the relevant right and the degree of technical certainty of the object. The third group consists of institutionally mediated models that provide for the participation of a special entity – a professional intermediary or controller, which provides an increased level of investor protection; These include, in particular, construction financing funds, real estate transaction funds, as well as structures associated with the use of derivatives and joint investment institutions.

The transformation of legal regulation entails a change in the functional meaning of the contract of sale of property rights as a basic investment model. After the adoption of the Law of Ukraine No. 2518-IX, the corresponding structure is integrated into the system of state registration of the future real estate object and rights to it, which determines its application in connection with registration procedures [1, p. 85].

The most institutionalized instrument for protecting investors' rights within the framework of traditional models of legal regulation remains construction financing funds, the legal regime of which is determined by the Law of Ukraine "On Financial and Credit Mechanisms and Property Management in Housing Construction and Real Estate Transactions". According to its provisions, the fund manager – a bank or other financial institution – manages the attracted funds on its own behalf in the interests of the founders of the management, which involves the use of specialized accounts to accumulate funds and make settlements within the fund. An important guarantee of the stability of legal relations is the legally established procedure for making changes to the rules of the fund's operation, which provides for the need to agree on them with the principals, which makes it impossible to unilaterally change the terms of the project after attracting investments. Unlike bilateral contractual models, the design of construction financing funds integrates a professional financial intermediary into legal relations, which increases the level of control over the flow of funds and the fulfillment of obligations by the developer. At the same time, this mechanism does not ensure complete minimization of risks, since it does not provide for the creation of a universal external compensation tool in the event of systemic insolvency of the developer or large-scale violations of obligations [11].

As for the escrow account, national law has established it as a separate contractual structure within the framework of general civil law regulation, which is used as a tool to ensure the proper performance of obligations. In accordance with the provisions of the Civil Code of Ukraine and regulatory regulations in the field of payment services, an escrow account provides for the bank to hold funds until the conditions specified in the contract are met, with their subsequent transfer to the beneficiary or return to the client. Thus, escrow functions as a universal contractual mechanism of private law, but is not institutionalized as an imperative industry standard in the field of housing finance. The lack of mandatory integration of this mechanism into the regulation of the primary housing market indicates the presence of a regulatory gap that limits its potential as an effective means of protecting investors and distinguishes the Ukrainian model from the Polish practice of applying the mandatory mieszkaniowy rachunek powierniczy and the French system of payment regulation within the framework of VEFA [15].

The Polish model of legal regulation of housing investment demonstrates the effectiveness of combining the escrow account mechanism and the guarantee fund as complementary elements of protecting the rights of the purchaser. The legislation of the Republic of Poland establishes instruments for protecting funds deposited by the purchaser, as well as the procedure for their payment from a housing trust account. Official explanations confirm that the action of the Deweloperski Fundusz Gwarancyjny covers the period from the first payment to the transfer of ownership and ensures the return of funds, in particular in the event of the developer's insolvency; the corresponding legal regime applies to transactions concluded after the law entered into force. The Polish model is characterized by a double level of protection, under which financial resources are not integrated into the developer's economic circulation, and in the event of the project's insolvency, an external compensation mechanism is applied along with internal resources [16]. The French VEFA model is characterized by an even higher level of regulatory detail in terms of regulating payment discipline and construction completion guarantees. According to official sources, the deposit under the reservation agreement must be paid into a special bank account or deposited with a notary, and its size is limited depending on the terms of the main agreement. The regulatory provisions of the Construction and Housing Code establish a clear gradation of staged payments tied to the stages of construction, and the balance of the cost is payable after the actual handover of the object to the buyer, with the possibility of deposit in the event of a dispute. In addition, there are mechanisms for a financial guarantee of completion (garantie financière d'achèvement) and mandatory insurance coverage, including ten-year liability insurance and a dommages-ouvrage system that provides prompt financing for the elimination of defects. A comparative analysis shows that Ukrainian law currently lacks such a complex and imperatively entrenched relationship between pre-sale housing, financial guarantees of completion, and post-construction insurance, which reflects differences not only in the technique of legal regulation, but also in conceptual approaches to risk management [16].

Corporate mechanisms for protecting investors' rights in national conditions should be considered in a broader context than traditional corporate law, taking into account the structural organization of the project within the developer's group and the presence of effective barriers against asset dilution. The current regulatory framework creates certain prerequisites for such protection, in particular through the obligation of public disclosure of information, digital fixation of the parameters of the future facility, the introduction of guarantee shares, the functioning of construction financing funds and the use of specialized accounts. In addition, the legislation does not include sufficiently clear provisions on limiting the mixing of assets of different projects, cross-encumbrance of rights to future facilities or the withdrawal of economically significant assets to fulfill obligations to investors. In this regard, strengthening corporate protection should provide for the implementation of the principle of project isolation of assets, standardization of information disclosure and expansion of requirements for transparency of the structure of related parties, which is consistent with the logic of the registration model and confirmed by comparative experience [9].

The administrative and legal component of investor rights protection encompasses a set of interrelated elements, among which the key elements are ensuring the urban planning legality of the project, the functioning of digital control mechanisms, and the state supervision system. In particular, the implementation of a construction project requires the availability of appropriate rights to the land plot and permits for construction work, which is a prerequisite for state registration of a special property right. At the same time, the integration of the Unified State Register of Real Estate Rights and the State Register of Real Estate Rights ensures a reduction in the risks of manipulating the characteristics of the object and the illegal circulation of rights to non-existent objects. The system of administrative liability and supervision, in turn, forms an additional level of preventive influence, as a result of which the effectiveness of civil law protection largely depends on the quality of the functioning of the public law regulatory mechanism [5].

Criminal law remedies perform an auxiliary but important preventive function in the system of guarantees of investor rights. They are aimed at combating such offenses as fraudulent appropriation of funds, misappropriation of property, unauthorized occupation of land plots and other acts related to unscrupulous development activities. Unlike civil law mechanisms focused on the restoration of violated rights or compensation, criminal law instruments provide the possibility of coercive influence on the offender, including the seizure of assets and the fixation of evidence of illegal activity. Also widespread is the erroneous practice of perceiving criminal proceedings as the main method of restoring the rights of the investor, while the effective restoration of the violated title should be carried out in particular within the framework of civil law and the registration mechanism, which is confirmed by current case law [3].

Judicial practice in the field of housing investment performs a system-forming function, actually forming standards of law enforcement and playing a quasi-codification role in determining the appropriate methods of protecting investors' rights. First of all, it consistently refutes two erroneous approaches that have long dominated practice: first, the idea that the conclusion of any investment or similar contract in itself gives rise to the right of ownership of the real estate object; second, the belief that in the event of a violation of the investor's rights, it is sufficient to state a formally correct but actually ineffective claim, in particular, to induce the developer to fulfill contractual obligations, even when the ownership right is already registered with another person. Thus, the Grand Chamber of the Supreme Court in case No. 910/2861/18 emphasized that in the case of illegal appropriation of constructed property, the proper method of protection is a vindication claim, while the requirements of a binding nature do not ensure the restoration of the violated right provided that the defendant has a registered ownership right [17].

Legal practice indicates the formation of a clear distinction between the stages and methods of protecting the investor's rights depending on the factual circumstances of the case. In particular, in case No. 359/5719/17, the Grand Chamber of the Supreme Court recognized the possibility of protecting the violated rights of the investor by combining the requirements for recognition of property rights and recovery of property from illegal possession without the need for additional appeals of null and void transactions. In case No. 344/16879/15-ts, another important legal conclusion was formulated: provided that the facility is fully financed, put into operation and the developer fails to take actions to register the ownership right, the proper method of protection is a claim for recognition of the ownership right in accordance with Art. 392 of the Civil Code of Ukraine, since in such a case the investor is recognized as the primary acquirer of the right to the newly created property. In turn, in case No. 553/1091/19, the Civil Court of Cassation clarified that in the event of alienation of the investment object to a third party, the investor has the right to reclaim such property from someone else's illegal possession. The outlined approaches indicate a consistent transformation of judicial practice from the dominance of obligation-law constructions to the priority of property-law methods of protection aimed at the actual restoration of the violated legal status of a person [18].

The legal position of the Supreme Court regarding the role of state registration of property rights is also of particular importance. Judicial practice proceeds from the fact that the fact of making an entry in the state register in itself is not an independent basis for the emergence of property rights, and therefore, in the process of resolving the dispute, the legal basis for acquiring the relevant title is subject to investigation. For the investor, this means the possibility of challenging the formal registration record and defects in the initial acquisition of the right by a third party, in particular in cases where the registration was carried out in violation of his rights as the initial acquirer. Thus, the modern model of judicial protection of the investor in Ukraine is based on the coordination of three key elements: the presence of a proper legal title, the choice of an adequate method of protection and ensuring the appropriate correction of the registration status of the real estate object [20]. The established dependencies are specified by systematizing the key legal positions of the Supreme Court, the results of which are summarized in Table 1.

Table 1. Relevant case law of the Supreme Court in disputes regarding the protection of investors' rights in residential construction

Date and case number	Legal position of the court	Analytical summary
16.02.2021, No. 910/2861/18	In the case of state registration of ownership of a real estate object by a person who carried out construction based on an investment contract, the proper way to protect the violated right of the investor is a vindication claim, while the requirement to perform the contract in kind does not ensure its restoration.	The priority of property-legal methods of protection over obligation-legal methods in cases of violation of property rights has been formed.
14.09.2021, No. 359/5719/17	The investor has the right to protection by recognizing property rights and reclaiming property from someone else's illegal possession; separate recognition of null and void transactions is not necessary.	The procedural model of protection has been optimized by eliminating excessive requirements for challenging invalid transactions.
14.12.2021, No. 344/16879/15-ц	Provided that the object is fully financed and put into operation, the investor is recognized as the primary acquirer of ownership of the newly created property; the proper way to protect is a claim for recognition of ownership in accordance with Article 392 of the Civil Code of Ukraine.	The approach to recognizing property rights as an effective method of protection at the stage of completed construction has been consolidated.
07.12.2021, No. 910/1671/20	State registration of a right is not an independent basis for its occurrence; the court is obliged to investigate the legal basis for acquiring ownership.	The priority of material-legal title over formal registration fixation has been formed.
25.06.2025, No. 553/1091/19	In the event of alienation of the investment object to a third party, the investor has the right to reclaim property from someone else's illegal possession.	The use of vindication as an effective method of restoring rights in cases of double or illegal alienation has been confirmed.

Source: Formed by the authors based on [19].

Analysis of the legal positions of the Supreme Court indicates the dependence of the choice of the method of protection on the stage of implementation of the construction project. At the stage of the existence of the right of claim, the priority is given to the methods of obligational law, while with the formation of an individualized real estate object, the preference is given to the methods of property law. The inconsistency of the chosen method of protection with the nature of the violated right leads to a decrease in the effectiveness of judicial protection.

The current practice of the Supreme Court indicates the gradual establishment of an approach in which the determining criterion is the actual structure of the offense and the stage of implementation of rights to the real estate object, which corresponds to the general trends of the continental legal tradition [18].

Institutional interaction in the field of housing investment indicates a transformation of approaches to ensuring the protection of investor rights, which can no longer be considered exclusively within the framework of bilateral legal relations "investor – developer". In the modern model, the functioning of a complex system of interconnected elements, including digital infrastructure, state registration mechanisms, the activities of professional financial intermediaries, a system of public control, as well as standards of judicial protection formed at the level of cassation practice [9]. A comparative legal analysis of the legal systems of Poland and France allows us to state that the Ukrainian model already integrates individual elements of the modern architecture of investor rights protection, but does not ensure their full systemic coherence. In particular, the Polish model is based on a combination of a mandatory housing trust account, a disclosure mechanism and the functioning of a guarantee fund, while the French system is characterized by a high level of regulatory formalization of relations within the VEFA model, which includes a regulated payment structure, mandatory deposit of funds, construction completion guarantees and comprehensive insurance coverage. In contrast, the Ukrainian system demonstrates significant progress in the individualization and state registration of future real estate, but remains underdeveloped in terms of tools for controlling the flow of funds, the introduction of external guarantees of compensation and the formation of mandatory insurance coverage of risks [16].

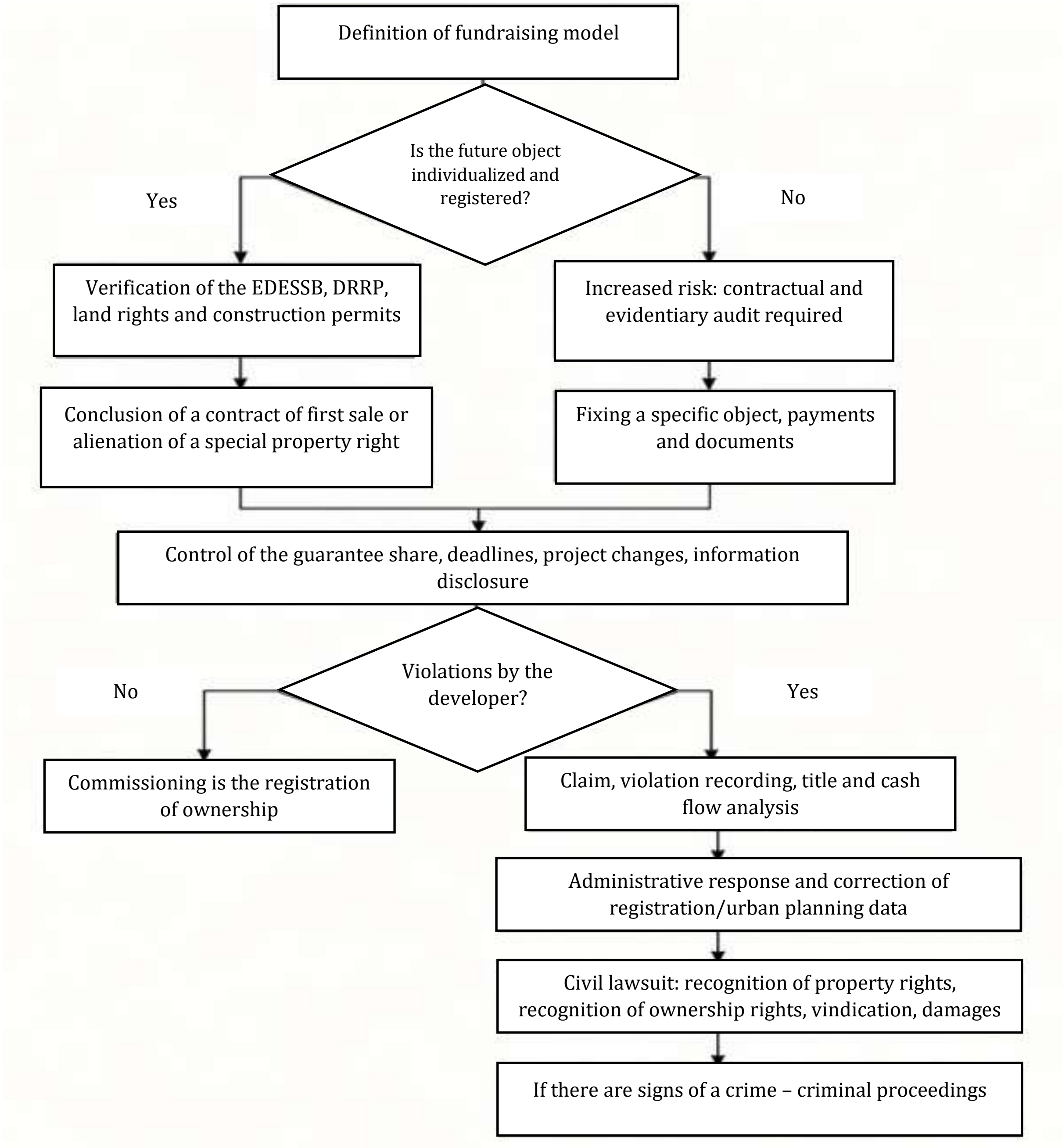

Figure 1. Model for choosing a legal mechanism for protecting investor rights depending on the status of the construction site

Source: Built by the authors based on [1; 5; 6].

A comparative analysis of the legal regulation of housing investment in the jurisdictions studied allows us to formulate a number of conceptually significant conclusions. In particular, it should be noted that the Ukrainian model demonstrates a well-founded orientation towards the institutionalization of mechanisms for digital individualization of the future real estate object and its registration as key elements of ensuring the stability of legal title, which corresponds to modern trends in the development of continental legal systems. In addition, national legal regulation retains an imbalance between preventive and restorative protection mechanisms, since it is largely focused on the judicial phase of dispute resolution with insufficient development of instruments for controlling the movement of investment funds. The guarantee share mechanism, despite its functional purpose as an internal reservation tool within the framework of a construction project, does not provide systemic coverage of risks in the absence of imperatively established payment control mechanisms and external financial compensation instruments. At the same time, the absence of a mandatory insurance component aimed at ensuring the completion of construction and the elimination of significant defects leads to the preservation of an asymmetric distribution of risks, within which a significant part of them is borne by the investor as the economically weaker party to the legal relationship [9]. In view of the above, the following areas of improvement of regulatory and legal regulation and law enforcement practice appear to be scientifically justified. First, it is necessary to complete the process of regulatory unification of the primary housing construction market by gradually replacing binding legal structures that do not provide for proper individualization of the future object and do not provide a sufficient level of public certainty of rights.

Table 2. Comparative analysis of instruments for protecting investors' rights in residential construction (Ukraine, Poland, France)

Tools	Ukraine	Poland	France
Basic pre-sale model	Special property right to a future object; historically, a plurality of contractual structures	Umowa deweloperska, regulated by a special law	VEFA as a specialized alienation regime in the "protected sector"
Individualization of the future object	Digital fixation in the Unified State Register of Real Estate and Real Estate Development with the definition of technical parameters	Information prospectus, banking control, regulatory regulation	Notarized deed, detailed description of the object within the VEFA
Control over the flow of funds	A general mechanism for an escrow account, without imperative industry application	Mandatory residential trust account (open/closed)	Regulatorily defined payment stages; mandatory deposit of part of the funds
Internal guarantee mechanisms	Guarantee share of future objects as a project reserve	Non-existent in this form; compensated by external guarantees	Focus on financial guarantees of construction completion
External guarantees	Absence of a specialized guarantee fund for housing investors	Deweloperski Fundusz Gwarancyjny	Financial guarantee of completion/ reimbursement
Insurance mechanism	Fragmented regulation without a mandatory insurance model	Focus on financial guarantees and trust accounts	Mandatory insurance: ten-year liability, dommages-ouvrage
Methods of protection in case of violation	Recognition of property rights, ownership, vindication, compensation for damages; administrative and criminal remedies	Refunding through an account or guarantee fund; contractual sanctions	Completion guarantees, payment deposits, insurance mechanisms and legal protection

Source: Formed by the authors based on [2; 4; 13; 15; 16].

Secondly, it is advisable to introduce an imperative requirement for the use of specialized trust-type payment accounts (escrow) in all legal relationships related to the alienation of future real estate outside the construction financing funds, which will allow institutionalizing the mechanism for controlling the flow of funds. Thirdly, an external guarantee instrument aimed at ensuring the completion of the facility or compensation to investors in the event of the developer's failure to fulfill its obligations needs regulatory consolidation, which can be implemented by creating a specialized guarantee fund or introducing mandatory financial guarantees. In addition, it is necessary to form a mandatory insurance block that would cover the risks of non-completion of construction and significant construction defects, thereby ensuring the redistribution of risks in favor of professional market participants.

It is also necessary to strengthen the requirements for the organizational and legal structure of the implementation of construction projects, in particular by introducing mechanisms for isolating assets and financial flows within individual projects, which will make it impossible to mix or withdraw them. The integration of digital registers of the Unified State Register of Real Estate and the State Register of Real Estate Rights requires improvement by introducing automated mechanisms for informing investors about changes in the legal status of the facility, project documentation and title to the land plot. The implementation of these measures ensures a transition from a reactive to a preventively oriented model of investor rights protection, which contributes to reducing the burden on the judicial system and increasing the level of legal certainty in the relevant area.

6. Conclusions

Based on the research conducted, it was established that the modern model of investor rights protection in residential construction in Ukraine is at the stage of transition from a fragmented and predominantly court-centric approach to the formation of a comprehensive, multi-level system of legal guarantees. The key trend is the shift in emphasis from post-factum protection in the form of a court dispute to preventive mechanisms related to the individualization of the future object, its state registration and increasing the transparency of the legal title. In this regard, the introduction of special property law and digital fixation of the parameters of the object should be considered as a system-forming element of the new regulatory model, which ensures increased legal certainty of the primary housing market, but does not fully eliminate its inherent risks. In addition, an analysis of the Supreme Court's case law demonstrates the formation of a consistent doctrine, according to which the effectiveness of investor rights protection is determined by the correspondence of the chosen method of protection to the nature of the violation and the stage of project implementation. Thus, the national legal order is undergoing a conceptual transition to a model in which the categories of legal title, its state fixation and adequate method of judicial protection are central.

At the same time, it has been established that the current legal regulation does not provide an adequate level of institutionalization of financial and insurance protection mechanisms, which in the compared legal systems perform the function of key preventive guarantees. The absence of mandatory control over the movement of funds, external guarantees of completion or return of investments, as well as systemic insurance coverage, leads to the preservation of an increased level of risk for the investor. In this regard, the further development of the national model should be aimed at integrating these instruments into a single functionally coordinated system, which will ensure the transition from a reactive to a preventively oriented paradigm of protecting investors' rights and will contribute to increasing the stability and predictability of the primary housing construction market.

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