UNDERSTANDING LOCAL CUSTOMS TO ACHIEVE THE 2030 AGENDA: LAND AND GENDER IN THE WESTERN BALKANS

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Abstract

This article presents a joint Food and Agriculture Organization of the United Nations (FAO) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH (on behalf of the German Federal Ministry of Economic Cooperation and Development (BMZ)) initiative to integrate the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of the National Food Security Principles on Gender Equality, as well as help countries develop their capacities to collect data, monitor and report progress on the SDG Goal 5: Achievement of gender equality and empowerment of women and girls. FAO is the custodian institution of the land related indicators under goal 5, including indicator 5.a.2 on gender-equitable legal frameworks.

The article presents the results for monitoring and reporting on the SDG indicator 5.a.2 in the Western Balkan countries utilizing FAO’s Legal Assessment Tool (LAT) for gender-equitable land tenure and cross regional support, in order to learn from the experiences of the Western Balkan countries.

Key Words: SDG, Gender, Land Tenure, LAT
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“States should improve mechanisms for monitoring and analysis of tenure governance in order to develop evidence-based programmes and secure on-going improvements.”

(Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, par. 3B.10)

I. INTRODUCTION

The Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs), set out principles and internationally accepted standards for responsible practices in relation to tenure. For the first time, the VGGTs place gender equality at the core of all processes and aspects of tenure governance, including policy formulation, service provisioning, and access to legal systems and information. They also provide guidance to improve gender equality in both formal and customary systems of land tenure. The year following the adoption of the VGGTs, FAO developed a Technical Guide: Governing land for women and men to support the implementation of the principles of gender equality and equity and justice, how land tenure can be governed in ways that address the different needs and priorities of women and men.

Acting under a mandate from the UN General Assembly, in March 2016 the UN Statistical Commission agreed upon a global indicator framework comprising a provisional 230 indicators to monitor progress towards achieving the 169 Targets associated with the 17 SDGs. FAO is the “custodian” UN agency for 21 of the 230 indicators (relating to SDGs 2, 5, 6, 12, 14 and 15) and contributing agency for four more, highlighting the centrality of food and agriculture to the 2030 Agenda.

Most SDG indicators are quantitative with a focus on actual changes on the ground, whether that is on malnutrition, sustainable agriculture or gender equality. However, there are some indicators that measure progress in normative frameworks.

In 2013, the FAO and the World Bank partnered within the Western Balkans regional initiative to identify and address the challenges that restrict women’s access to land ownership. Although the countries in the region have ratified international conventions and have legislated to provide greater protection to women’s rights, long-standing customs and traditions, such as son preference, continue to favour male property ownership. The participating countries – Albania, Bosnia and Herzegovina, Montenegro, Serbia and the Former Yugoslav Republic of Macedonia, as well as Kosovo ¹ – established multi-stakeholder gender teams consisting of land administration

¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence
specialists, government policy makers, gender officers, local NGOs and notaries to learn from each other’s expertise and to collectively respond to these challenges.

**Following the adoption of the 2030 Agenda for Sustainable Development at the end of 2015**, the Western Balkans regional initiative continued with the support of the FAO and GIZ, with a focus on developing capacities at the country and regional levels to collect data, to monitor progress and to report on the SDG land indicators, under *Goal 5: Achieve gender equality and empower all women and girls*, Target 5.a: “undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance, and natural resources, in accordance with national laws”. FAO being the custodian agency for indicators 5a.1 and 5a.2 this collaboration proved an excellent opportunity to pilot a new reporting methodology.

This article covers the proposed methodology by FAO, for measuring the progress on the indicator 5a.2: *Proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control* and the results from the piloting of the methodology in six countries of the Western Balkans. The lessons learned and the experience gained up to now have laid the groundwork for measuring, monitoring and achieving progress on indicator 5a.2 in other countries as well.

**II. LEGAL ASSESSMENT TOOL (LAT) FOR GENDER-EQUITABLE LAND TENURE**

In 2014, FAO developed a methodology\(^2\) to assess a country’s legal framework in respect to women’s rights over land. The LAT is structured to screen how gender and land rights are addressed in the different levels of policy and legal framework, starting from the ratification of international instruments, constitutional provisions, through national level legislation to the level of legal instruction and various regulations. There are 30 indicators divided in 8 key elements – constitution, legal capacity, nationality, property rights, inheritance, decentralization, justice and female representation– and 7 indicators on tenure right (Box 1). The LAT draws on international human rights law, notably the VGGTs and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).

**Box 1: The 30 indicators of the Legal Assessment Tool (LAT) for gender equitable land tenure used in the Western Balkans**

### Key element 1: Ratification of human rights instruments

<p>| | |</p>
<table>
<thead>
<tr>
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</table>
| 1 | The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is ratified.

### Key element 2: Elimination of gender-based discrimination in the constitution

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>4</td>
<td>The constitution prohibits gender-based discrimination.</td>
</tr>
<tr>
<td>5</td>
<td>The constitution recognises customary law but states that gender-based discrimination in customary law is superseded by the principle of non-discrimination in the constitution.</td>
</tr>
<tr>
<td>6</td>
<td>The constitution recognises religious law but states that gender-based discrimination in religious law is superseded by the principle of non-discrimination in the constitution.</td>
</tr>
<tr>
<td>7</td>
<td>The constitution promotes the adoption of special measures for the advancement of women.</td>
</tr>
</tbody>
</table>

### Key element 3: Recognition of women’s legal capacity

<p>| | |</p>
<table>
<thead>
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<th></th>
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<tbody>
<tr>
<td>8</td>
<td>Men and women have the ability to conclude contracts under the same basic conditions, rights and obligations.</td>
</tr>
</tbody>
</table>

### Key element 4: Gender-equality of rights with respect to nationality

<p>| | |</p>
<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>9</td>
<td>Men and women are able to apply for identity documents under the same conditions.</td>
</tr>
<tr>
<td>10</td>
<td>A female national can confer citizenship to her non-national spouse under the same conditions as a male national.</td>
</tr>
<tr>
<td>11</td>
<td>Women can confer citizenship to their children under the same conditions as men.</td>
</tr>
</tbody>
</table>

### Key element 5: Gender equality in property rights
| 12 | The law recognises gender-equality in the right to own or control property regardless of the type of marriage. |
| 13 | The law recognises full or partial community of property as the default marital property regime. |
| 14 | Spousal consent is mandatory for any transaction involving matrimonial property. |
| 15 | The law establishes a presumption of joint ownership of property in consensual unions. |
| 16 | The legal framework contains special measures to guarantee women’s equal rights to land ownership and/or control. |

**Key element 6: Gender equality in inheritance**

| 17 | The surviving spouse is granted user rights to the matrimonial house for life. |
| 18 | Under the law of succession, the surviving spouse is entitled to a minimum share of matrimonial property. |
| 19 | The law allows partners living in consensual unions to inherit from each other. |
| 20 | Brothers and sisters have an equal right to inherit. |
| 21 | Brothers and sisters receive an equal share of inheritance. |
| 22 | A right to compensation of other siblings giving up their claims on the family property exists. |

**Key element 7: Gender-equitable implementation, dispute mechanisms and access to justice**

| 23 | Decentralization of land administration services is effected through recognized customary land institutions. |
Decentralization of land administration services is effected through formal land institutions.

The law guarantees equality before the law.

The law guarantees equal access to judicial systems and statutory or customary dispute resolution mechanisms to resolve disputes over tenure rights.

The law makes provision for legal support in civil procedures.

A human rights commission or gender-specific institution is in place.

Key element 8: Women’s participation local institutions enforcing land legislation

The law sets quotas for the appointment of women in land management and administration committees.

The law sets quotas for the appointment of women in land dispute resolution committees.

The LAT methodology is intended to go beyond a simple binary system of yes or no indicators and aims to capture the stage of incorporation of key legal enablers for gender-equitable land tenure into the policy and legal framework. It allows national policy makers and development partners to better visualize the legal intricacies that surround men and women’s access to land, to understand the progress made towards gender equality, and to identify areas where women are still at a disadvantage and where legal reform is needed. The LAT helps determine the stage of incorporation of each legal indicator into the national policy and legal framework. A country is at stage 0, when there is no legal or policy instrument in place incorporating the legal indicator and at Stage 4 when all relevant legislation is in place along with necessary regulations and procedures.
Box 2. LAT stages

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Absence of the indicator</td>
</tr>
<tr>
<td>1</td>
<td>A policy is being developed</td>
</tr>
<tr>
<td>2</td>
<td>Draft legislation is to be submitted for consideration</td>
</tr>
<tr>
<td>3</td>
<td>The indicator appears in primary law</td>
</tr>
<tr>
<td>4</td>
<td>The indicator appears in multiple legal instruments</td>
</tr>
</tbody>
</table>

When working with the indicators of the LAT, the expert(s) will note not only the stage but also the legal basis for that stage by citing the relevant legal or policy document. They also include a column for recommendations, designed to strengthen women’s tenure security.

III. SDG GOAL 5. GENDER EQUALITY – LAND TENURE TARGETS AND INDICATORS

Goal 5 of the SDGs “achieve gender equality and empower all women and girls” is broken down into nine targets. Target 5.a aims to “give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.” Target 5.a is measured by progress on two indicators:

- **Indicator 5.a.1**
  
  (a) *Percentage of people with ownership or secure rights over agricultural land (out of total agricultural population), by sex; and*
  
  (b) *Share of women among owners or rights-bearers of agricultural land, by type of tenure.*

- **Indicator 5.a.2:**
  
  *Percentage of countries where the legal framework (including customary law) guarantees women equal rights to land ownership and/or control*

FAO is the custodian agency for indicator 5.a.2, which entails responsibility for the development of a reporting methodology for the indicator, for collecting reports from states on their progress under the indicator and for the development of tools to provide technical support to states to fulfil their reporting obligations.
IV. SDG INDICATOR 5.a.2 METHODOLOGY AND PROXIES

For the purposes of reporting on progress towards the SDGs, states are not required to report on all 30 indicators of the LAT. FAO is developing proxies that are designed to capture special measures and key reforms that promote the equal enjoyment of women and men of land tenure rights. Nevertheless, in the context of the SDGs and with a view to achieving gender equality in practice, FAO recommends that countries undertake a full legal assessment using all 30 indicators as a basis for setting legislative priorities internally, as well as for drawing on in relation to reporting under the SDGs.

The proxies that countries will report on cover the following five dimensions:

A. Joint titling compulsory or encouraged (see LAT No 15);
B. Spouse or partner consent prior to the sale or transfer of property (see LAT No 14);
C. Equal inheritance rights between brothers and sisters (See LAT No 20);
D. Allocation of financial resources to increase women’s access to land (See LAT No 16);
E. Protection of women’s rights in in laws that recognize customary land tenure systems (see LAT No 5).

Each country will carry out its own assessment and submit it to FAO, who will request further information from national authorities if necessary before compiling the results and submit to the UN Statistical Commission.

V. PILOTING OF SDG INDICATOR 5.a.2 METHODOLOGY IN THE WESTERN BALKANS

1. Rationale

The Western Balkans regional initiative, which started in 2013, addresses the challenges to increasing female land ownership in the Western Balkans. A project, financed by the World Bank and co-financed by FAO helped participating countries to establish multi-stakeholder gender teams consisting of land administration specialists, government policy makers, gender officers, local NGOs, notaries to support the process of improvement of gender equality and social inclusion in property rights.

As a first step, the gender teams received training on the VGGTs and the FAO Technical guide on gender (FAO, 2013). Each country produced sex-disaggregated data, pointing to low levels of female ownership. Governments in the region were surprised to learn that female ownership in some parts of their country could be as low as 3%, and generally wouldn’t exceed 30%. This data provided evidence of a wide gap in male and female ownership and was a wakeup call for representatives of the governmental institutions that put gender equality in property rights under the spotlight. In this momentum, country teams met to share
ideas and experiences emphasizing that solutions exist to challenge gender-based discrimination in long-standing customs and traditions. Countries have started to learn from each other and in a spirit of emulation, to adopt each other’s best practices. The use of existing property registration data proved to be instrumental in promoting and advocating for gender equality to policy makers.

The limited evidence in the Western Balkans suggests that women’s positions with respect to property more closely accord with traditional practices than the equal standards established in the laws. For example the registered females in: Albania are 29%, Bosnia and Herzegovina (Federation of Bosnia and Herzegovina 25%, Republika Srpska 30%), Republic of Serbia 39% (Kosovo3 15%), Montenegro 26%, and the Former Yugoslav Republic of Macedonia 17%.

Following the adoption of the 2030 Agenda in 2015, FAO together with GIZ GmbH (under the Open Regional Fund South East Europe- Legal Reform (ORF-LR)4) continued the work with the Western Balkans gender teams to help them prepare for the reporting on progress on SDG 5 and the proposed indicators for gender-equitable land tenure.

The tested methodology in the Western Balkans has both regional and national aspects. Taking into account the similarities in history and legal systems across the countries as well as their shared agenda for future integration into the European Union, the project has tried to bring a regional approach into the LAT methodology.

The process began and was finalized with two regional workshops made up of country representatives with decision-making power. During the regional workshops, representatives of the involved institutions had the possibility to make references and compare their position in regards to other similar economies, as well as learn from best experiences/practices and try to incorporate these into their own systems.

To pilot the methodology, GIZ and FAO agreed on a work plan with the following activities:

1. Develop six country profiles, to identify the legal norms and traditional practices that determine women’s access to land
2. Apply the Legal Assessment Tool for gender-equitable land tenure to identify the strengths and weaknesses in the legal framework for gender-equitable land tenure
3. Present, discuss and validate the results in individual national validation workshops
4. Share the results and good practices in a two-day regional workshop.

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3 See note 1.
4 Since 2007 GIZ on behalf of the German Federal Ministry of Economic Cooperation and Development (BMZ) is implementing the project Open Regional Fund South East Europe Legal Reform. The main goal of the project is to support regional cooperation through harmonizing legal frameworks. All of the involved countries inspire to become member of the European Union, and many of reforms undertaken in the countries contribute to getting closer to the EU standards. On the other side one of the preconditions to join EU is also regional cooperation and better integration among each other. ORF-LR undertakes regional projects with duration of two years to help Western Balkan countries with their EU agenda, through regional cooperation.
The experts that carried out the LAT assessments are lawyers, mostly land experts sensitive to gender issues. In order to ensure gender sensitivity and accurate identification of the stages for each country, FAO delivered a two-day training on the LAT methodology. From the experience is recommended that both a land and gender expert perform the study as a combined team, unless experts can be found that combine land and gender. The steps that were followed are reflected in Figure 1 below.

Fig. 1. LAT Methodology

The work on the country profiles, the initial assessment and reporting on indicator 5a.2 for all participating countries is nearly completed. National validation workshops were organized in all participating countries in October 2016. The final regional workshop, where each of the participating countries will present their findings and priority recommendations to achieve the SDG goal is scheduled to take place in March 2017.
2. Country profiles

The country profile helps map out the tenure rights of women in the national legal framework (de jure) and in customary practices (de facto) and is made up of six sections:

Part I of the country profile highlights the rights entrenched in the Constitution, women’s property and use rights in personal laws, within marriage and consensual union, and looks into matters of citizenship, succession law, and land law. The country profile offers the opportunity to identify policies/institutional mechanisms enforcing or preventing women’s land rights.

Part II focuses on international treaties and conventions ratified by the countries.

Part III focuses on customary practices and identifies any discrepancies between women’s rights under statutory law and in practice (de jure vs de facto).

Part IV analyses land tenure and related institutions, such as the prevailing systems of land tenure, the national and local institutions enforcing land regulations, land administration institutions and women quotas, funding provisions to guarantee women’s land transactions,

Part V identifies civil society organizations who are engaged in advocacy.

Part VI looks into women’s access to justice and provides information on civil procedures and legal aid.

The legal information of the country profile is shown in a tabular format using the LAT.

The information in the country profile thus allows to delve into good practices and challenges with regard to implementation of legal provisions, legal education and empowerment and the role of different institutions. This analysis allows recommendations to be formulated beyond legal reforms, and address the implementation of laws.

3. Results of the LAT assessments

The LAT serves as a baseline for drafting gender-sensitive land policies and legal instruments and for measuring progress towards gender-equitable land tenure. It is integral to the preparation of a country profile. By screening individual legal framework against established international standards and good practices, comparison across countries reveals regional similarities and differences.

Box 3 on results shows some striking similarities with regard to the ratification of human rights instruments⁵, the elimination of gender-based discrimination in the constitution, the recognition of women’s legal capacity, gender-equality of rights with respect to nationality, gender-equitable implementation, and mechanisms for dispute resolution and access to justice. Some differences

⁵ Kosovo is not member of the United Nations. See also note 1.
are also clearly visible. Although all the experts received the same training, the methodology also leaves room for a small degree of subjectivity. This can be seen in indicator 4, where the prohibition of gender-based discrimination in the constitution is ranked 3 and 4. Even if the phrasing in all constitutions is similar, experts with the most critical view identified a stage 3.

**Results from the LAT indicators relevant to SDG indicator 5.a.2 in the Western Balkans**

<table>
<thead>
<tr>
<th>Key element 1: Ratification of human rights instruments</th>
<th>Albania</th>
<th>Bosnia &amp; Herzegovina</th>
<th>Kosovo</th>
<th>Macedonia</th>
<th>Montenegro</th>
<th>Serbia</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is ratified.</td>
<td>Yes</td>
<td>Yes</td>
<td>N/A</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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</table>

<table>
<thead>
<tr>
<th>Key element 2: Elimination of gender-based discrimination in the constitution</th>
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<tbody>
<tr>
<td>4 The constitution prohibits gender-based discrimination</td>
</tr>
</tbody>
</table>

| 5 The constitution recognises customary law but states that gender-based discrimination in customary law is superseded by the principle of non-discrimination in the constitution. | N/A | N/A | N/A | N/A | N/A | N/A |

| 6 The constitution recognises religious law but states that gender-based discrimination in religious law is superseded by the principle of non-discrimination in the constitution. | N/A | N/A | N/A | N/A | 3 | N/A |

| 7 The constitution promotes the adoption of special measures for the advancement of women | 0 | 0 | 4 | N/A | 4 | 0 |

**Key element 3: Recognition of women’s legal capacity**

6 See note 1.
8. Men and women have the ability to conclude contracts under the same basic conditions, rights and obligations

<table>
<thead>
<tr>
<th>Key element 4: Gender-equality of rights with respect to nationality</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Men and women are able to apply for identity documents under the same conditions.</td>
</tr>
<tr>
<td>10. A female national can confer citizenship to her non-national spouse under the same conditions as a male national.</td>
</tr>
<tr>
<td>11. Women can confer citizenship to their children under the same conditions as men.</td>
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<table>
<thead>
<tr>
<th>Key element 5: Gender equality in property rights</th>
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<tbody>
<tr>
<td>12. The law recognises gender-equality in the right to own or control property regardless of the type of marriage.</td>
</tr>
<tr>
<td>13. The law recognises full or partial community of property as the default marital property regime.</td>
</tr>
<tr>
<td>14. Spousal consent is mandatory for any transaction involving matrimonial property.</td>
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<tr>
<td>15. The law establishes a presumption of joint ownership of property in consensual unions</td>
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16/167
<table>
<thead>
<tr>
<th></th>
<th>The legal framework contains special measures to guarantee women’s equal rights to land ownership and/or control.</th>
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<tbody>
<tr>
<td></td>
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<tr>
<td><strong>Key element 6: Gender equality in inheritance</strong></td>
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</tr>
<tr>
<td>17</td>
<td>The surviving spouse is granted user rights to the matrimonial house for life.</td>
</tr>
<tr>
<td>18</td>
<td>Under the law of succession, the surviving spouse is entitled to a minimum share of matrimonial property.</td>
</tr>
<tr>
<td>19</td>
<td>The law allows partners living in consensual unions to inherit from each other.</td>
</tr>
<tr>
<td>20</td>
<td>Brothers and sisters have an equal right to inherit.</td>
</tr>
<tr>
<td>21</td>
<td>Brothers and sisters receive an equal share of inheritance.</td>
</tr>
<tr>
<td>22</td>
<td>A right to compensation of other siblings giving up their claims on the family property exists.</td>
</tr>
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</table>

**Key element 7: Gender-equitable implementation, dispute mechanisms and access to justice**

<table>
<thead>
<tr>
<th></th>
<th>Decentralisation of land administration services is effected through recognised customary land institutions.</th>
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<tbody>
<tr>
<td></td>
<td>N/A</td>
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<tr>
<td>23</td>
<td></td>
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<tr>
<td>24</td>
<td>Decentralisation of land administration services is effected through formal land institutions.</td>
</tr>
<tr>
<td></td>
<td>4 3 3 4 3 3</td>
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<tr>
<td>25</td>
<td>The law guarantees equality before the law</td>
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<td>4 4 4 4 4 4</td>
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</table>
### Key element 8: Women’s participation local institutions enforcing land legislation

<table>
<thead>
<tr>
<th>Element</th>
<th>Description</th>
<th>Score 1</th>
<th>Score 2</th>
<th>Score 3</th>
<th>Score 4</th>
<th>Score 5</th>
</tr>
</thead>
<tbody>
<tr>
<td>26</td>
<td>The law guarantees equal access to judicial systems and statutory or customary dispute resolution mechanisms to resolve disputes over tenure rights.</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>27</td>
<td>The law makes provision for legal support in civil procedures.</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>28</td>
<td>A human rights commission or gender-specific institution is in place</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>3</td>
</tr>
</tbody>
</table>

### 4. Recommendations from the LAT assessments and country profiles

After screening the legislation the results of the LAT serve as a basis to provide concrete recommendations to achieve gender-equitable governance of land tenure. These recommendations range from developing strategies and policies for the advancement of women, to awareness raising and strengthening gender equality bodies on a municipal level. Below are listed some of the recommendations.

As a result of the studies, proposals to revise the notary laws exist in almost all countries. In Montenegro, an amendment of the law was proposed stating that the notary has to assure no discrimination or pressure is put on the party’s autonomy in contracts regulating ownership and succession. In Serbia as well as Bosnia and Herzegovina, a proposal to amend the notary law ensuring that the public is obliged to have the written consent of spouses when certifying an agreement that involves matrimonial property was put forth.

Additionally, another proposal aims to ensure spouses are sufficiently informed on the consequences of providing written consent, and to include this information in a certification clause.
In Albania it has been proposed that the National Chamber of Notaries adopts specific guidelines for raising awareness with regards to female tenure rights before the conclusion of land transactions. A further proposal regards the adoption of guidelines by the National Chamber of Notaries within the list of documents necessary to obtain before the initiation of any legal transaction on immovable property.

Most of the reports recommend that the legislation on immovable property be amended to provide incentives regarding the registration of spousal land rights and rights of female family members, such as the reduction of fees and other procedural costs. Another recommendation regards the implementation of training of officers working at registration authorities in order to increase awareness regarding gender sensitivity.

The results of the LAT indicated the existence of several good practices from Western Balkan countries:

- Spousal consent is mandatory for any transaction involving matrimonial property in Albania, Montenegro, the Former Yugoslav Republic of Macedonia as well as Kosovo.
- Property acquired during the duration of consensual/non-marital union is considered co-ownership or joint ownership in Bosnia and Herzegovina, Montenegro, Serbia and the Former Yugoslav Republic of Macedonia as well as Kosovo,
- A Strategic Plan for the Development of Agriculture and Rural Areas of the Republic of Serbia exists that provides a financial incentive of 5% if a woman is a farm holder.
- In Kosovo, when property is registered in the name of both partners they are exempt from the payment of a 150 Euro registration fee; the same incentive is also expected to be adopted in other countries within the region.

5. Lessons learnt from the piloting

At this stage, it is safe to conclude that the quality and accuracy of the LAT assessments depend on a several of factors ranging from the profile of the experts who carry out the assessment, the inclusiveness of the process and government ownership of the process.

The first observation is that the assessment should ideally be carried out by a legal expert in gender and land. If such a person cannot be identified, it is recommended that two experts – each with an expertise in either land or gender – work together on the assessment.

Second, it is clear that achievements and future progress depend on the early involvement and ownership of the government.

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7 See note 1.
8 See note 1.
9 See note 1.
Third, legal professional associations and land-related institutions should be involved in every step of the process, from facilitating access to the relevant documentation, to discussing and validating the recommendations. In the case of the Western Balkans which observe a civil law tradition, these institutions consisted of the ministries of justice, the ministries of social welfare or gender equality bodies, some associations of notaries, land registration bodies, the ministries of forests and natural resources, statistical offices and some of the development partners present in the country.

VI. CASE STUDY ALBANIA

A summary of findings of the Country Profile and the LAT for Albania is provided here. The full Country Profile is in Annex 1 and the full LAT is in Annex 2.

Albania is a civil law country. In general the legislation in gender neutral and non-discriminatory, but still there is much that need to be done for a better gender balance in land tenure. The Constitution of Albania is the highest law in the country that prohibits gender based discrimination, enshrines equality before the law, and also guaranties the right to property and economic activity (Constitution of Albania).

Albanian has ratified various international treaties and conventions related to protection of women and anti-discrimination. The Convention on the Elimination of all forms of discrimination against Women was ratified in 1993 (Law no 7767).

Customary practices: Customary practices are not recognized as a formal source of law in Albania (World Bank, 2015). Nevertheless, they continue to exercise their influence in few communities, especially in remote mountainous areas. Based on these practices women are negated some of the basic legal rights. They bear the duty to serve to the continuation of the family and they are not granted any property or decision-making rights. This concern was voiced by the CEDAW Committee by stressing that the re-emergence in some northern areas of the country of traditional concepts of justice (kanun) remains a serious concern (CEDAW, 2010).

Legal capacity: The legislation grants to women full legal capacity for performing legal transactions and entering into contractual relationships in acquiring, managing and using land in the same way as a man (Civil Code).

Nationality: By Constitution everyone, regardless of gender is able to apply for identity documents under the same conditions. The legislation grants the right to confer nationality to the non-national spouse to both men and women under the same conditions.

Property right: The legislation recognizes only one type of marriage, the one concluded at the municipality. There are no legal provisions recognizing customary or religious marriages/unions.
The legislation stipulates that in absence of a specific agreement of the spouses designating their marital property regime, the regime of community of property would apply (Family Code). Based on this provision the wealth of the spouses created after the marriage is presumed joint, unless the spouse proves the personal nature of the asset. As to the consent needed for transactions regarding the matrimonial property, the Family Code distinguishes between ordinary and extraordinary administration of matrimonial property. In case of transfer of ownership over an immovable property the consent of both spouses is needed. In cases when one of the spouses individually exceeds his/her rights of the joint property the other spouse is entitled to ask for the transaction to be declared void.

**Consensual Union:** The legislation does not provide for a presumption of ownership in consensual unions. Based on the existing legislation, the joint ownership can only be established through a contract.

**Special measures:** There are no special measures on rights to land ownership or control over land regarding women.

**Inheritance:** There are no explicit provisions in the Family Code granting user rights of the matrimonial house for life for the surviving spouse, regardless of their gender. The Civil Code grants to the surviving spouse the right to inherit on equal share with the children. The law grants inheritance rights only to married couples. The Law grants children of both genders an equal right to receive and equal share of inheritance. The legislation does not provide a right to compensation in case of renunciation of rights to family property in case of inheritance.

**Dispute mechanisms and access to justice:** There is a myriad of administration institutions at the local level performing land administration and protection services and duties. The legislation recognizes equality before the law in many various acts regarding gender equality, anti-discrimination, and anti-discrimination in areas such as labour, services, education and so on (Law no 10221). The law guarantees to everyone, regardless of gender, equal access to court or other statutory dispute resolution mechanisms. Legislation specific to land tenure provides both administrative appeal mechanisms as well as access to courts. The law does not recognize customary dispute resolution mechanisms on tenure rights (The Constitution). The legislation on legal aid provides for the free legal support in civil procedures in cases when the party does not have sufficient resources to cover the costs of a proceeding. The State Commission for Legal Aid is responsible for the selection of the beneficiaries of legal aid, as well as the law firms or NGOs that will offer the service (Law no 10039). Independent human rights institutions are established such as the Commissioner for the Protection against Discrimination established (Law No. 10221) and the People’s Advocate/Ombudsman as a constitutionally established body.
The National Council for Gender Equality is a gender specific institution chaired by the minister who covers the issues of gender equality established as an advisory body for improving gender mainstreaming in all policy areas (Law No. 9970).

**Women’s participation local institutions enforcing land legislation:** There are no explicit gender sensitive provisions in the legal and sub-legal acts regarding the organization and functioning of land administration committees. There are no explicit quotas for the appointment of women in the land dispute resolution committees. However, there is a general requirement based on the Law (Law no. 9970) for equal gender participation in the decision-making bodies of the legislative, executive and judicial authorities.

Some of the recommendations for Albania on special measures are:

1. Amend the existing implementing measures on immovable property registration by establishing the compulsory registration of spousal rights and specific sanctions in case of failure to comply with these measures
2. Amend implementing measures on the services offered by IPRO and include the registration of spousal co-ownership in the list of services offered by IPRO
3. Amend legislation on immovable property and provide incentives to the registration of spousal land rights and rights of women members of the family, such as the reduction of fees and other procedural costs
4. Adopt specific guidelines by the National Chamber of Notaries for raising awareness with regard to women tenure rights before the conclusion of the transactions in order to ensure better informed land transactions
5. Adopt a guideline by the National chamber of Notaries for including in the checklist of documents

**VII. THE IMPORTANCE OF UNDERSTANDING LOCAL CUSTOMS**

The results from the Legal Assessment show that although legal frameworks protecting women’s rights to own property are mostly in place throughout the Western Balkans region, longstanding customs and traditions continue to favour male property ownership. The evidence suggests that women’s positions with respect to property more closely accord with traditional practices than the equal standards established in the laws.

For gender-equitable legal frameworks to be fully implemented and have a positive effect on gender equality there is often a need to understand and take into account local customs and attitudes. The changes of customs and traditions is a long process, which requires all parties to be involved.

According to the VGGT, “Where constitutional or legal reforms strengthen the rights of women and place them in conflict with custom, all parties should cooperate to accommodate
such changes in the customary tenure systems.” (par. 9.7) Similarly, CEDAW obliges State parties to “take all appropriate measures: (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women” (art 5).

One of the ten core principles of implementation of the VGGT – transparency – points to how communication and awareness raising can support responsible gender equitable land tenure governance.

Laws can influence social norms and attitudes, but most often, there is a need for social action as well to facilitate implementation of laws. The understanding of attitudes of men and women as well as key actors such as legal professionals and registration staff informed the analysis of the situation in the Western Balkans and shaped recommendations for future action, so as to address both any weaknesses in the legal framework and weaknesses in implementation.

Among the tools and approaches that may be useful are:

- Ensuring that gender-disaggregated data is collected and disseminated
- Tailored advocacy for different audiences
- Legal education and empowerment
- Engagement with male and female leaders
- Engagement with professionals and their associations
- Drafting internal rules for the conduct of professionals and registration staff

  Seeking gender balance in key public institutions
  (FAO, 2013, FAO, 2016b)

**VIII. WAY FORWARD**

In support of the Sustainable Development Agenda, GIZ GmbH, World Bank, FAO, UN Women and UNECE are coordinating their actions in the Western Balkans to promote progress on Target 5a of the SDGs and to facilitate the monitoring of this target (Undertake reforms to ensure women’s equal rights to financial services, economic resources, as well as access to, ownership and control over land and other forms of property.

Based on the recommendations from the country and regional process described in this paper, and regional similarities, a new regional project was set up by the GIZ. The GIZ Open Regional Fund - Legal Reform project “Gender and Land Rights” which is providing support since January 2017 to the participating countries to implement the recommendations and address specific challenges
identified during the legal assessment, individually and through regional exchange. The project aims to support the Western Balkans in achieving SDT targets on gender equality with regard to land and will work close together with the practitioners in the region to develop common legal solution, such as manuals and internal regulations.

FAO is committed to providing technical support to the project and to the region to implement their plans.

Legal professionals, such as lawyers and notaries, have an important part to play in supporting the efforts for achieving gender equality in land rights. Mindful of that fact, in January 2016 FAO signed a Memorandum of Understanding (MoU) with the International Union of Notaries (UINL). Since then, IUNL has committed to support the regional initiative and are reviewing the LAT assessments and subsequent recommendations at the time of writing. In addition, UINL is considering to introduce common standards for legal professionals dealing with land registration, and to support the implementation of the relevant VGGT standards.

Chamber of notaries of all participating countries are committed to support the ongoing initiative and the International Union of Notaries (UINL) committed to lead the notary initiative and provide assistance and guidance when needed as part of the MoU with FAO, a Code of Ethics for legal professionals, working on tenure rights, will be prepared with the support of the international Union of Notaries as an International Standard and legal professionals trained.

FAO has published several Technical Guides and e-learning programs in addition to the LAT, which will be deployed in the future support to the Western Balkans countries.

As to FAO’s work at the global level, it is working on finalizing the methodology for SDG 5.a.2, for submission in the first part of 2017 to the UN Statistical Commission. Once approved, FAO will prepare appropriate learning tools to support countries in undertaking the necessary assessments and plans to partner with a variety of organizations to support the undertaking of legal assessments, as well as for legal reforms and other support to achieve SDG 5 with regard to gender-equitable land tenure, both de jure and de facto. The experience from the Western Balkans will be invaluable in that regard.
References

FAO. 2016a. Developing gender-equitable legal frameworks for land tenure - A legal assessment tool. FAO Legal Paper No. 98, Rome, Italy


FAO. 2013. Governing land for women and men – A technical guide to support the achievement of responsible gender-equitable governance of land tenure, Governance of Tenure Technical Guide No.1, Rome, Italy

ANNEX 1. ALBANIA – COUNTRY PROFILE

National legal framework

Rights entrenched in the Constitution

Equality before the law is enshrined in the Constitution. There are no specific provision on the equality between men and women. Also, the right to property and economic activity is guaranteed by the Constitution.


- Article 11

1. The economic system of the Republic of Albania is based on private and public property, as well as on a market economy and on freedom of economic activity.

2. Private and public property is equally protected by law.

3. Limitations on the freedom of economic activity may be established only by law and for important public reasons.

- Article 18

1. All are equal before the law.

2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or parentage.

3. No one may be discriminated against for the reasons mentioned in paragraph 2 without a reasonable and objective justification.
- Article 41

1. The right of private property is guaranteed.

2. Property may be acquired by donation, inheritance, purchase, or any other classical means provided by the Civil Code.

3. The law may provide for expropriations or limitations in the exercise of a property right only in the public interest.

4. Expropriations or limitations of a property right that amount to expropriation are permitted only against fair compensation.

5. In the case of disagreements related to the amount of compensation, a complaint may be filed in court.

Women's property and use rights in personal laws

- Women’s property rights in the Civil Code, Family Code, Labor Code and Criminal Code

Civil law regime

The legislation grants to women full legal capacity for performing legal transactions and entering into contractual relationships in acquiring, managing and using land in the same way as a man.

The Civil Code

- Article 1

Every natural person shall enjoy full and equal capacity to have civil rights and obligations within the limits defined by law.
- **Article 4**

Civil rights of a natural person cannot be limited, except as provided by law. Any legal action putting limits to the legal capacity of a natural person is invalid.

- **Article 6**

Upon reaching the age of eighteen years, a person shall have full capacity to acquire rights and undertake civil obligations as a consequence of his own actions. The wife who has not reached the age of eighteen years shall acquire full legal capacity through marriage. She shall not lose this capacity even if the marriage is declared invalid or is solved before reaching the eighteen years of age.

- **Article 79/1**

The legal transaction is the legal expression of will by a natural or legal person, aiming to create, change or end civil rights and obligations. The legal transaction can be unilateral or multilateral.

- **Article 83**

The legal transaction for transferring the ownership of immovable property and the rights *in rem* over them, shall be done by a notarial act and shall be registered, otherwise it is not valid.

The legal transaction which is not performed in the form expressly required by law is considered void. In other cases, the legal transaction is valid, but it cannot be proved by witnesses.

- **Article 149**

Ownership constitutes in the right to freely enjoy and possess objects, within the provisions of the law.

- **Article 191**
Ownership is lost when it is acquired by another person, or when it is renounced. The renouncement of the ownership over an immovable property in favour of someone else is only recognised when done through a public act and is registered.

- Article 192

Immovable objects and the facts which are connected to their legal status shall be registered in the immovable property register. Registration is done through a public act, a court decision, or a decision of another competent public entity, as well as by other instances as provided by law.

- Article 193

The following must be registered in the immovable property register:

a) Contracts for transferring the ownership over immovable property and the acts for their voluntary division;

b) contracts by which are created, recognized, changed or terminated ownership rights over immovable objects, usufruct (use) rights, rights to utilize and reside in, rights deriving from emphyteosis and servitude, as well as other real rights;

c) Acts of renouncement of ownership of the rights mentioned above;

ç) Court decisions through which the quality of heir is recognized and by which inherited property is acquired;

d) Acts by which a company or another legal person is created, which owns immovable properties or has other real rights over those properties;

dh) court decisions and decisions of other public competent entities which comprise respectively the acquiring or recognition of property over immovable properties, the division of immovable properties, or which declare invalid legal transactions for the transfer of ownership properly registered previously, as well as acts of the bailiff for the confiscation of immovable property or its sale through auction.

The Court certification of the fact of ownership shall not be registered.

- Article 195
Immovable properties and the real rights over them which are acquired or recognized according to the provisions of this Code, cannot be alienated and when it is the case, charged with a burden, in case their registration in the records of the immovable property is not done.

- Article 196

Courts, notaries, bailiffs and other state agencies are obliged to submit for registration to the office administering the register where the immovable properties are situated, copies of the decision or of the act which contains the acquisition, recognition, change, the termination of ownership over immovable property, or a real right over it, or the declaration of invalidity of the legal transactions for transferring the ownership which is previously registered.

- Article 197

The following must be registered as well:

a) Rental or lease contracts of immovable property for a period exceeding 9 years;

b) Lawsuits for acquisition, recognition, change or termination of ownership rights or other real rights over immovable property;

c) Lawsuits for the partition of jointly owned immovable property.

- Article 198

The Ministry of Justice administers the public registry of immovable property. Conditions, ways of registration and organisation, as well as any procedure concerning this register shall be regulated by a special law.

- Article 222

Ownership on the property of the farm family members shall belong as a whole to its members, who through work or other rights acquired have contributed to the development and preservation of the agricultural economy.
- Article 223

The farm family consists of persons who are related between them by gender, marriage, adoption or acceptance as its member.

- Article 224

The farm family is represented in property relationships with third parties by the head of the household, who is elected by its members.

- Article 227

Each member of the farm family can request his/her own portion of the farm family property. It shall be determined by taking into account in particular: a) The property that belongs to the whole family; b) The number of family members; c) His/her contribution to the creation or increase of the family's property, given the amount or effectiveness of this contribution, as well as the work and equipment given for the creation and maintenance of agricultural economy.

- Article 228

Partition of the farm family property is made according to the rules specified in Article 207 of this Code.

When particular members request their portion, it shall be evaluated and given in cash. When the partition is required by more members of the farm family, in order to create another farm family, the portion can be given in kind, provided that the remaining agricultural land is not below the minimum of the unit's minimum cultivation unit. The minimum cultivation unit for cultivation consists in the agricultural land which is necessary for maintaining an agricultural economy according to the natural conditions of the respective area or region.

- Article 659

A contract is the legal transaction through which one or more parties establish, change or terminate a legal relationship.
- **Article 757**

The exchange contract

The Exchange is a contract which has as its object the reciprocal transfer of the ownership of objects or other rights from one contracting party to the other.

- **Article 761**

The donation contract

The donation is a contract in which one party transfers in ownership gratuitously to the other party a certain thing or a real right, which this party accepts. The withdrawal from a right before this right is acquired, or withdrawal from the inheritance is not considered a donation.

- **Article 764**

The donation contract on immovable property

The donation of the immovable property must be done through a public act and it should be registered, otherwise it is void.

The acceptance can be made in the same act, or by a latter act. In this case the donation is considered completed from the moment when the act of acceptance is notified to the donor.

If it has as its object movable things, it is valid when they are specified by showing their value at the donation contract.

The contract is considered formed from the moment of the delivery of the object.

Before the contract is formed, the donor or the donee of the donation can revoke their declaration.

- **Article 784**

The Emphyteosis

The Emphyteosis is a contract through which a person is given a right to use and to improve an immovable property against periodic compensation in cash or in nature.
- Article 786

The emphyteosis should be done in the required form for the transfer of property for the immovable property.

- Article 826

The lease contract

The lease contract of immovable property that serves for agricultural cultivation that exceeds nine years must be done with a notarial act and be registered at the public register.

Labor Code

- Article 9

1. In the exercise of the right to employment and occupation, any form of discrimination is as provided in this Code and in the special legislation of protection against discrimination.

2. "Discrimination" means any distinction, exclusion, restriction or preference, based on race, colour, ethnicity, language, gender identity, sexual orientation, political opinions, religious or philosophical beliefs, economic, educational or social status, pregnancy, parentage, parental responsibility, age, marital or family status, domicile, health status, genetic predispositions, disability, living with HIV / AIDS, joining or belonging to unions, affiliation with a particular group, or any other cause, which has the purpose or effect to prevent or make impossible the exercise of the right to employment and occupation, in the same way as others.

3. Prohibition of discrimination, as defined by this Code shall not apply if there is no reasonable and objective justification.

4. Differences, limitations, exclusions or preferences, based on a characteristic related to the reasons mentioned in paragraph 2 of this Article shall not constitute discrimination when, due to the nature of the professional activities, or situations in which the profession or activity is conducted, these features constitute a real and necessary professional requirement, provided that
the purpose of the different treatment is justified and the requirement does not exceed what is necessary for its implementation.

5. For the purposes of this article, the prohibition of discrimination and the application of the principle of equal treatment in the exercise of the right to employment and profession are applied in relation to:

a) access to employment, self-employment and occupation, including selection criteria and recruitment conditions, regardless of the branch of activity and at all levels of the professional hierarchy, and promotion;

b) Access to all types and all levels of vocational guidance, vocational training, advanced vocational training and retraining, including internships;

c) Employment and working conditions, including termination of the contract of employment and remuneration;

d) Membership and involvement in unions and employer organisations, or any organisation whose members exercise a particular profession, including the benefits provided by these organisations;

6. In implementing the principle of equal treatment, all employees and each group of employees must be treated with the same respect and care and respect should be shown towards their specific circumstances too.

7. The employer may take specific and interim measures, aimed at accelerating the establishment of real equality in the exercise of the right to employment and occupation, if the lack of equality is caused by discrimination for any cause mentioned in this article. This measure shall be interrupted as soon as the objective of equal treatment and providing equal opportunities is achieved.

8. The employer is obliged to provide reasonable accommodation at the workplace for people with disabilities or persons located in other conditions referred to in paragraph 2 of this article. For providing reasonable accommodation, the employer must make modifications and adjustments as necessary and appropriate, which are deemed necessary in exceptional cases and that do not impose an excessive burden for them, in order to guarantee for these people the enjoyment or exercise of the right to employment and occupation on equal conditions equal as compared to others. It is not considered an excessive burden for the employer when a reasonable level of adaptability is required as guaranteed by the laws and regulations in force. The denial of reasonable accommodation by the employer constitutes discrimination.
9. Where a person claims to have been affected by the failure of the principle of equal treatment in the exercise of the right to employment and occupation under this Code, a special procedure of appeal shall be followed, as set out in a special law for protection against discrimination.

10. In all appealing procedures based on paragraph 9 of this article, if the complainant or plaintiff presents evidence of which can be claimed to have been discriminated against in the exercise of the right to employment and occupation, the person against whom the complaint or the defendant bears the burden of proof for showing that it is not violating the principle of equal treatment.

- Article 115 Equal Pay

1. The employer pays the employee equally for equal work or work of equal value, without discrimination on any of the grounds mentioned in paragraph 2 of Article 9 of the Code.

2. Direct and indirect discrimination under Article 9 of the Code related to all aspects and conditions of remuneration for the same work or work of equal value is prohibited. Equal pay without discrimination, is as pay, which:

a) For the same work under specified norms, is calculated on the basis of the same unit of measurement;

b) To work measured in time, it is the same for the same job.

3. Pursuant to this article, by pay it is referred ordinary basic salary or minimum wage, whether in cash or in kind, which the employee benefits directly or indirectly by the employer for the work performed.

4. Equal work or work of equal value is based on all relevant criteria, in particular the nature of the work, its quantity and quality, working conditions, vocational training and seniority, physical and intellectual efforts, experience and responsibilities. Changes in the pay, which are based on objective criteria defined at this point, will not be considered discriminatory.

5. Discrimination in pay is eliminated when the employer pays to the discriminated employee a wage that includes all the advantages enjoyed by other employees in a comparable situation.

Family Code
The default marital property regime is the regime of community of property. The property should be managed by both spouses. The residence of the spouses has to be chosen jointly.

- **Article 1**

Marriage, as form of legal cohabitation, is based on the moral and legal equality of spouses, the feeling of love, respect and mutual understanding as the basis for unity in the family. Marriage and family enjoy special protection of the state.

- **Article 7**

Marriage shall be concluded between a man and woman who are no less than 18 year of age. The district court where the marriage will take place, for important reasons, may allow the marriage before reaching this age.

- **Article 9**

One cannot get married until the previous marriage has not yet been terminated or declared void.

- **Article 50**

Through marriage the spouses have both the same rights and assume the same obligations.

- **Article 55 Residence of spouses**

Spouses have the obligation to live together. The residence of the family shall be established by a mutual agreement of the spouses.

In case of disagreement, each spouse can file a claim to the court, which, after hearing both spouses and, if appropriate, the opinion of a child who has reached the age of fourteen years, will try to reach a friendly settlement. When this is not possible, the court decides on the choice which it considers suitable to the needs of the family.
- **Article 57** Consent of the spouse

Spouses cannot dispose of the marital home and its equipment without the consent of the other, whatever the marital property regime.

A spouse, who has not consented to the legal transaction affecting the marital home carried out by the other, may request its cancellation within 1 year from the date when he/she has received notice of the transaction, but not more than 1 year from the date when the marital property regime has ceased to exist.

- **Article 64** Administration of personal property

Each of the spouses has the right to freely administer and dispose of his/her personal property, without the consent of the other spouse.

- **Article 66** The marital property regime of spouses

The marital property regime of spouses is regulated by the law, in the absence of a specific agreement by the spouses designating their own regime, which must not be contrary to the provisions of this Code and any respective legislation.

- **Article 73**

The Regime of Community Property is applicable in case the couple did not sign a contract for another Marital Property Regime.

- **Article 74** The marital estate

The marital estate consists of:

a) Wealth obtained by the spouses, together or separately, during the marriage;

b) Income from specific activities of each spouse during the marriage, which were not consumed, before the termination of the joint ownership;

c) Profits from the properties of each spouse, which have been acquired and not consumed before the termination of the joint ownership;
ç) Trade activity created during marriage. If the trade activity belonged to only one of the spouses prior to the marriage, but during the marriage is managed by both spouses, the community property portion of the estate includes only the revenues and added value.

- Article 76

The wealth of the spouses is presumed as joint, unless one spouse proves its personal character.

- Article 77 Personal Assets

Personal assets that are not considered part of the marital property are:

a) Assets, which prior to the marriage were jointly owned by one spouse and another person(s) or over which s/he was entitled to a real usage right;

b) Assets acquired during marriage through donation, inheritance or legacy, unless in the instrument evidencing the donation or in the testament it is stated that the assets were given to both spouses;

c) Assets strictly for the personal use of each spouse and assets gained as accessories from personal assets;

d) Assets gained from an award of personal damages, except for pension funds obtained as the result of a partial or full loss of work capacity;

dh) assets gained from the transfer of ownership of the above-mentioned personal assets;

e) The exchange of assets, when this is expressly declared in a contract of sale.

- Article 90 The administration of community property

Each spouse has the right to perform ordinary administration of community property. Either spouse is considered the legal representative of the other spouse in front of administrative and judicial organs for issues of ordinary administration of community property. The spouses must act jointly in the performance of actions that exceed ordinary administration.
- **Article 94** Exceeding property rights of the common property

If one spouse exceeds his/her rights to the community property, the other may require the annulment the action, if he/she later did not agree with this action.

This claim can be filed within 1 year from the date of notification of the action, but in any case no later than 1 year from the date of the termination of the community property regime.

- **Article 95** The administration of the personal wealth of the spouse

Each spouse has the right to administer and freely possess their personal wealth.

If during the marriage one of the spouses entrusts to the other the administration of his personal wealth, the law regarding power of attorney applies.

If one of the spouses administers the personal wealth of the other, with their awareness and without objection, the consent of the silent spouse is presumed for acts related to administration and usage, except for the right of transfer of ownership.

In this case, he/she is responsible towards the other spouse as their representative and is obliged to submit only the remaining profits and assets. If one of the spouses, despite the objection of the other spouse, administers his/her personal wealth and performs actions related to it, they are responsible for any damage caused or loss of earnings. In this case, the damaged spouse has the right to request an annulment of the action, based on the criteria specified in article 94 of this Code.

- **Article 103** Division of assets

A division of wealth in the marital estate shall be made based on the equality of its assets and liabilities. After deducting from the estate the obligations of the spouses and third parties, the remainder is divided in equal shares among spouses. The court, based on the needs of children and on who will have custody of the children, may decide to award one spouse with a portion of the marital estate belonging to the other spouse.

- **Article 147** Compensatory contributions
The court can require one of the ex-spouses to compensate the other for the inequality in lifestyle created by the property division as part of the dissolution of the marriage, separate and apart from the obligation for alimony. The court specifies if the contribution is to be a lump sum distribution payable immediately or whether it will be a periodic payment and shall specify the method of payment.

- **Article 153** The right to use the family residence

If the family residence is owned by one ex-spouse and the other spouse does not have another appropriate residence, the court may allow the use of the residence by the non-owner ex-spouse only when:

a) That spouse has custody of the children, until they reach the age of maturity;

b) The dissolution of the marriage is requested by the spouse who owns the property based on grounds of termination of common cohabitation caused by him/her. In this case the right to use of the residence continues for up to 7 years, unless the non-owner ex-spouse remarries, which terminates this right;

c) When a tenant ex-spouse has installed in the residence owned by the ex-spouse a professional work cabinet of considerable value that would require significant relocation expenses, the right of usage is a maximum of 3 years.

In this situation the court decides the duration of use and the amount of rent that the ex-spouse should pay, in accordance with his/her income. The court may also terminate the rental contract, if justified, based on new circumstances.

**Criminal Code**

- **Article 130/a**

Battering and any other act of violence against a person who is a spouse, former spouse, cohabitant or former cohabitant, close relative or close relative in-law to the perpetrator of the criminal offence, resulting in violation of his or her physical, psycho-social and economic integrity, shall be punished by imprisonment of up to two years.
A serious death threat or serious injury, against a person who is a spouse, former spouse, cohabitant or former cohabitant, close relative or close relative in-law to the perpetrator of the criminal offence, resulting in violation of his or her physical, psycho-social and economic integrity, shall be punished by imprisonment of up to three years.

Intentional injury committed against a person who is a spouse, former spouse, cohabitant or former cohabitant, close relative or close relative in-law to the perpetrator of the criminal offence, resulting in a temporary disability for work for more than nine days, shall be punished by imprisonment of up to five years.

The same offences which are committed repeatedly or in the presence of minors shall be punishable by one to five years of imprisonment.

**Persisting loopholes and challenges**

The legislation on individual rights is mainly gender neutral towards property rights over land. Women enjoy the same rights as men in land acquisition, management and use. However, there are still a few provisions that are worth mentioning with regard to gender issues that may perpetuate the existing inequalities, especially with regard to rural women.

The definition of the head of the family farm and other provisions on the family farm in correlation with legislation on agricultural land can perpetuate gender inequalities. According to article 224 of the Civil Code, the head of the household is the representative of the family farm and it is elected by its members.

The notion of the head of the household is stipulated by Law No. 9355 dated 10.03.2005 “On social assistance and services”

- Article 4, (10): states that the "Head of the household is the person in this order: father, mother, the eldest member of the family in the active age group (18-65 years), the youngest member in the age-group over 65 years, and the guardian when all the family members are under 18 years.” These combined definitions of the head of the household entrench further the dominating role of the father or husband in the family and diminish the role of women in managing the household.
According to the present law, rural women are members of the agricultural household and are co-owners together with the rest of the family members; however, they are rarely seen as heads of farming households. Women can be heads of households only when they are widowed, divorced, or when their partner or spouse has long left the farm to go abroad. Moreover, it appears that in practice, men are usually recognised as the head of the household, and women defer authority to them.ii

Furthermore, women are less likely to legally own properties due to the indirect representation of their ownership through the name of the male head of household.iii The figures published by INSTAT suggest that in 2012 only 12.5% of families have a woman as the head of the household.iv Moreover, during the process of privatisation which took place after 1991, the vast majority of agricultural land was titled in the name of men, even when women were serving as the heads of the household.v

The registration of immovable property in the name of the man is also associated with the significant increase in land squatting. Due to this ever-emerging problem, legislation on the legalisation of informal settlement was adopted. The Agency for Legalisation, Urbanisation and Integration of informal Settlements was established with the duty to issue legalisation permits in order to recognize as legal an informally built settlement. This type of document certifies a person as the owner and is issued invariably in the name of the person who submitted the self declaration. Immovable property is then registered in the IPRO, in the name of the person on whose behalf the legalisation permit was issued, i.e. the head of household. In the vast majority of cases (90 per cent), the registered official head of the household is a man.vi There is a very low daily application during 2013 for the registration of legalisation permit by female applicants. The main reason for this fact might be explained by the very low number of legalisation permits that have been issued in the name of women and girls, which prove the gender negative impact of the implementation of legalisation law and the need for improvement.vii

Also, Article 228 of the Civil Code can be detrimental to women who get married. When a boy/girl gets married, he/she has the right to demand its compensation in money from the family of origin. But, if a girl does not seek her share of assets from her family of origin she loses this share, as after marriage she becomes a member of the husband’s family.viii
Also, the transfer of ownership within farm family is done without the approval of the wife. Other incoherences regarding the application of the provisions of the Civil Code with agricultural legislation on transfer of ownership have persistently caused inequality towards ensuring women’s rights. Agricultural land was allocated on a per capita basis to each agricultural family in 1991 based on Law No. 7501 dated 19.7.1991 “On land”. It is unclear whether the registration of acts of voluntary partition of agricultural land should be based on the composition of the family when the Law “On land” has established the allocation of agricultural land, i.e. 1991, or the family composition at the time of registration of the voluntary partition of property. The IPRO has taken a step forwards in establishing a practice applicable to all IPROs, according to which acts of partition of ownership over agricultural land should be registered based on the composition of the agricultural family at the time of the partition. However, the interpretation of the applicable legislation by notaries and courts in this case is still incoherent.

There is also confusion as to the capacity of minors and their legal guardians regarding the partition of the agricultural land belonging to the farm family. Also, there are problems related to the Civil Code, which requires that every family member must appear in front of the notary for any transaction involving farm family land implying high transaction costs.

**Customary law regime**

Customary law is neither constitutionally nor legally recognized as a source of law in Albania. However, in remote areas property rights were, and to some extent still are, affected by customary rules. Some of these rules derive from the **Kanun**, which is a set of ancient rules regulating the life of the community in mountainous areas of Northern Albania. Based on these rules, women’s rights in general, and women’s property rights in particular, are not only entirely absent, but these rules legitimize a harsh treatment towards women and negate them any legal rights. Women are at any rate considered property. They are either under the authority of their father, or their husband. What is more, in cases of blood feud, the isolation of men in the **kulla** (towers) further complicates women’s lives, as they then have to take over the role of breadwinner in addition to domestic duties.

Although customary tenure forms appear to have re-emerged, the results also present clear evidence that these customs are not as strong as they use to be. The family structure appears to
have become more flexible as it responds and interacts with changing property relations, residence patterns, and mobility and migration. The household structure does not typically resemble the extended patrilocal family structure of the past. The contemporary household has become more nuclear, with minimal horizontal extension. Changing economic opportunities, such as higher monetary income, and increased migration opportunities, are perhaps the primary reasons for this shift in family structure.xv

Consensual unions

The Family Code recognizes the consensual unions for cohabiting couples. As to the property regime, the law grants absolute freedom to mutually decide on the legal implications of the cohabitation. The law does not extend the default property regime framework to the cohabiting couples.

The Family Code

- Article 163

Cohabitation is a factual union between a man and a woman living as a couple, pursuing a common life that is stable and continuous in nature.

- Article 164

The cohabitating individuals can sign an agreement in the presence of a public notary, whereby they determine the consequences resulting from cohabitation in relation to children and assets acquired during the cohabitation.

Citizenship
The Constitution and the legislation grant women the right to confer citizenship to children, convey citizenship to their spouse, and apply for the ID in the same way as a man.

**Constitution**

- **Article 19**

  1. Everyone being born of at least one parent with Albanian citizenship gains Albanian citizenship automatically. Albanian citizenship is gained also for other reasons provided by law.
  2. An Albanian citizen cannot lose his citizenship, except when he relinquishes it.

**Law No. 8389, dated 5.8.1998 “On Albanian citizenship” (amended)**

- **Article 10**

  A foreigner who has been married to an Albanian citizen for not less than 3 year, if it wishes so, is entitled to gain Albanian citizenship through naturalisation, even if he/she does not comply to the conditions as set forth in Article 9, paragraph 2 and 5. The foreigner should have resided legally and uninterruptedly in the territory of the Republic of Albania for at least one year.

  Whoever is being born with at least one parent having Albanian citizenship, gains Albanian citizenship automatically.

- **Article 12**

  If both parents of Albanian nationality adopt a child having another citizenship or a stateless one, the child is granted the Albanian citizenship.

  The adopted child acquires the Albanian citizenship even if only one of the parents is of Albanian nationality and at the moment of the adoption they reside in the territory of the
Republic of Albania, as well as in any other case when the child risks of remaining stateless, as a result of adoption.

Law No. 8952, dated 10.10.2002 “On the identity documents of Albanian citizens” (amended)

- Article 3

1. For obtaining a national identity document the applicant must meet the following conditions:

a) Be registered in the fundamental register and be a resident of the local unit, which has jurisdiction of the civil office, responsible for issuing the document;

b) Be at least 16 years.

2. Every citizen who meets the above conditions is obliged to obtain an identity document within the deadlines set by the Council of Ministers.

Bills

N/A

Laws on succession

Civil law regime

The legislation grants equal inheritance rights to daughters and sons. Male and female surviving spouses have the same rights to inherit.

The Civil Code

-Article 320 Capacity to inherit
A person who is alive at the time of the opening of the inheritance, or who has been conceived before the death of the estate-leaver and is born alive shall be capable to inherit. It is presumed that who is born within 300 days from the death date of the estate-leaver had been conceived before the time of the opening of the inheritance.

- Article 360

The legal heirs are the children, the children of the children, the spouse, the parents, the siblings and the children of the siblings deceased before, the grandparents and other predecessors, the persons unable to work and dependant on the estate-leaver, his other kin up to the sixth degree as well as the State. These are called to inherit in the order provided for in this Code.

- Article 361

In the first rank are called to inherit the children and the spouse able or unable to work, each inheriting in equal parts.

When one of the children has died before the estate-leaver, has become unworthy of inheriting, or has renounced the inheritance, his children take his place by substitution, and if they cannot be heirs for the same reasons, their descendants shall be called to inherit without limitation. In this case, the share of the parent who does not inherit is divided among his descendants in equal parts. When there are no other heirs of the first rank besides the spouse, those of the succeeding rank contemplated in article 363 of this Code are called to inheritance, and when there are none such, the heirs of the next succeeding rank as specified in article 364 of this Code are called.

In any case the spouse receives half of the estate.

If there are no heirs of the above-mentioned rows, the inheritance shall belong to the surviving spouse.

- Article 333

Renunciation of inheritance shall be done with a written statement, which is registered to the notary of the local government unit where the inheritance is opened, or by a notarized declaration edited by a notary.
The renunciation may also be done by a representative with special power of attorney. After recording the renunciation of inheritance, the notary *ex officio* issues a new certificate of inheritance, which reflects the change in the circle of heirs, as well as the parts belonging to them, which he sends to the person who has requested the issuance of the initial certificate of inheritance.

**Customary law regime**

Customary rules of inheritance are not recognized as a source of law in Albania. However, in various remote areas customary practices based on the so-called *Kanun* are still applicable. In customary law the rules of inheritance are very harsh towards women in general and do not acknowledge women’s property rights. According to the old custom rights, inheritance is regulated only through the male line. The provisions of the *Kanun of Lekë Dukagjini* constitute a meaningful example of women’s inheritance rights.

The Kanun of Lekë Dukagjini

Article 37/1 *The Kanun recognizes as heir the son and not the daughter.*

Article 37/3: *Women do not inherit estate neither from their parents, nor husband.*

Article 37/4 Even if there’s no son in a family with 100 daughters, neither the latter nor their daughters are entitled to inherit.

**Land Law**

*Legislation on the registration of immovable property*

*Law No. 33/2012 “On registration of immovable property”*(amended)
- **Article 32** Certificates of Ownership and Certificates of Use, Usufruct, Emphyteosis, Servitude and other Real Rights

1. The registrar shall, at the request of the owner of an immovable property or beneficiary of a real right who has not been issued a certificate of ownership or lease, use, usufruct, emphyteosis, mortgage and servitude in respect of the immovable property, issue for the owner a certificate of ownership, and to the beneficiary of a real right a certificate of use, usufruct, mortgage, emphyteosis and servitude, as appropriate, in a written or electronic form, entering all the information which is contained in the *folder* on that property, and which has an effect on the immovable property or its real rights.

2. Only one certificate shall be issued in respect of an immovable property registered in the appropriate folder, for purposes of verifying ownership or other real rights created pursuant to different legal acts. That certificate shall be issued to the single property owner, or one of the co-owners in cases of duly authorised co-ownership under the applicable legislation.

- **Article 41** Registration of Co-owned Immovable Properties

1. Acts which contain acquisition of ownership and other real rights over an immovable property belonging to two or more persons jointly, shall be entered in the immovable property register, indicating the identity and part of every co-owner, where possible.

2. If a property, which is subject of a contract of transfer of ownership made in favour of natural persons who, according to the civil status register are married, has been acquired during marriage in accordance with Article 76 of the Family Code, the registration in the appropriate section of the folder shall indicate that the property is co-owned by both spouses.

- **Article 68** The Right to Information

The owner or person who proves that he/she has a legitimate interest in accordance with the provisions of the present Law, shall be entitled to obtain information and copies of documents that are in the immovable property registers, folders, cadastral maps, documents filed with the application for registration, and documentation held and administered by the local immovable property registration offices.

- **Article 71** Fees
1. The issuance of immovable property certificates, leases, certified copies of inspections, survey plans, printed forms, information on the legal status of properties, and other services performed by the Immovable Property Registration Office based on the data administered in the immovable property register, shall be made upon payment of certain fees and, in case of delays, interest shall also be paid. A registrar shall refuse to act until a fee and interest due have been paid, as laid down in Article 39 of this Law.

Council of Ministers’ Decision No. 375 dated 06.06.2012 “On the creation, registration, functioning, administration, the interface, and the security of the immovable property registration system (ALBReSP)

2. ALBReSP includes, among others, statistical reports of the administration of the requests and other elements related to it, the type of immovable property, the type of the owner and other related elements.


1. The request for the provision of a service by the IPRO, pursuant to Law No. 33/2012 "On the registration of immovable property", shall be made by the applicant himself/herself, through his/her representative, a notary or an assistant to a notary.

2/1. The IPRO offers the on-line service for the applications from the notaries. The respective on-line services offered for the notaries shall be approved by mutual agreement between the IPRO and the National Chamber of Notaries.

Council of Ministers’ Decision No. 576 dated 29.08.2012 “On the list of services delivered by IPRO”

14. The right to access the file of the immovable property
15. The right to access online the legal status of the property and other matters related to the immovable property

16. Official information of the property for individuals and institutions

34 Request for merging, division of the immovable property

**Council of Ministers’ Guideline No. 2 dated 12.09.2012 “On the elements of the acts subject to verification by the IPRO and the procedure for issuing the registrar’s order”**

4. In order to verify the elements of form and content of notarial acts, the IPRO employees that process individual applications for registration, based on Appendix 2 of this Guideline shall verify the following:

a) the elements of form, in accordance with Law No. 7829, dated 01.06.1994 "On the Notary" (amended), and, where appropriate, all relevant laws and regulations;

b) The authenticity of the existing registration of immovable property, subject of the request for registration on behalf of the transferor, mentioned in a notarial act;

c) If the property data on the notarial act are complete and allow registration.

**Joint Guideline issued by the Minister of Justice and Minister of Finance No. 5341/5 dated 7.9.2012 “On the approval of service fees of the IPRO”**

There are no specific tariffs for the service of registration of the name of the co-owner in the property certificate, after the initial registration has been completed.

There are no specific gender-sensitive provisions for facilitating better access to documents and transactions regarding land registration.

**Law 13/2016 “On offering the public services at the front office level”**
- **Article 8** The principle of access and equality

1. The institutions of the state administration shall provide to all natural and legal persons access to public services on an equal, non-discriminatory, objective and transparent basis. In each case, the legislation requirements for protection against discrimination shall be respected.

*Legislation on property restitution and compensation*

**Law No. 133/2015 On treatment of property and the completion of the property compensation process**

- **Article 8/1**

Means of compensation and evaluation

1. Based on a final recognition and compensation decision, expropriated subjects shall undergo the compensation procedures according to this law through:

   a) Financial compensation;
   
   b) Compensation through another state-owned immovable property of any kind of the same value;
   
   c) Shares on state-owned companies or companies where the state is a shareholder in a value equivalent to the immovable property;
   
   d) On the value of objects, which are being privatised.

- **Article 31**

Physical compensation of the expropriated subject

Expropriated subjects are entitled of the recognition of ownership rights and are compensated without limitations with the free immovable property within the recognized property according to this law, excluding agricultural land which is compensated only up to 100 hectares.
*Legislation on property expropriation*

**Law No. 8561 dated 22.12.1999 “On expropriation and temporary takings of private property for a public interest”**

- **Article 2/1**

Natural and legal persons are entitled to fully enjoy their property. Expropriation shall only take place based on a public interest, in cases where the latter exceeds the interests of the owners of private property, according to the conditions provided in this law and general principles of international law.

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*Legislation on legalisation of informal settlements*

**Law No. 9482 dated 03.04.2006 “On legalisation, urbanisation and integration of informal settlements”**

- **Article 27** Technical and legal documentation for legalising a settlement:

  Subjects interested in the legalisation of illegal settlements must submit, inter alia:

  c) A certificate of family composition;

- **Article 30**

When the informal building is possessed by a squatter, the contract of transfer of ownership of the legalized plot of land shall be registered in the name of the subject who owns the settlement. For the registration of property legalized under this section, the IPRO applies the provisions laid down in Law No. 9062, dated 8.5.2003 "Family Code", Chapter II "The Regime of Community of Property".

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**Council of Ministers’ Decision No. 1095 dated 28.12.2015 “On the rules of coordination between IPRO and ALUIISZ as well as the procedures and restrictions applied towards the registration of legalised properties”**
10. An application for registration filed by ALUIISZ to the local IPR office should be submitted within 5 days from the date of approval of the legalisation permit, and be accompanied by the following documents:

a) The legalisation permit;

b) The Genplan of the legalized property as part of the vectoral map of the cadastral unit;

c) The informal settlement’s layout (for each floor);

d) A copy of the family composition certificate possessed by ALUIISZ from the moment of the application for legalisation.

13. The local immovable property registration office shall establish if the legalised property is co-owned, based on the legalisation permit and the certificate of the family composition submitted by ALUIISZ.

20. The legalisation permit shall be registered in accordance with the provisions of the Family Code on the matrimonial property regimes. For this purpose, the beneficiaries of the legalisation permit shall submit to ALUIISZ the document proving the special marital regime, which will be sent by ALUIISZ to the local immovable property registration office. In other cases, the registration will be carried out under the regime of community of marital property.

Legislation on agricultural land


- Article 3

Agricultural land is given in ownership or for use to the local natural or legal persons without remuneration.

- Article 6
Families which reside in the countryside but are not members of the agricultural cooperative as well as those which work and live in agricultural enterprises, are given agricultural land for use, the size of which is defined by the Council of Ministers.

**Council of Ministers Decision N. 255 dated 1991 “On the criteria of allocation of agricultural land”**

1. Land shall be allocated based on the amount of property belonging to the agricultural cooperatives on a per capita basis.

2. Land shall be proportionately allocated to every family on a per capita basis based on the civil register of 1st of August 1991. The per capita allocation consist in the calculation of the members of the family in an agricultural cooperative, including children, pupils, students, soldiers, retired, members of the cooperative family working on a temporary contract as well as immigrants/refugees, regardless of sex, excluding family members which at the moment of land allocation are working based on a permanent contract in the public or private sector. For the latter, half of property per capita will be allocated, but in any case not more than 0,1 hectares.

3. Other families residing in the village, but which are not members of the agricultural cooperative, shall be given land for use as ½ of the per capita agricultural cooperative member share, but in any case not more than 0,4 hectares per family. For these families in respective villages where the remaining land is state-owned or abandoned by other families, the municipal council and the committees of these villages shall redistribute the share up to the full rate per capita.

In villages where the state-owned land of former state farms, the district council, at the request of the municipal council, proposes to the Ministry of Agriculture and Food to provide with land up to the full rate per capita those families that have been employed by the state or were under social assistance, but that reside in these villages and have not benefited the full rate per capita based on the land allocation criteria.

4. Agricultural land within the yellow line that is not yet occupied by buildings and yards territories is excluded from the allocation process. These lands are given for temporary use by the executive committee of the village council.
Law No. 8752 dated 26.03.2001 “On the establishment and functioning of the bodies responsible for land administration and management”

This law aims to determine:

a) The fundamental rules of management of private and state-owned agricultural land, and some other categories of resources;

b) The state bodies at the local government in charge of land administration, as well as their functions and competences.


- Article 1

The purpose of this law is building the legal regime for the transfer of agricultural property without remuneration to agricultural families or individuals using this land.

Law No.8337, dated 30.04.1998 “On transferring the ownership of agricultural land, forests, meadows and pastures”

- Article 5

The farm family that transfers its ownership over agricultural land, forests, meadows and pastures to every citizen, natural and legal persons in accordance with local legal requirements for the transfer of property, presents to the IPRO the following documents:

a) The Certificate of the IPRO, accompanied by a notary act for transfer of ownership and a map indicating the location of the property.

b) Documents that attest to the composition of the farm family at the time of transfer of ownership, certified by the family composition certificate, an attestation of the local government, and the joint statement of the family members.

c) The topographic sketch of the property that will be subject to transfer of ownership.
d) Duly notarized power of attorney, when the transfer of ownership is not performed by all members of the family of immovable property.

- Article 6

One or more members of the farm family cannot transfer the ownership of any part of the agricultural land, forests, meadows and pastures of the farm family, without dividing the property according to the provisions of the Civil Code beforehand.

Law No. 9244 dated 17.06.2004 “On protection of agricultural land”.

- Article 1

The law establishes the principles, rules and institutions regarding protection of agricultural land.

Law No. 9948 dated 07.07.2008 “On the verification of validity of property titles on agricultural land”

- Article 1

This law aims to determine:

a) The review of the legal validity of property titles on agricultural land;

b) State bodies, responsible for reviewing the legal validity of property titles on agricultural land, the transferred ownership of domestic natural or legal persons, as well as the duties and responsibilities of these structures.

“Law No. 57/2012 “On the completion of the process of transfer of ownership of agriculture land of the former state-owned agricultural undertakings”
-Article 4

1. Agricultural families or individuals shall be equipped with acts of ownership, under the terms and procedures set forth in this Law, if they are considered beneficiaries of agricultural land in use according to the Council of Ministers’ Decision No. 452, dated 17.10.1992 "On the restructuring of agricultural undertakings" (amended), and since the entry into force of this decision they:

   a) Use the land for agricultural activities and have the act of taking land use issued by 15.08.2008;

   b) Use the land for agricultural activities, despite not being equipped with such act.

**Law No. 171/2014 “On the completion of legal procedures of the transfer of agricultural land of former state-owned agricultural undertakings to the beneficiaries”**

-Article 2 The Criteria for issuing the act of ownership

1. Agricultural families or individuals shall be equipped with the act of land ownership based on the requirements and procedures stipulated in this Law, if they are beneficiaries of agricultural land in use according to the Council of Ministers’ Decision No. 452, dated 17.10.1992 "On the restructuring of agricultural undertakings" (amended), and since the entry into force of this decision they:

   a) Use the land for agricultural activities and have the act of taking land use issued until 08.15.2008. In this case, the surface of agricultural land which ownership is being transferred shall be equal to the land that the user is exploiting, but in any case not bigger than the surface shown in the act of usage or bigger than the surface that belong them according to the per capita rate set by the legislation of the time.

   b) Use the land for agricultural activities, despite not being equipped with the act of usage. In this case the surface of agricultural land which ownership is being transferred will be equal to the land that the user is using, but in no case greater than the surface based on the per capita rate set by the legislation of the time.
**Legislation on building land, forests and pastures**

**Law No. 7980 dated 27.07.1995 “On sale of building land” (amended)**

- **Article 2**

  Natural and legal persons of Albanian citizenship have the right to freely buy and sell building land without any limitation.

**Law No. 9385, dated 4.5.2005 “On forests and forests’ services” (amended)**

- **Article 15** Property over the forest fund

  1. The national forest fund, according to the type of property is divided into:

     a) Public forest fund;

     b) Private forest fund.

  2. The public forest fund is owned and administered by the Ministry of Environment, Forestry and Water Management, its subordinated bodies and the local government bodies.

  3. The public forest fund is divided into:

     a) Forests and forest land owned by the state;

     b) Forests and forest land in use or owned by local government.

  4. The private forest fund consists of:

     a) Forests and forest land in private ownership;

     b) Trees and groups of trees, which are within the boundaries of land in private ownership, new forests, which are created in these lands, and parts of privately owned forest fund.
-**Article 19** Granting use rights over forests

2. The municipal forests are used to meet the needs of residents of municipalities with firewood, for providing fodder for livestock grazing, as well as collection of wood and non-wood forest products. For municipalities that do not have municipal forests, these needs may be met by the state forests, according to the rules and procedures approved by the Council of Ministers.

3. The right to use parts of the public forests’ fund shall be specified on a contractual basis, signed by the Minister of Environment, Forests and Water Administration.

**Law No. 9693, dated 19.3.2007 “On pastures”, as amended**

-**Article 5** Ownership

1. The pasture fund is divided by ownership, into:

   a) State pasture fund, which includes pastures and meadows in public ownership;

   b) Private pasture fund, which includes pastures and meadows in private ownership.

2. The state pastures fund includes:

   a) Pastures and meadows in the administration of the ministry;

   b) Pastures and meadows in the administration of local government and collective bodies.

3. Private owners enjoy the rights over pastures and meadows under their ownership, in accordance with the provisions of this law.

-**Article 15** Use of pastures

1. State-owned pastures and meadows shall be given in use for livestock grazing or mowing the grass based on tariffs approved by the Council of Ministers.

2. Natural and legal persons may be granted the right of use of pastures for a period of up to 3 years. In cases when natural or legal person intend to invest for the improvement of the pasture or its infrastructure, under a breeding plan approved by the department that covers pastures, the right to use can be extended to 10 years, provided that the planned investments planned will be accomplished.
4. The contract providing for the right to use pastures and meadows for grazing pastures and shall be concluded in a contract signed by the respective regional director of the forest service and the applicant.

5. A natural or legal person that has received pasture or meadow for grazing or mowing cannot subcontract this right to a third party.

Bills

-A draft new law “On the administration of national forests and pastures”

The draft law defines the owner of the forest and pasture as “the legal or natural person who enjoys the exclusive right of possession, use and transfer of the forest and pasture, according to the law.” There are no gender-specific provisions regarding tenure of forests and pastures.

Policies/Institutional mechanisms enforcing or preventing women’s land rights

Legal mechanisms for enforcing women rights

Law No. 10221 dated 04.02.2010 “On protection against discrimination”

-Article 7

Every action or failure to act of the public authorities or of natural or legal persons who take part in the private or public domain, which creates a basis for denial of equality against a person or a group of persons, or which exposes them to an unfair, and unequal treatment regardless if they are in the same or similar circumstances in comparison with other persons or groups of persons, constitutes a discrimination.

The elimination of privileges or unfair discrimination is guaranteed to everyone based on the personal, politic, economic, social and cultural rights entrenched in the Constitution of the Republic of Albania, international acts ratified by the Republic of Albania, as well as the legislation in force.
- **Article 11** Special measures

Any special and temporary measure which aims at accelerating the process of establishing real equality, when the lack of equality has been caused by discrimination for any of the grounds provided in article 1 of this law, it is considered as affirmative action and does not constitute discrimination according to this law. This measure shall be ceased when the objectives of equal treatment and opportunities are met.

- **Article 20**

1. A natural or legal person who offers goods or services for the public, through a payment method or free of charge, is prohibited to discriminate another person, who wishes to reach or use them, including, *inter alia*,

   dh) the sale or lease of houses or other facilities;

- **Article 33** Procedures

1. A person or group of persons who allege being discriminated or an organisation having a legitimate interest who claims discrimination on behalf of a person or group of persons, may file a written, or in exceptional cases, an oral claim to the Commissioner attaching the available evidence.

2. An organisation having a legitimate interest may submit a special power of attorney to represent the person or group of persons.

10. The Commissioner takes a decision, which shall be notified to the parties within 90 days of receiving the complaint or if a public hearing was held, within 90 days of the session. The decision contains the appropriate measures and rules, setting a deadline for their implementation.

11. If the Commissioner orders a specific rule or measure, the person against whom the complaint was submitted reports within 30 days to the Commissioner regarding actions taken to implement the decision. If the person against whom the complaint was submitted does not inform the Commissioner or does not implement the decision, the Commissioner imposes a fine. The fine shall be repealed if the person against whom the complaint was submitted implements the decision within seven days after the sanction was imposed.
15. As a last resort, especially when a natural or legal entity fails to comply with the decision of the Commissioner or does not pay the fine within three months after the deadline set by the Commissioner and the sanction is not challenged in court, the Commissioner may require to the competent authorities to remove or suspend the license or authorisation of the natural or legal entity to perform its activity.


- Article 6 Prohibition of gender discrimination

1. Any treatment of a person less favourably because of his/her gender, compared with the treatment that is made, was made or would have been made to a person of the opposite gender in a similar situation, shall constitute direct gender discrimination and shall be prohibited.

2. The compilation, implementation, encouragement, and the drafting of the provisions, conditions, criteria or practices, which are apparently neutral, but put a person of a certain sex in a situation less favourable compared with persons of the opposite sex, constitutes indirect gender discrimination and shall be prohibited. This prohibition shall not apply when such provisions, conditions, criteria and practices are justified by a legitimate purpose, and the means and ways to reach that purpose are necessary and appropriate.

- Article 7 Necessary measures for ensuring gender equality

In order to ensure gender equality and eliminate gender-based discrimination, the government agencies in compliance with their competencies, shall be committed to:

1. Ensure practical implementation of gender equality principle either by means of legislative measures or by other suitable means.

2. Ensure prevention of any type of gender-based discrimination either by means of legislative measures or other suitable means accompanied with sanctions as the case may be.

3. Ensure alteration or repeal of any legal acts, customs or practice which pose gender discrimination, by means of legislative measures or other suitable means.
4. Take all appropriate measures to create the necessary and legally objective facilities aiming at guaranteeing equal chances and access to both genders. 5. Ensure effective protection for both genders against any discriminatory action through public institutions and national courts.

**Article 8** Temporary special measures

1. The temporary special measures shall include the quota for reaching equal gender representation, increasing the participation of the less represented gender to decision-making and public life, empowering persons of each gender both economically and in terms of their status, equally improving their education level, as well as additional measures in every field, where persons of one gender do not enjoy an equal status with that of the persons of the other gender.

2. Cases when the state takes temporary special measures, including legal provisions, which aim at speeding up the establishment of a factual equality between females and males shall not constitute gender discrimination. Such measures shall stop existing once the gender equality goals for which they were taken are reached.

**Article 15** Participation in the decision making process

1. Equal gender participation and representation in all legislative, executive, judicial power bodies as well as in other public institutions shall be achieved when:

   a) A representation of above 30% of both sexes is ensured, including their steering bodies;
   
   b) Equal observation of competition procedures and criteria for both genders for the assignments in these bodies is ensured;
   
   c) A participation of above 30% of both sexes in the list of candidates for the local government elections is ensured.
   
   ç. A participation of not less than 30% of each sex in the candidates’ list presented by the political parties for the proportional system for the general Assembly elections is ensured.
   
   d) A participation of above 30% of each sex in the central and local elections process administration bodies is ensured.

2. The political parties shall define methods and measures to comply with the requirements provided in section 1 of this article.
3. The political parties shall pay a fine of up to one tenth of the state funds for the electoral campaign, if they violate the provisions of this article, until they undo the violation.

- Article 23 Evaluation of unpaid work

1. The unpaid work of females and males shall be considered as a contribution to the family and the society in cases when he/she:
   a) takes care of the wellbeing of the family;
   b) takes care of the children;
   c) takes care of the other members of the family;
   ç) does agriculture work and home economy.

2. The subjects set out in section 1 of this article shall benefit from the community services, work and employment policies and vocational training based on the legislation in force.

- Article 29 Compensation of damages

The compensation for any damage, material or moral, caused by the violation of the provisions of this law, including the recovery of the violated rights, shall be made through judicial means based on the Civil Code.

- Article 30 Procedures for the Resolution of disputes

1. Any complaints on violation of gender equality according to this law shall be examined or tried by administrative bodies in compliance with the provisions of the Administrative Procedures Code. The administrative bodies shall decide based on the provisions of this law.

2. The parties, on their free choice, as the case may be, may carry out any mediation procedures or procedures for resolution with reconciliation provided in the legislation in force, for addressing the violations according to this law. The accomplishment of such procedures shall not take away from the appellant the right to follow the case at the administrative body or the competent court.
3. In case the violation has been done by public administration employees, the provisions of law no. 8510, dated 15.7.1999 ‘On the extra-contractual responsibility of the state administration bodies’ shall apply.

4. The non-for-profit organisations which are licensed for providing social services may represent or provide support in legal proceedings on behalf of the appellant, in accordance with the provisions of this law.

Law No. 9669 dated 8.12.2006 “For the measures against domestic violence”, as amended

- Article 10

1. The protection against domestic violence based on this law is ensured in the following ways:
   ë) Prohibiting the respondent / (perpetrator / es) to enter or stay in the temporary or permanent residence of the victim, or in any part thereof, regardless of property rights or possession of the perpetrator;

_institutional mechanisms ensuring women’s rights_

Council of Ministers – the responsible body for approving national strategies on gender equality and ensuring gender mainstreaming in the preparation of draft-legislation.

Minister of Social Welfare and Youth- is the state authority responsible _inter alia_ for the implementation of the law on gender equality and the state strategies and action plans on gender equality, proposing amendments on legal and sub-legal acts, collaborating and offering support to non-governmental organisations, organizing education and professional training for gender equality employees on gender equality issues, establishing the mechanisms for gathering gender disaggregated statistics in collaboration with the Institute of Statistics.

The Ombudsman/People’s Advocate is an independent constitutional institution elected by the Assembly for a 5 year term. The Ombudsman/People’s Advocate is responsible for reviewing
claims for violations of rights, liberties and legitimate interests submitted by individuals or legal persons against public administration bodies.

The Commissioner for Protection against Discrimination was established by the Law No. 10221 dated 04.02.2010 “On protection against discrimination”. The Commissioner is an independent body elected by the majority of the members of the Assembly for a mandate of 5 years, with the right to be re-elected only once. He/she is in charge for reviewing complaints from persons or groups of persons who claim being discriminated or organisations who are acting on behalf of persons that claim to be discriminated. The Commissioner is responsible, inter alia, for conducting administrative investigations, imposing administrative sanctions, monitoring the implementation of the law on discrimination, conducting surveys and developing awareness, representing the applicant in the judiciary in civil matters with his consent.

National Council for Gender Equality was established by Law No. 9970 dated 24.07.2008 “On gender equality in the society” as an advisory body established by an order of the Prime Minister. The National Council on Gender Equality is chaired by the minister who covers the issues of gender equality and is composed of 13 members, ten out of which are representatives appointed by the government, and three others are appointed by the civil society organisations. The mandate of the members of the National Council for Gender Equality is 4 years, with the right to re-appointment, with the exception of members elected ex officio. The main duties of the Council consist inter alia in providing counselling for the government in defining the direction of state policies on gender equality with the exception of those issues that fall within the mandate of the National Council on Labour, ensuring gender mainstreaming in all areas, especially in the political, social, economic, and cultural ones, proposing the Council of Ministers the main programs for encouraging and achieving gender equality in Albania, evaluating the current situation on gender equality and coming up with guidelines and recommendations.

Local government bodies based on the Law No. 9970 dated 24.07.2008 “On gender equality in the society” shall collaborate with central state institutions and non-profit organisations for implementing the legislation in force and state policies on gender equality. They shall appoint one or several local gender equality employees in their structures.
Ministry of Justice – is the responsible authority for ensuring an effective state policy on legal aid.

Institute of Statistics established by No. 9180, dated 05.02.2004 for the purpose of collecting and elaborating and interpreting statistical data. The Institute is responsible for collecting gender disaggregated data based on the National Program of Official Statistics.

State Commission for Legal Aid based on Law No. 10039 dated 22.12.2008 “On legal aid” together with the Ministry of Justice, and the National Bar Association is responsible for the administration of legal aid. The Commission is composed of 5 members for a 4 year term, with the right to be re-elected only once. This authority is in charge inter alia for implementing the state policy on the provision of the legal aid, concluding service agreements with lawyers, setting the remuneration which shall be paid to the lawyers for the provision of legal aid, defining the criteria based on which the quality of the provided legal aid services will be assessed, determining the priorities for the cases over which legal aid shall be provided, coordinating the legal aid system including its delivery in all its forms. The services shall be provided by a network of local offices. Six regional legal aid offices are yet to be set up.

Land/agriculture/gender related policies, including draft policies


- Strategic Objective 1. vi. Promoting gender equality in the process of land registration

- Strategic Objective 4.1. Assessment of the existing legislation with the purpose of its harmonisation and clarification, and respect for gender equality.

- Strategic Objective 4.2. Ensuring gender equality standards in the decision-making processes regarding property issues.

- Information and awareness activities will also aim at equal participation of women and men. Gender officers at central and local government and NGOs working on gender equality will serve as a booster. The Ministry of Agriculture, Rural Development and Water Management will cooperate closely with the Ministry of Social Welfare and Youth.

- Council of Ministers’ Decision No. 330 dated 28.05.2014 “On the approval of the guidelines for 5 strategic priorities recommended by the European Commission 2013”

Strategic Priority No. 5: Take effective measures to strengthen the protection of human rights, including the protection of Roma and anti-discrimination policies, as well as implement property rights.


- Local Government Units will be supported to set up special structures to strengthen gender equality, ensuring periodic monitoring and evaluation on the basis of harmonized gender indicators and service standards.

Council of Ministers’ Decision No. 87, dated 3.2.2016 “On the Approval of the Political Document on Social Inclusion”

- 70% of women living in rural areas work in agriculture, but only 6% of them are the owners of the property under their management.

- Ensure that administrative data on gender, ethnicity and disability is collected and analysed.

- Improvement of access to justice

- Monitor for disaggregation by gender, age, ethnicity, and settlement type.

National Strategy on Development and Integration 2015-2020 (Draft on public consultation)

Pillar 2: Ensuring growth through competitiveness and innovation

-ensuring property rights
Pillar 3: Investment in human capital and social cohesion
- ensuring gender equality and equal opportunities

Pillar 4: Ensuring growth through a sustainable use of resources and territorial development
- enabling a diversified and competitive agricultural and agro-food sector

The three pillars elaborate on the commitments of the Government towards improving land, agriculture and gender-related policies.

The National Strategy and Action Plan on Gender Equality 2016-2020 (Draft on public consultation)

Specific objectives and measures provided in the action plan in order to empower women’s economic rights:

- Improvement of legislation on ownership of agricultural land by ensuring joint ownership of women and girls

- Training of staff of the local offices of IPRO to guarantee the joint registration of women and girls

- Training for notaries in all municipalities of the country, with a particular focus on those that serve rural areas. Training focused on matrimonial regimes, ways of cohabitation, inheritance and property rights;

- Initiatives to improve legislation for a quota of at least 40% women on steering bodies

- Training middle management and senior local administration on issues of equality and gender mainstreaming

- Training for employees and local administration in accordance with the status of civil servants, training on issues related to gender equality and gender mainstreaming;

- Develop procedures (regulations) to ensure local nomination of at least 40% of local women administrators under paragraph (e), Article 64 of Law No. 139/2015 "On Local Self-Government"
- Consolidating the network of gender employees at the central and local self-government, as well as guaranteeing their sustainability


- Training of officials and raising awareness of women on tenure rights

**International treaties and conventions**

**CEDAW: Convention on the Elimination of All Forms of Discrimination against Women** (adopted on 18 December 1979). Relevant articles: 2, 4, 14 and 16

Ratified through Law No. 7767 dated 09.11.1993

**CEDAW-OP: Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women** (adopted on 06 October 1999)

Ratified through Law No. 9052 dated 17.04.2003


Ratified through Law 7511 dated 08.08.1991

**ICCPR: International Covenant on Civil and Political Rights** (adopted on 16 December 1966) relevant articles: 2(1), 3, 14, 16 and 23(4)

Ratified through Law No. 7510 dated 08.08.1991
Other international regulations

Ratified through Law No. 8137, dated 31.7.1996

Ratified through Law No. 8137, dated 31.7.1996

Ratified through Law No. 8137, dated 31.7.1996

Ratified through Law No. 9264 dated 29.07.2004

International Convention on Protection against all forms of Racial Discrimination (Adopted on 21 December 1965)
Ratified through Law No. 7768 dated 09.11.1993

Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part, Relevant articles: 77, 99
Ratified through Law No. 9590, dated 27.7.2006

**Convention on Preventing and Combating Violence against Women and Domestic Violence** (adopted on 11 May 2011)

Ratified through Law No. 104 dated 11.08.2012

**The European Social Charter (revised)** (adopted on 03 May 1996)

Ratified through Law 8960 dated 24.10.2002

**ILO Conventions No. 111, 156, 183**

Ratified respectively on 27.02.1997, 12.07.2007, 24.07.2004

**Customary practices**

**Customary norms, religious beliefs and social practices that influence gender-differentiated land rights**

Customary practices are not recognized as a formal source of law in Albania. Nevertheless, they continue to exercise their influence in few communities, especially in remote mountainous areas. Based on these practices women are negated some of the basic legal rights. They bear the duty to serve to the continuation of the family and they are not granted any property or decision-making rights. This concern was voiced by the CEDAW Committee by stressing that the re-emergence in some northern areas of the country of traditional concepts of justice (*kanun*) remains a serious concern.
Apart from customary norms, deeply embedded family structures play a pivotal role in ensuring differentiated land rights. Families in Albania are still built on the traditional patriarchal organisation and a stereotypical understanding of gender roles.\textsuperscript{xxii} In many rural areas, the patriarchal system still rules the property management and hinders the enjoyment of women’s property rights for enabling them more bargaining power. According to Wheeler, looking at the contemporary situation, we find that the Albanian family has retained many of its patriarchal characteristics. In general, every family has a patriarch. The patriarch is not necessarily chosen according to the requirements of customary law, but more along the lines of age and gender; usually the oldest male will assume the role. The prescriptions for the head of household in customary law seem to indicate that the head of household is the person who manages the operations of the farm. Now this is not necessarily the case since the head of household tends to be the oldest male even though he no longer manages the farm.\textsuperscript{xxiii}

\textbf{Traditional authorities and customary institutions}

There are no recognized traditional authorities exercising decision-making powers regarding land tenure. However, mediation of conflicts in the broadest sense is an old practice rooted in the Albanian society and prescribed in the customary laws or Kanuns.\textsuperscript{xxiv} According to these rules, each party selects an equal number of elders to represent them in the Council of Elders (pleqni) where the dispute is debated with the aim of reaching an agreement.\textsuperscript{xxv}

\textbf{Inheritance/succession de facto practices}

Customary Rules of inheritance are not recognized as a source of law in Albania. However, customary practices, based on the so-called Kanun in various remote areas are still applicable. In customary law the rules of inheritance are very harsh towards women in general and women’s property rights in particular. \textit{The Kanun of Lekë Dukagjini} provides an example of these practices.

The Kanun of Lekë Dukagjini

\textbf{Article 37/1} The Kanun recognizes as heir the son and not the daughter.
Article 37/3: Women do not inherit estate neither from their parents, nor husband.

Article 37/4: Even if there’s no son in a family with 100 daughters, neither the latter nor their daughters are entitled to inherit.

According to FAO, the number of women who inherited property becomes higher and higher from year to year. In 2011 it was 38.71%, in 2012 45.11%, and in 2013 it is almost the same as the percentage of men who inherited property. However, the sample is not representative enough, since 88% of the records were not taken into account in the analysis due to the invalidity of the proof of identification of property. xxvi

Discrepancies/gaps between statutory and customary practices

Statutory norms governing land tenure are gender neutral. They mostly refer to the concept of “natural persons” or “individual” as a general concept referring to men and women being entitled to property rights and do not usually contain any gender sensitive provisions regarding to land tenure. Customary rules, on the other hand, are detrimental to women. According to these rules, women are not entitled to any property right. These practices constitute setbacks in the process of securing women’s land tenure rights, by inhibiting women’s property rights derived from civil status or inheritance rights.

Land tenure and related Institutions

Prevailing land tenure systems
- Private ownership and subordinate rights of use and lease, including agricultural land, building land, forests and pastures
- State or municipal ownership over land, including building land, forests, pastures
- Squatted land undergoing a process of legalisation
According to data from 2014, the structure of land consists of 24% agricultural land, and the remaining 76% consists of building land, forests and pastures.\textsuperscript{xvii}

Out of the total agriculture area, 561,000 ha or 81% is under private ownership and 134,000 ha or 19% is under public (state) ownership.\textsuperscript{xxviii}

National and local institutions enforcing land regulations

- \textit{Responsible bodies for the administration, management and protection of agricultural land}

Ministry of Agriculture, Rural Development and Water Administration based on as the policy-making body in protecting, managing and administering agricultural land.

The \textbf{Governmental Land Commission} based on the Decision of the Council of Ministers No. 97 dated 15.02.2006 “On the composition of the Governmental Land Commission” (amended) is composed of the following members:

- Deputy Prime Minister, Chairman
- Minister of Agriculture, Rural Development and Water Administration, Deputy Chairman
- Minister of Internal Affairs, Member;
- Minister of Justice, Member;
- Minister of Urban Development, Member.

The Commission is responsible \textit{inter alia} for the review and approval of the annual control and verification programs prepared by the Local Commissions for the Evaluation of Property Titles over agricultural land, deciding on appeals from the decision of the local commissions, disciplinary measures, as well as on the resolution of territorial disputes.
The Technical Secretariat of the Governmental Land Commission based on the Council of Ministers’ Decision No. 604 dated 05.09.2012 “On the procedures of the technical secretariat of the Land Governmental Commission, for the appeals against the decisions of local commissions of evaluation of property titles over agricultural land” reviews the appeals and prepares a report on the regularity and legality of the decision of the land commission of evaluation of property titles. This report is presented to the Governmental Land Commission which shall decide on the case.

The State Committee for Land Protection, established by Law No 9244, dated 17.6.2004 “On protection of agricultural land” (amended) and the Council of Ministers’ Decision No. 80 dated 28.01.2005 “On the composition, functioning and competencies of the state bodies charged with the protection of agricultural land” is headed by the Minister of Agriculture as an inter-ministerial body, which bears the duty to coordinate the work of the Ministry of Agriculture, other institutions and local government bodies local, responsible for the protection of land and all activities related to agricultural land.

The Inspectorate for Land Protection established by Law No 9244, dated 17.6.2004 “On protection of agricultural land” (amended) and the Council of Ministers’ Decision No. 80 dated 28.01.2005 “On the composition, functioning and competencies of the state bodies charged with the protection of agricultural land” exercises scheduled controls on the performance of the activity of the Land Protection Committees and the Land Protection Inspectorates in the Regions, as well as other state structures, charged with the enforcement of legal provisions to protect the agricultural land.

The local government bodies include the Council of the Municipality, the Council of the Region, the Mayor, and the Steering Board of the Region. They are, inter alia, in charge of creating the bodies responsible for the process of legalisation according to article 5 of Law No. 9482 dated 03.04.2006 “On legalisation, urbanisation and integration of informal settlements” and on site identification of informal settlements. Moreover, the Directorates of Land Administration and Protection are established at the regional level, and the land administration and protection offices and land inspectorates at the municipality level. The latter perform duties which are delegated by the central government based on the applicable legislation on agricultural land. The municipality cooperates with IPRO in cases when irregularities on the acts of ownership of agricultural land based on the Council of Ministers’ Decision No. 994 dated 09.12.2015 “On the procedure of registration of the acts of ownership on agricultural land”. Also, the local
government bodies perform duties regarding the communal forests based on the Law No. 9385 dated 04.05.2005 (amended). Based on Law 147/2015 “For the state budget of 2016” the personnel of the Regional Council should not exceed 10 members.

The Directorates of Land Administration and Protection are established based on Law No. 8752 dated 26.03.2001 “On the establishment and functioning of the structures of land administration and protection” (amended). The Directorates of Land Management and Protection in the Regional Council function as administrative structures of the Regional Council, consisting of one directorate and two sectors. The director of DLMP is responsible to the Regional Council and to the responsible bodies for the land management and protection of the Ministry of Agriculture, Rural Development and Water Administration, in order to implement the provisions of the legislation for the management and protection of land, as well as preserve the cadastral archive, land books, books of plots, floor plans, cadastral maps, topographical and other documents of the existing cadastre archive. This body is composed of the land administration unit and the land protection inspectorate at the local level, as a function of the Regional Council in accordance with Law No. 9244 dated 17.06.2004 “On protection of agricultural land”.

The Land Protection Commission is established based on the Law No. 9244 dated 17.6.2004 “On protection of agricultural land” (amended). It is composed of the mayors of the municipalities, police director of the prefecture, the head of the regional environmental agency, the head of the construction police, the regional director of agriculture and food, regional director of water management, director of the forest service, as well as heads of institutions whose activities affect agricultural land. The latter shall be approved by the Regional Council. Its main task is the coordination of the activities for the protection of agricultural land near the Regional Council. The chairman of the Regional Council is also chairman of the Land Protection Commission.

The Land Management and Protection offices near the municipalities based on the Law No. 8752 dated 26.03.2001 “On the establishment and functioning of the structures of land administration and protection” (amended), and the Council of Ministers’ Decision No. 64 dated 23.1.2003 “For determining the number of employees of the land management and protection sections of land in Regional Councils and offices of the management and protection of land in municipalities,” (amended) shall be composed of a number of employees as defined by the
Municipality Council depending on the land surface and the conditions of the territory. The offices are responsible for the management and protection of the agricultural land under public or private ownership, maintaining the cadastral documentation, prepare and submit for approval to the responsible units of the municipality and/or commune the requests and documentation of natural persons or legal entities to lease, for the granting of exploitation permits or other forms of transfer of rights provided by normative legal acts, free rural land and river banks, which administration or ownership is transferred to the region, commune and/or municipality based on the law.

**The Land Protection Inspectorates** based on the Council of Ministers’ Decision No.121, dated 17.02.2011 “On the exercise of the management functions and protection of land in the regions and offices of management and protection of land in the municipalities/communes” exercise methodological and routine controls twice a year on the measures of protection and rehabilitation of agricultural land in the municipalities.

**Local Commissions on the Evaluation of Property Titles** based on Law No. 9948 dated 07.07.2008 “For the review of validity of the creation of property titles over agricultural land” (as amended) are established near the Prefect’s office in every region. The Local Commissions review the legality of the creation of property titles over agricultural land within the jurisdiction of the prefecture, verify the complaints, and enforce the decisions of the Governmental Land Commission. Moreover, the Local Commissions are also responsible for the resolution of disputes on the legality of the property titles over agricultural land, based on complaints or on their own motion.

- **Responsible bodies for the protection and management of the forests**

**Ministry of Environment**– based on Law No. 9385, dated 4.5.2005 “On forests and the forest service” (amended) is the highest administrative body for the protection, management, governance and control over the forest fund.

- **Local government bodies**- based on Law No. 9385, dated 4.5.2005 “On forests and the forest service”(amended), are responsible for the protection and management of communal forests.
- Responsible institutions for land registration and land registration services

Ministry of Justice - the authority responsible for proposing policies in the area of registration of property

Immovable Property Registration Office - based on Law No. 33/2012 “On registration of immovable property” is an authority subordinated to the Ministry of Justice which consists of the central and local offices of immovable property registration. The Office is responsible for managing the activity of immovable property registration, management of the registers and all activities related to immovable property registration.

Agency for the Delivery of Integrated Services Albania based on Law No. 13/2016 - offers public services to natural and/or legal persons through front offices, one stop shops and integrated public services, including immovable property registration services.

- Responsible bodies for restitution and compensation of immovable properties

Property Treatment Agency - established by Law 133/2015 “On treatment of property and the completion of the property compensation process” is an authority subordinated to the Ministry of Justice and is headed by the General Director. The Agency is responsible for completing within the legal deadline the review of all claims regarding expropriated property, compensation claims. The PTA submits to IPRO its decisions for the recognition of the right to property.

- Responsible bodies for legalisation of informal settlements

Agency for the Legalisation, Urbanisation and Integration of Informal Settlements – established by Law No. 9482 dated 03.04.2006 “On legalisation, urbanisation and integration of unauthorised buildings”. The Agency is headed by the General Director and it is subordinated to the Ministry of Public Works. The Agency is the responsible body for the coordination of the central and local government bodies on legalisation matters and the issuance of legalisation permits based on the law.
Local administration bodies – based on Law No. 9482 dated 03.04.2006 “On legalisation, urbanisation and integration of unauthorised buildings”, as amended, they are in charge of establishing the bodies responsible for the process of legalisation according to article 5 the law, as well as conducting the on-site identification of informal settlements.

- Other bodies relevant to immovable property

Ministry of Economic Development, Tourism, Trade and Entrepreneurship which is in charge of the process of privatisation of state-owned property, or for concluding lease and other contracts on state-owned property.

The Agency for the Inventory and Transfer of Public Property based on Law 8743, dated 22.02.2001 “On state-owned immovable property” (amended) and Law No. 8744 dated 22.02.2001 “On the transfer of state-owned immovable property to local government units” and other implementing measures conducts the process of inventory and transfer of state-owned immovable property to the local government units, directs the process of inventory of immovable property.

The Military Geographic Institute established by Law No. 8907 dated 06.06.2002 “On the functioning of the Military Geographic Institute” is a body subordinated to the Ministry of Defence and is responsible for the land, sea and air mapping, as well as for the maintenance of state geodetic network.

Land administration institutions and women quotas

Overall, there are no explicit gender sensitive provisions on specific legal and sub-legal acts regarding the organisation and functioning of land administration institutions. However, gender-
specific quotas are specified in the Electoral Code, legislation on gender equality, local government, and implementing measures of the legislation on the civil service.

The Electoral Code stipulates that one of the first three names on the candidates’ list for the members of the Assembly shall belong to each gender. On the general elections of 2013, 39% of candidates in the list were women, but their representation in the Assembly is only 23%.xxix

Also, the election of local government bodies is particularly relevant since many of the land administration institutions are subordinated to various bodies of the local administration, such as the Regional Council or the Municipality Council. The amendments of the Electoral Code establishing quota for the list of candidates of the Municipality Council, based on which one in every two consecutive names in list shall belong to each gender brought a substantial improvement in the participation of women in local government bodies. On the local elections of 2015, the participation rate of women in municipality councils increased from 12% to 35%, three times more compared to 2011.xxx The failure to comply with the quota for the candidates’ lists results punishable with a fine specified in the Code. Also, the Law “On local self-government” provides specific gender-sensitive provisions for ensuring equal participation for the Chairman and Deputy Chairmen of the Municipality and Regional Council, and administrators of the administrative units.

As to the other public institutions responsible for land administration, there is a legal requirement based on Article 15 of the Law No. 9970 dated 24.07.2008 “On gender equality in the society” that at least 30% of each gender shall be ensured in all executive bodies, including all institutions subordinated to the Council of Ministers and relevant ministries, and local administration, as well as duty to appoint gender-equality employees. Women’s share of government ministerial positions is 35%. The rate of female employment in the public administration is encouraging (58.7%), but the level of women’s participation in leadership positions hardly reflects a balanced participation (24.3% of the highest managerial positions),xxxi whereas in rural areas it is far less (only 15% are women). xxxii

**Electoral Code**

- **Article 67**

6. For each electoral zone, at least thirty per cent of the multi-name list and one of the first three names on the multi-name list shall belong to each gender. The subject that submits the list
declares the seats, according to the gender quota, so as to apply the exception, in accordance with point 2 of article 164 of this Code.

For elections for local government bodies, for each municipal council, one in every two consecutive names in the ranking shall belong to each gender. The subject submitting the list declares the seats, according to the gender quota, in order to apply the exception under the second paragraph of point 2, of article 164 of this Code.

7. In case of non-compliance with any of the conditions provided for in this article related to the composition of the multi-name list, the CEC imposes the sanctions set forth in article 175 of this Code.

- Article 176 Sanctions related to gender equality

1. Failure by the electoral subject to comply with the obligations specified in point 6 of article 67 of this Code regarding the composition of the list, is punishable by the CEC with a fine of ALL 1,000,000 as well as the additional sanction, in accordance with point 2 of this article, in the case of elections to the Assembly, and with refusal of the political party’s list of the candidates for municipal councils for elections for local government bodies.

2. In case a violation by an electoral subject is identified, the CEC applies as an additional sanction the replacement of each vacancy in the list of the subject, in the zone where the violation has been identified, with the next candidates in the list belonging to the least represented gender until the gender quota is reached. In case the CEC decides to apply this sanction, the exception of point 2 of article 164 shall not apply, and the vacancy is filled in accordance with this point.

3. The sanctions envisaged in this article are applied to each electoral zone where a violation is identified.

Law No. 139/2015 “On local self-governance”

- Article 54 Competences of the Municipality Council

The Municipality Council has the following competences:
a) elects the chairman and the deputy chairmen in accordance with the law on gender equality;

- Article 64 Competences of the mayor

The mayor has the following competences:

e) appoints the deputy mayors and dismisses them, in accordance with the legislation on gender equality;

ë) appoints the administrators of administrative units and dismisses them, in accordance with the law on gender equality;

k) Appoints and dismisses local officials for gender equality;

l) Ensures the collection and processing of local statistics, disaggregated by gender, and shall ensure their publication.

- Article 70 Community structures in the village

1. The village is headed by the Head and the board of the village. The Board is an advisory body to the Head of the village. Members of the Board are elected during the meetings of the village, in which shall participate no less than half of eligible voters. The composition of the board should respect the law on gender equality.

- Article 74 The Regional Council

5. The Regional Council elects its Chairman and Deputy Chairmen, in accordance with the law on gender equality.

- Article 75 The Mandate of the Members of the Regional Council

4. In case a vacancy is created, due to the loss of the mandate of a member of the regional council by a member of the council of a municipality, the position is replaced by the relevant municipal council, in accordance with the law on gender equality.
-**Article 77** Competences of the Regional Council

The Regional Council is responsible for:

b) Electing the chairman and the deputy chairmen of the Council, in accordance with the law on gender equality;

m) Deciding on the rules, procedures and methods of implementation of delegated functions, according to the law and with which the delegation has been decided;

-**Article 95** Transitory provisions

In cases vacancies are created, candidates of the least represented gender are appointed at the position.

**Law No. 9970 dated 24.07.2008 “On gender equality in the society”**

-**Article 13**

3. State institutions at central and local level, have a legal obligation to cooperate with relevant ministers, to exchange information and facilitate the fulfilment of his duty. For this purpose, in each ministry an employee dealing with gender equality issues shall be appointed.

-**Article 14**

4. Local government bodies shall appoint one or several local civil servants dealing with gender equality issues.

-Council of Ministers’ Decision No. 143 dated 12.03.2014 “On the recruitment procedures, the selection, the probation period, parallel displacement and promotion for civil servants of the execution, low and middle managerial level”
13. Candidates scoring equally are ranked according to the following criteria:

b) If candidates are of different genders, then the ranking is done by ranking first the candidate who belongs to the underrepresented gender in the group for which competition is being organised. The underrepresented gender is determined by the responsible unit;

Funding provisions to guarantee women’s land transactions

Guideline issued by the Minister of Justice and Minister of Finance No. 5341/5 dated 7.9.2012 “On the approval of service fees of the Immovable Property Registration Office”

Order No. 183, dated 26.5.2011 “On the fees for the services delivered by the Land Administration and Protection Directorate”

There are no specific gender-sensitive funding provisions on facilitating better access to documents and transactions on land issues.


- All central institutions must plan measurable gender equality targets in their budgets, starting from 2013.

Joint Guideline No. 21 dated 21.06.2013, between the Ministry of Labor, Social Affairs and Equal Opportunities and the Ministry of Finance” “On the definition of procedures that must be followed for gender mainstreaming in the Medium Term Budget Program (MTBP)”.
During the preparation of the medium-term budgetary requirements, in order to integrate gender in the Medium Term Budget Programme, the Programme Management Teams of each line ministry shall identify specific programs which can integrate gender objectives, determine priorities for gender equality in the statement of the policy intent, review and modify existing products and activities to achieve gender targets. If necessary, they shall identify products and activities, plan costs for products and program activities.

Other factors influencing gender differentiated land rights

As per the UNDP Human Development Index 2013, Albania’s Gender Inequality Index is positive with a ranking of 41 out of 148 countries. However, there are still considerable inequalities in the participation of women in the labor market, and property rights.

According to the World Bank, Albania has one of the lowest scores (137 of 148 countries) in the world in terms of overall equality in property rights, particularly immovable property rights. There are almost twice as many men landowners than women landowners, and most women landowners have a property share of less than 25 percent. The country suffers from historic land restitution issues which pose a significant judicial and fiscal burden and undermine growth, as well as considerable informal settlements and other types of land insecurity.

Legislation on agricultural land over the years has caused fragmentation of the land, thus inhibiting productivity. Land consolidation is not covered in the existing legal framework. No legal framework on systematic land consolidation has been approved and the current legislation generally addresses issues of agricultural land management, land protection and administration and does not directly cover any of the main issues linked with the agricultural land consolidation.

Albania ranks 107 in the ranking of 189 economies on the ease of registering property. Albania lacks a modern system for registering, recording and transferring land and property, and suffers from an incoherent legal framework and divided institutional responsibilities in this
Indicators such as high transaction costs and bureaucracy can become an excessive burden especially to women living in rural areas. Also, the presence of corruption in the institutions responsible for the distribution of final land titles is also a substantial factor hindering access to property.

The data made available by ALBSReP (Real Estate Electronic Database administered by the IPRO) show that the most requested services by female applicants are on re-issuing certificates or verification of ownership, while male applicants request more registration of sale contracts of properties.

Despite the fact that Law 33/2012 “On the registration of immovable property” established the registration of joint ownership in marriages according to Family Law, no specific service is established for the registration of co-ownership after the transaction has been initially registered. The absence of established procedure prevents the registration of spouses’ co-ownership rights over land that was registered before the entry into force of this law.

The current administrative procedures of land legalisation/registration almost invariably establish a male head of household or family head as the sole agent and representative of land contributes to the systematic reduction of female property owners in Albania. As the process and practice continue, chances are high that property (housing and land) will be increasingly male-owned. This deprives Albanian women of their assets and rights, and negatively impacts women’s access to credit.

The country is characterized by high levels of immigration. In many cases, the heads of household, who are the holders of the property title, can migrate leaving the family without the power to prove ownership of property. They may also leave their families without the right to rent or mortgage the land. In these cases women are only left with use rights, which prevents them from investing and further developing the land.

Moreover, data show a significant number of women who fall victims of domestic violence in Albania. Violence against women can be conceptualized as a ‘relational vulnerability’, reflecting women’s subordinate status within gender relations and the submission associated with
Domestic violence makes women more vulnerable, and prevents them from exercising their rights, including property rights, equally with men. There are cases of renunciation of property rights, through donation contracts or renunciation of inheritance. This may be a consequence of the largely patriarchal culture, but it may also occur through deception, intimidation, or even violence from the male co-owners.¹

Land tenure can also be negatively influenced by a burdensome access to justice. The degree of knowledge by women of the legal means available to exercise and secure their rights to ownership is still limited.² Also, the lack of proper transportation for reaching appellate bodies and courts, fees and other charges related to the proceedings, as well as the length of the proceedings before a court,³ can adversely affect women’s access to justice, especially for those living in rural or remote areas. Moreover, there are no small claims court/fast track procedures.⁴

Sex-disaggregated data on land tenure matters are still missing. Although INSTAT has recently published a report based on sex disaggregated statistics, there are no data regarding women and property rights.⁵ Indicators such as proportion of adult population owning land or performing land transactions, as well as the respective property share by sex are not included. The collection of sex-disaggregated data on land tenure would support the development of better informed and more effective policies and laws to address gender inequalities.

Civil society organisations

- **Tirana Legal Aid Society**

Tirana Legal Aid Society is a non-profit organisation which offers:

- legal services to vulnerable individuals and groups in need, including legal information, education, advice, and representation

- Increasing awareness and publish information on the important legal and human rights issues

- Taking law improvement initiatives for a better solution of the legal and social problems of people in need
- **Gender Alliance for Development Center**

Gender Alliance for Development is a non-profit organisation which aims at creating equal opportunities between the sexes through: gender sensitive information, studies, research, advocacy, lobbying, and training courses under a gender perspective.

The GADC mission:

- Collecting and processing opinions and views of groups that benefit from the planning, implementation and evaluation of different projects;
- Raising awareness on gender issues, while providing them with a new perspective; addressing problems that Albanian women face in different areas, such as: poverty, low participation in decision-making, domestic violence, trafficking, low access on information, etc;
- Gathering, processing and distributing information on social issues;
- Consolidating the network of collaborators all over Albania;
- Studying social problems from a gender perspective;
- Promoting and supporting women participation in decision-making; increasing the beneficiaries’ number (organisations and individuals) through expanding and improving services provided.

- **The Association “Useful to Albanian Women”**

The Association “Useful to Albanian Women” aims to protect the human rights and equal opportunities through offering services for women, youth, children and the communities in need, as well as improving the social economic policies. UAW aspires and advocates for policies of equalities and social progress.

- **Albanian Helsinki Committee**
The Albanian Helsinki Committee is a non-profit organisation created for advocating the protection of human rights. Its mission includes, among others:

- Monitoring priority human rights areas; recommendations for improvements and reinstatements of violated rights.
- Lobbying and advocacy for improvements in legal framework and law enforcement.
- Raise the awareness and increase capacities of the state administration to enhance their accountability for correct enforcement of laws.

- Center for the Development of Women in Rural Areas

The Center for the Development of Women in Rural Areas is a non-profit organisation aiming at empowering women in rural areas inter alia through education, training, counselling, providing information on social services, human rights, health services, justice, and good governance.

- Albanian Women’s Empowerment Network

Albanian Women’s Empowerment Network (AWEN) is a non-profit organisation which works in the field of protection of human rights, in particular of the rights of women and girls. The main aim of this network is the social, economic, cultural and politic empowerment of Albanian women. The network functions on the basis of a well-defined mission, a board, six-monthly and yearly plans, with the aim of increasing the collaboration as a network of 8 partner organisations.

- Network of women ‘Equality in decision-making”

The main mission of the Network is achieving equality in decision-making and strengthening the position of women in the key areas of the Albanian society, aiming at comprehensive and sustainable development. The network is dedicated to helping women in capacity building for becoming effective leaders in their respective fields, and especially in politics, as well as to inspire young women for becoming active in politics and decision-making.
- **Women’s Forum Elbasan**

Women’s Forum Elbasan is a local NGO which aims at contributing towards the improvement of gender indicators in all areas of life.

- **I, the Woman**

I, the Woman is a local NGO which mission is to empower, educate, and integrate women into social, cultural and political life and to create equal opportunities for them in the Pogradec-Korça region.

- **Women in Development, Shkodra**

The Organisation Women in Development Shkodra aims at improving the political, social, economic and cultural development of women and Albanian family, children and youth, through delivering social, economic, health, services, advocacy programs, awareness-raising programs, in order to enable sustainable interventions and contribute significantly in favour of social and gender equality.

- **Center for Legal Civic Initiatives**

The Center for Legal Civic Initiatives (CLCI) provides free legal and psycho-social services for (poor?) women victim of violence. The main purpose of the Center is building access of women to the legal and justice system through:

- Offering legal service, accompanied by free psycho-social support for the poor and/or violated women and girls.

- Participation in drafting of laws and of state policies, based on gender equality. Intermediation for democratisation and improvement of the justice system through studies, monitoring, and generalisations of the best legal practices.

- **The “Vatra” Center**

The “Vatra” Center is a non-profit organisation for supporting people in need, particularly women, girls and children in the southern part of Albania through programs of awareness raising
awareness and offering social communitarian services of information regarding domestic violence, and human trafficking.

Access to justice

Legal information

The Constitution

- Article 42 of the Constitution
1. Liberty, property, and rights recognized in the Constitution and by law may not be infringed without due process.

2. Everyone, in order to protect his constitutional and legal rights, freedoms, and interests, or in the case of charges against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.

- Article 60
The Ombudsman/People’s Advocate protects the rights, freedoms and legal interests of the individuals from illegal or irregular actions of omissions of the public administration institutions.

- Article 135
1. The judicial power is exercised by the High Court, as well as by the courts of appeal and courts of first instance, which are established by law.

- Article 131
The Constitutional Court decides on:

f) The final adjudication of the complaints of individuals for the violation of their constitutional rights to due process of law, after all legal remedies for the protection of those rights have been exhausted.

Information on civil procedures

- General provisions on access to justice

Code of Administrative Procedures

- Article 128

3. The available administrative remedies are the following:

a) the administrative appeal, which includes:

i) the administrative appeal against an administrative act or omission of a public body in case of failure to deliver the act within the prescribed period and/or the procedural action of a public body during the administrative procedure (administrative appeal against an administrative act); or

ii) administrative objection to another administrative action under administrative law (administrative objection);

b) the review.

- Article 130 The administrative appeal and its purpose

1. The administrative appeal may be filed against an administrative act or omission of a public body to the issuance of the act within the prescribed period, except when otherwise provided by law.
- **Article 144** The review

1. The review is an administrative remedy, by which it is claimed the annulment or modification of an administrative act, or the delivery of an administrative act in case of refusal, against whom the appeal is not acceptable due to the expiry of the period laid down in this Code.

2. A party may seek review if new circumstances or new evidence in writing emerge, which were not known and could have not been known in the course of the administrative procedure that led to the issuance of an administrative act or the refusal to issue the act.

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**Code of Civil Procedures**

- **Article 31**

  Every person has the right to file a lawsuit so that it can be heard on the foundation of such claim, in order for the court to declare it founded or not. The opposing party has the right to discuss on present evidence against the foundation and the legal grounds of the claim.

- **Article 32**

  The lawsuit can be filed:
  
a) To claim the restoration of a right or legitimate interest that has been infringed;

b) To prove the existence of a legal relationship or of a right or lack thereof;

c) To recognise the truthfulness or untruthfulness of a document bearing legal consequences for the plaintiff.

- **Article 105/b**

  Persons, according to the provisions for taxes on legal actions, that are exempt from the payment of these taxes, shall also be exempt from the payment of other court expenses. In these cases, the
costs shall be covered by the relevant funds provided by the State Budget. The public bodies and other legal person that, according to the provisions for taxes on legal actions, are exempt from the payment of the tax, shall pay the other court expenses.

**Constitutional Court Decision No. 7 dated 27.02.2013**

According to Article 105/b of the Code of Civil Procedures the judge enjoys a margin of appreciation for exempting applicants from the payment, in order to ensure access to justice. According to the provisions of the Code of Civil Procedure in cases of exclusion of individuals from the court expenses, including taxes on acts, these costs are borne by the respective funds of the State Budget.

According to TLAS and Civil Rights defenders the court fees have multiplied 2-4 times from 2008-2010. Moreover, no particular care was shown towards taking the appropriate measures for the access to justice of the vulnerable groups of the society.

**Law No. 49/2012 “On the organisation and functioning of the administrative courts and judgments on the settlement of administrative disputes”** (amended)

- **Article 15** The right to file a lawsuit

The following have the right to bring a lawsuit:

a) Every subject who claims that a lawful interest or right has been infringed by an action or failure to act of a public organ.

ç) Every subject who claims that he has been violated in his lawful rights and interests because of unlawful interferences of a public organ that do not have the form of an administrative act;

d) Every association or interest group that claims that a lawful public interest has been infringed
   i) By a normative act; ii) By an administrative act, if such a right is recognised by law;

dh) every other subject to whom this right is expressly granted by law.
Code of Criminal Procedure

-Article 1 The objectives of criminal procedural law

Criminal procedure law has the objective of providing a fair, equal and due process of law, in order to protect personal freedoms and lawful rights and interests of citizens, to enable the strengthening the legal order, and application of the Constitution and laws.

-Article 58

1. The person suffering damage from the criminal offence or his/her heirs have the right to request the start of the proceeding against the perpetrator and ask for compensation of actual damages.

2. The injured person who has no legal capacity to act shall exercise his/her legal rights through his/her legal representative.

3. The injured person is entitled to put forward claims to the proceeding authority and ask for acquisition of evidence. When the prosecutor declines to accept the requests of the damaged party, the latter may appeal such decisions to the court within 5 days from receiving notice.

-Article 59

1. The one who has suffered a damage by the criminal offences laid down in articles 90, 91, 92, 112, first paragraph, 119, 119/b, 120, 121, 122, 125, 127, 148, 149 and 254 of the Criminal Code, is entitled to bring a request to court and participate in the trial as a party proving the charges and ask for compensation of damages.

2. The prosecutor participates in the trial of such cases and, according to the case, may either request for conviction or acquittal of the defendant.

3. If neither the accusing damaged party nor his/her own selected defense counsel show up in the hearing without reasonable grounds, the court shall dismiss the case.

-Article 61
1. The one who has suffered damage from the criminal offence or his heirs may bring a civil lawsuit into the criminal proceeding against the criminal or civil defendant in order to ask for the restitution and compensation of damages.

Law No. 10385 dated 24.02.2011 “On mediation in dispute resolution” (amended)

- **Article 1** Meaning of mediation

1. Mediation is an extrajudicial activity whereby the parties seek resolution of a dispute with the assistance of a third neutral party (mediator) in order to reach an acceptable agreement on the resolution of the dispute, which is not contrary to the law.

2. Mediation for the amicable resolution of disputes is an independent activity which is exercised in line with this law and under the auspices of the Ministry of Justice.

- **Article 2** Scope of application

2. Mediation applies for the resolution of all the disputes in civil, commercial, labour and family law.

4. The court, or the respective state body, within the competences foreseen by the law, when seized to resolve disputes in civil, commercial, labour or family matters, shall invite the parties to resolve disputes through mediation, in particular, but not limited only to:

   a) Civil and family cases, which involve interests of minors;

   b) Conciliation cases in case of dissolution of marriage foreseen in article 134 of the Family Code;

   c) property-related disputes which subject matter of the lawsuit is up to ALL 500 000 and also lawsuits for the soliciting of the objects, denying lawsuits, and lawsuits for the cessation of the adverse effect on possession.

- **Provisions on access to justice in cases of discrimination**
Law No. 9970, dated 24.7.2008 “On gender equality in the society”

-Article 30 Dispute resolution procedures

1. Complaints on the violation of gender equality according to this law are adjudicated by the administrative organs in accordance with the provisions of the Code of Administrative Procedures. The procedure takes place based on the provisions of this law.

2. For claims under this law, the Parties, according to their free choice, where appropriate, make recourse to mediation as provided by the legislation in force. Following these procedures do not prevent the parties to pursue their claims at the competent administrative body or at the court.

3. If the offense is committed by public administration officials, the provisions of law no 8510, dated 07.15.1999 "On the responsibilities of organs of state administration" applies.

4. Non-profit organisations licensed to offer social services, can represent or support the claimant in legal proceedings, under the provisions of this law.

Law No. 10 221, dated 4.2.2010 “On protection against discrimination”

Article 34 Entities that are entitled to file a suit for discrimination

1. Any person or group of persons who claim that they had been discriminated based one of the grounds mentioned in Article 1 of this law, can file a suit for compensation before the competent court according to the provisions of the Code of Civil, or to report before the competent authorities for prosecution for the pursuit of a criminal charge.

2. The appeal before the Commissioner does not need to be exhausted as a condition for filing a suit, and does not constitute an obstacle to the injured person to address the issue to the court or to the prosecution authorities.

3. An organisation with a legitimate interest or the Commissioner may file a suit on behalf of a person or group of persons, provided that the Commissioner or organisation have the consent of
the party through a special power of attorney or declaration before the court of the person or group of persons affected by discrimination.

- **Article 38** Compensation

The compensation includes, *inter alia*, the correction of the legal violations and their consequences through return to the previous situation, appropriate compensation for the pecuniary as well as non-pecuniary damages, or through other appropriate measures.

**Law No. 8454, dated 4.2.1999 “On the People’s Advocate”** (amended)

- **Article 12** The right to complain

Any individual, group of individuals or non-governmental organisations, who claim that their rights and freedoms and legal interests have been violated by an illegal and irregular action or omission of the public administration bodies, has the right to complain or notify the People’s Advocate and seek his intervention for remedying the violated right or freedom.

**Provisions on access to justice in land tenure issues**

**Law No. 33/2012 “On the registration of immovable property”** (amended)

- **Article 28** Settlement of Claims Related to the first registration

2. Disputes that cannot be resolved amicably shall be settled by the judicial authorities and the fact of the existence of that dispute shall be noted in the immovable property folder.
Law No. 133/2015 “On treatment of property and the completion of the property compensation process”

- Article 19 Complaints against the financial assessment for compensation

Any interested party has the right to appeal to the Administrative Court of Appeal within 30 days from the publication of decision of the financial evaluation carried out by the Property Treatment Agency on the value of property, only with regard to the amount of compensation.

- Article 29 Complaints

Any interested party and the State Attorney's Office have the right to appeal to the Court of Appeal against the decision of the Agency on the recognition of the right to compensation, within 30 days from the date of notification of the decision, based on the Code of Civil Procedure.

Law No. 9482 dated 03.04.2006 “On legalisation, urbanisation and integration of unauthorised buildings”.

- Article 26 Settlement of disputes

1. If in the course of the process of legalisation there are disputes on the ownership of the settlement or in case of claims of other persons over the settlement to be legalized under the law, they shall be settled by the court.

Civil Code

- Article 354

When the heirs do not agree even with the solutions offered by the notary, the division of the inheritance is made by a court competent to deal with claims arising from inheritance.

Law No. 9948 dated 07.07.2008 “On the verification of validity of property titles on agricultural land”
- Article 9/1 Appeals

2. The interested subject and the relevant municipality, have the right to file an appeal against the Evaluation Commission’s decision to the Governmental Land Commission, within 30 days from receiving notice of the decision of the Evaluation Commission.

7. The GLC decision can be appealed in court, according to the terms and rules for the adjudication of administrative disputes.

Information on de facto access to justice for women

Customary law is not a formal source of law. However, settling property disputes based on customary law has been applied by the communities of remote mountainous areas. Disputes were settled by the Council of Elders or heads of the Tribes. Parties would have to agree on settling the dispute by the Council of Elders acting as judges of the case. The decision of the Council of the Elders was considered final and mandatory, and no other remedies were available to the parties. The Kanun constitute an example of this method of dispute settlement.

The Kanun of Lekë Dukagjini

Articles 992- 933 – Elders are the oldest members of the family, fraternity or the head of the tribes. Invited to judge on a case are also those recognized as wise men and that have experience in settling disputes in the past.

Article 1017 – A pledge from both parties is left on the hands of the elders, who will decide as judges on the claims of the parties.

Article 1034- The Kanun does not allow a judgment to be made over another judgment, or a Council of Elderly deciding over another Council of Elders.

Regardless of these provisions, women are not entitled to any property rights, and as such, they cannot raise claims and be part in these proceedings.
As to current and de facto access to justice, according to data on general access to justice, men are less active than women in filing lawsuits for the division of properties, as they already enjoy their property rights de facto, and have no ‘interest’ in the court division of such properties.\textsuperscript{lv}\textsuperscript{i}

The execution of final court decisions is also one of the existing loopholes in granting an effective access to justice.\textsuperscript{lv}\textsuperscript{ii}

\textbf{Information on Legal Aid}

\textbf{Law No. 10 039, dated 22.12.2008 \textquotedblleft On legal aid" (amended)}

\textbf{-Article 13}

1. Entitled to benefit legal aid shall be the person who needs:

b) \textbf{legal aid in civil or administrative cases}, if they do not have sufficient resources to pay for this legal aid or the cases are too complex in terms of contents and procedure;

c) To protect their rights, through the submission of a lawsuit, but they do not have the sufficient resources to pay for the tax on the acts, as well as for the necessary expenses for the notifications or other judicial services.

In order for a person to benefit the legal aid, he must establish that: i) he/she is included in the social protection programs or meets the conditions to be included therein; or ii) he/she is a victim of the domestic violence or victim of the trafficking of human beings, concerning the judicial cases connected to them.

3. The State Commission of Legal Aid shall consider the meeting of criteria for benefiting legal aid, such as the insufficient financial income of the person and persons being his/her dependants, family composition, social status, involvement in social protection programs and meeting of conditions to be included therein, as well as any other condition placing the person under the circumstances of impossibility of ensuring the legal aid privately.

\textbf{-Article 15 Provision of legal aid}

1. Legal aid in civil and administrative cases shall be provided considering:

a) The relative value of the claim or the property involved;
b) the legal arguments and claims, made on behalf of the applicant or the beneficiary;

c) the probability of success in the claim or defense;

ç) The complexity of the case; and

d) The ability of the applicant or recipient to be self-represented.

1/1. The request for the provision of legal assistance in the form of exemption from the payment of the tax on the acts, as well as from the expenses necessary for the notifications and other judicial services, shall be submitted personally or by the representative, being authorised with a power of attorney. The format of the request and the associating documents shall be determined upon the decision of the State Commission for Legal Aid.

2. The provision of legal aid may not be rejected in criminal cases provided for in Article 13, paragraph 1, letter “a”, of this law.

The functioning of the State Commission on Legal Aid has raised various concerns over the years. The numbers of those benefiting legal aid has been very small.\textit{viii} The threshold for getting legal aid based on all the above mentioned criteria is quite high. The State Commission for Legal Aid will have to consider a stringent set of criteria in order to decide whether an applicant will be considered eligible for legal aid. As such, this mechanism is not suitable for ensuring the appropriate access to justice for women in need. The budget allocated for legal aid purposes is not sufficient, and there is no transparency on its management.\textit{lix} The Law also provides for the setting up and running of local legal surgeries for the provision of the necessary information and legal assistance to citizens.\textit{lx} Nevertheless, no local legal aid offices have been established so far.

\textbf{- Memorandum of Collaboration between the Commissioner for Protection against Discrimination and the State Commission for Legal Aid (Signed at 01.04.2011)}

- Ensuring coordination and exchange of information and expertise and facilitating access to courts to whoever files a claim against discrimination.

\textbf{Any legal/policy developments}
The Draft Strategy on Reforming the Justice System 24.07.2015

- Reforming the legal aid service
- Reforming the system of court fees

Role of notaries and paralegals in supporting gender equality in land rights


- Article 333 Renunciation of inheritance

Renunciation of inheritance shall be done with a written statement, which is registered to the notary of the local government unit where the inheritance is opened, or by a notarized declaration edited by a notary.

The renunciation may also be done by a representative with special power of attorney. After recording the renunciation of inheritance, the notary *ex officio* issues a new certificate of inheritance, which reflects the change in the circle of heirs, as well as the parts belonging to them, which he sends to the person who has requested the issuance of the initial certificate of inheritance.

When it is not known whether there are heirs, or when the heirs are missing and there is no news about them, the notary of the local government unit where the inheritance is opened, *ex officio* or at the request of any interested person shall set a time, not less than six months from the opening of the inheritance, within which they must declare whether they are renouncing the inheritance. If within this period no such a statement is made, it is presumed that the estate-leaver has left no heirs.
- **Article 343** Measures securing inheritance

When deemed necessary to protect the interests of the heirs, of persons who can benefit from dispositions by will, of creditors of the decedent or the state, the notary of the local government unit, where the inheritance is opened, *ex officio*, or at the request of any interested person, makes an inventory of the inheritance.

The notary who makes the inventory may appoint a person as a trustee of the inheritance. As long as the measures above remain, the heir who could have commenced with the administration of the inheritance cannot alienate it without prior permission of the court.

- **Article 344**

When it is not known whether there are heirs, or when the heirs are missing and there is no news about them, or when the legal or testamentary heirs have renounced the inheritance and their heirs are not known, the notary of the local government unit, where the inheritance is opened, *ex officio*, or at the request of any interested person, shall appoint a custodian of the estate. A summary of the notarial act of appointment of the guardian is published in the Official Journal.

- **Article 348** Certificate of Inheritance

The quality as heir and the inheritance shares are determined in a certificate of inheritance issued by a notary, after the presentation of the estate leaver's death certificate, according to the rules set out in this Code and the law on notary.

The certificate of legal inheritance shall be issued by the notary of the local government unit where the decedent resided last. When the estate leaver's last place of residence is not known, the certificate of legal inheritance shall be issued by the notary who operates at the local unit where all his property or most of it is located.

The certificate of testamentary inheritance shall be issued by the notary, with whom the testament was edited by a notarial act, or the holographic will or the special testament were deposited for safekeeping. If the same testator has left more than one testament, the certificate of testamentary inheritance shall be issued by the notary, with whom the last testament was edited or deposited for safekeeping.
The certificate of testamentary inheritance, in cases when the holographic will or the special will are not sent to the notary for safekeeping, shall be issued by the notary who operates at the local unit where the testator resided last. When the testator’s last place of residence is not known, the certificate of testamentary inheritance, in cases where the holographic will and the special testament are not sent to the notary for safekeeping, shall be issued by the notary who operates at the local unit where all his property or the main part of it is located.

The certificate of inheritance shall be edited in a number equal to the number of heirs defined in it. The notary, at the time of editing, shall issue the certificate of inheritance in a number equal to the number of applicants, while the other edited copies shall be stored by the notary and may be taken from the other heirs, upon their request. More detailed rules for the issuance of a certificate of inheritance and registration of wills are defined in the law on notary.

- **Article 354**

The division of the inheritance property is done by agreement among the heirs, which is approved by notarial act.

If the heirs do not agree on the division of inheritance, the notary, on the basis of the principle of impartiality and taking into account the rules of the division of property under this Code, shall provide the heirs with legal options for the division of the inheritance to achieve an agreement among them. In this case, the notary shall explain them their rights and duties, and shall warn them of the consequences that come from the signing of the agreement, so that their interests are not harmed because of their ignorance of the law. When the heirs do not agree even with the solutions offered by the notary, the division of the inheritance is made by a court competent to deal with claims arising from inheritance.

**Law No.7829, dated 1.6.1994 “On the notary” (as amended)**

- **Article 28**

When a natural person is not able to afford the fees for carrying out the notarial actions he/she may be entirely or partially exempted from paying the fees by the notary, by the Council of the Chamber of Notaries, or the court.
- **Article 53/1** The request for issuing the certificate of inheritance

The notary after being officially informed by a written request from the interested persons shall:

a) Check his/her territorial powers in compliance with the provisions of the Civil Code;

b) Send a request to the National Chamber of Notaries, whereby attaching a copy of the request of the interested persons and a copy of the death certificate of the testator.

Upon receiving such a request, the National Chamber of the Notaries shall, within 3 days, check with the National Register of Testaments and National Register of Certificates of Inheritance whether the testator has made a testament and/or the legal or testamentary inheritance certificate has been issued by any other notary.

Within 3 days of receiving the response from the National Chamber of Notaries, the notary shall:

a) Guide the interested person to the notary having issued the inheritance certificate or with whom the testament has been edited, as appropriate;

b) Proceed with issuing the legal or testamentary inheritance certificate in compliance with the provisions of the Civil Code and register it with the National Register of the Inheritance certificates. Upon issuing the testamentary inheritance certificate, the notary shall check whether the dispositions of the testator in the will are valid in compliance with the provisions contained in the Civil Code.

Where the disposition in the testament is not valid, the notary shall, upon grounded decision, declare the invalidity of the testament and proceed with issuing the legal inheritance certificate. If only a part of the dispositions in the testament are declared invalid, the legal inheritance certificate shall be issued only for that part of the provisions in the testament that are declared invalid.

- **Article 53/1** Inheritance certificate

The inheritance certificate shall be issued by the notary in compliance with the rules contained in the Civil Code and this law. In addition to the elements related to the inheritance certificate provided for in Article 49 of this law, the inheritance certificate shall also contain:

a) The legal basis and the indicators showing the territorial jurisdiction of the notary for issuing the certificate;
b) The data of the applicant: name, surname, gender, date and place of birth, marital status, citizenship, identity number, address and relationship with the testator;

c) The data of the testator: name, surname, gender, date and place of birth, marital status, citizenship, identity number, address on the date of death, date and place of death;

ç) The data of the heirs: name, surname, gender, date and place of birth, marital status, citizenship, identity number, address;

d) Data on the marital property regime of the testator;

dh) data on heirs becoming unworthy of inheriting or renunciation of inheritance, as appropriate;

e) Data on the legacy and mortgages or other burden on the property;

ë) inherited traits of each of the heirs;

f) Any other data required by the effective legislation.

The notary shall maintain the original of the inheritance certificate and issue to the applicant and any other person having a legitimate interest one or more authenticated copies of the inheritance certificate. The notary shall write down in a specific register the data of any person to whom he has issued a copy of the inheritance certificate.

-**Article 54** The procedures for transferring immovable property

The notarial act for alienation or recognition of ownership over immovable things, or of a real right in them, is made by the notary, after the verification of ownership of the party over the immovable property. Therefore, the party shall present to the notary the ownership documents and the notary, with the former’s consent, shall verify the legal status of the ownership in the electronic register of immovable property. The notary must indicate in the notarial act for the alienation of immovable property the verification that has been made and attach the result of verification.

**Council of Ministers’ Decision No. 376, dated 6.6.2012, “On the procedure of issuing documents by the IPRO”** (as amended)
IPRO offers the online services for application for the notaries. These online services are approved by a joint agreement between the IPRO and the National Chamber of the Notaries.

Council of Ministers’ Decision No. 375 dated 06.06.2012 “On the creation, registration, functioning, administration, interface, and security of the immovable property registration system ALBSReP” (amended)

6. The responsible entities regarding the immovable property registration system (ALBSReP) are:

a) IPRO is the administrator.

b) Information providers are the following:

i) Central IPRO;

ii) Local IPROs;

iii) ADISA

c) The interested subjects are:

i) The owner of immovable property;

ii) Public notaries;

ii / 1) ADISA

iii) Any other entity, explicitly defined by the Council of Ministers.

c) The level of access to ALBSReP is the following:

i) for notaries public, the right to read and print the information on the documents in digital form indicating the legal status of the immovable property, after having obtained the consent of the interested party, pursuant to article 54 of Law No. 7829, dated 01.06.1994 "On Notary" (as amended) and the right to apply on online services based on an agreement between the National Chamber of Notaries and the Central Office of Registration of Immovable Property.

Bills
There are new amendments on the Law on the notaries being drafted. The version of the draft is not yet on public consultation.

**Strategy on Reforming the Justice System**

- Amendments of the legislation on the public notary

The notaries have a particularly active role in the process of the transfer of property through inheritance and other methods of transfer of property ownership. The legal amendments that granted the notaries the competence to open the succession and issuing the inheritance certificate have had a significant impact in simplifying the procedures, reduction of costs, shortening the time for implementation of the process, as well as reducing the burden of the courts.\textsuperscript{lxii}

In the course of settling property transactions the notary is legally bound to verify the ownership rights of the parties, including co-ownership rights stemming from spousal or other family relations. The notary should proactively engage in ensuring that female family members who enjoy the status of co-owner, i.e. spouses or daughters, voluntarily agree on the property transaction. The verification process is enabled by the access granted to the notaries in the immovable property registration system.

However, there are still shortcomings regarding the application of the legal provisions on transfer of ownership over land by the notaries. In cases of renunciation of inheritance women are likely to be more lenient towards the partition of property and defer their rights to male members of the family. The notary intervenes in the process only if the parties do not agree. It is advisable that the notaries should be to oversee the partition among the heirs in order to ensure the correct application of the Civil Code provisions in any circumstance. Moreover, the notaries do not have information on the system when an immovable property was transferred more than once to a different notary, before its registration.\textsuperscript{lxiii} With regards to access to notarial procedures, there is currently no sustainable approach for exempting vulnerable groups from paying notarial expenses.\textsuperscript{lxiii} Lastly, special disciplinary bodies have yet to be established for deciding on disciplinary measures against notaries.\textsuperscript{lxiv}
ANNEX 2. ALBANIA – RESULTS FROM THE LEGAL ASSESSMENT TOOL

<table>
<thead>
<tr>
<th>Key element 1: Ratification of human rights instruments</th>
<th>Yes/No</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Key element 2: Elimination of gender-based discrimination in the constitution</th>
<th>Law</th>
<th>Policy</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
</table>
The constitution prohibits gender-based discrimination.

Law: - Article 18 of the Constitution

1. All are equal before the law.

2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or parentage.

3. No one may be discriminated against for the reasons mentioned in paragraph 2 without a reasonable and objective justification.
<table>
<thead>
<tr>
<th></th>
<th>The constitution recognises customary law but states that gender-based discrimination in customary law is superseded by the principle of non-discrimination in the constitution.</th>
<th>0</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Law: The Constitution does not recognize customary law.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>The Constitution</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Article 116</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1. Normative acts that are effective in the entire territory of the Republic of Albania are:</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>a. the Constitution;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>b. ratified international agreements;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>c. the laws;</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>2. Acts that are issued by the organs of local government are effective only within the territorial jurisdiction of these organs.</td>
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</tr>
<tr>
<td></td>
<td>3. Normative acts of ministers and directors of other central institutions are effective within the sphere of their jurisdiction in the entire territory of the Republic of Albania.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>The constitution recognises religious law but states that gender-based discrimination</th>
<th>N/A</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Key element 3: Recognition of women’s legal capacity</td>
<td>Law</td>
<td>Policy</td>
<td>Legal Basis</td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
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</tr>
<tr>
<td>in religious law is superseded by the principle of non-discrimination in the constitution.</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>The constitution promotes the adoption of special measures for the advancement of women.</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>3</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
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<td></td>
</tr>
</tbody>
</table>

**Men and women have the ability to conclude contracts under the same basic conditions, rights and obligations.**

**Law:** Based on the Civil Code, every natural person, regardless of gender, after reaching the age of full legal capacity enjoy equal rights to conclude contracts.

**The Civil Code**

- **Article 1**
  Every natural person shall enjoy full and equal capacity to have civil rights and obligations within the limits defined by law.

- **Article 4**
  Civil rights of a natural person cannot be limited, except as provided by law. Any legal action putting limits to the legal capacity of a natural person is invalid.

- **Article 6**
  Upon reaching the age of eighteen years, a person shall have full capacity to acquire rights and undertake civil obligations as a consequence of his own actions. The wife who has not reached the age of eighteen years shall acquire full legal capacity through marriage. She shall not lose this capacity even if the marriage is declared invalid or is solved.
before reaching the eighteen years of age.

- **Article 79/1**

The legal transaction is the legal expression of will by a physical or legal person, aiming to create, change or end civil rights and obligations. The legal transaction can be unilateral or multilateral.

- **Article 659**

A contract is a legal transaction through which one or more parties establish, change, or terminate a legal relationship.

### Key element 4: Gender-equality of rights with respect to nationality

<table>
<thead>
<tr>
<th></th>
<th>Law</th>
<th>Policy</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Men and women are able to apply for identity documents under the same conditions.</td>
<td>3</td>
<td>N/A</td>
<td>Law: The law stipulates that everyone, regardless of gender is able to apply for identity documents under the same conditions.</td>
</tr>
</tbody>
</table>

**Constitution**

- **Article 19**

1. Everyone being born of at least one parent with Albanian citizenship gains Albanian citizenship.
citizenship automatically. Albanian citizenship is gained also for other reasons provided by law.

2. An Albanian citizen cannot lose his citizenship, except when he relinquishes it.

Law No. 8952, dated 10.10.2002 “On the identity documents of Albanian citizens” (amended)

- Article 3

1. For obtaining a national identity document the applicant must meet the following conditions:

a) be registered in the fundamental register and be a resident of the local unit, which has jurisdiction registrar's office, which issued the document;

b) Be at least 16 years.

2. Every citizen who meets the above conditions is obliged to obtain an identity document within the deadlines set by the Council of Ministers.
<table>
<thead>
<tr>
<th>A female national can confer citizenship to her non-national spouse under the same conditions as a male national.</th>
<th>3</th>
<th>N/A</th>
</tr>
</thead>
</table>

**Law:** The legislation grants the right to confer nationality to the non-national spouse to both men and women under the same conditions.

**Law No. 8389, dated 5.8.1998**

“On Albanian citizenship” (amended)

- **Article 10**

A foreigner who has been married to an Albanian citizen for not less than 3 years, if it wishes so, is entitled to gain Albanian citizenship through naturalisation, even if he/she does not comply to the conditions as set forth in Article 9, paragraph 2 and 5. The foreigner should have resided legally and uninterruptedly in the territory of the Republic of Albania for at least one year.
<table>
<thead>
<tr>
<th>Women can confer citizenship to their children under the same conditions as men.</th>
<th>1</th>
<th>1</th>
<th>3</th>
<th>N/A</th>
</tr>
</thead>
</table>

**Law**: The legislation provides that both men and women can confer citizenship to biological or adopted children under the same conditions.

*Law No. 8389, dated 5.8.1998 “On Albanian citizenship” (amended)*

- **Article 10**
  Whoever is being born with at least one parent having Albanian citizenship, gains Albanian citizenship automatically.

- **Article 12**
  If both parents of Albanian nationality adopt a child having another citizenship or a stateless one, the child is granted the Albanian citizenship.

  The adopted child acquires the Albanian citizenship even if only one of the parents is of Albanian nationality and at the moment of the adoption they reside in the territory of the Republic of Albania, as well as in any other case when the child risks of remaining stateless, as a result of adoption.
<table>
<thead>
<tr>
<th>Key element 5: Gender equality in property rights</th>
<th>Law</th>
<th>Policy</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Law:</strong> The legislation recognizes only one type of marriage, the one concluded at the municipality. There are no legal provisions recognizing customary or religious marriages/unions. The Constitution and the Family Code grants to everybody the right to own or control property.</td>
<td>4</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>The Constitution</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- <strong>Article 41 of the Constitution</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. The right to private property is guaranteed.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Property may be acquired by gift, inheritance, purchase, or any other classical means provided by the Civil Code.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. The law may provide for expropriations or limitations in the exercise of a property right only in the public interest.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Expropriations or limitations of a property right that amount to expropriation are permitted only against fair compensation.</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. In the case of disagreements related to the amount of</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
compensation, a complaint may be filed in court.

The Family Code

- **Article 64** Administration of personal property

Each of the spouses has the right to freely administer and dispose of his/her personal property, without the consent of the other spouse.

- **Article 95** The administration of the personal wealth of the spouse

Each spouse has the right to administer and freely possess their personal wealth.

If, during the marriage one of the spouses entrusts to the other the administration of his personal wealth, the law regarding power of attorney applies.

If one of the spouses administers the personal wealth of the other, with their awareness and without objection, the consent of the silent spouse is presumed for acts related to administration and usage, except for the right of transfer of ownership.

In this case, she/he is responsible towards the other spouse as their representative and is obliged to submit only the remaining profits.
and assets. If one of the spouses, despite the objection of the other spouse, administers his/her personal wealth and performs actions related to it, they are responsible for any damage caused or loss of earnings. In this case, the damaged spouse has the right to request an annulment of the action, based on the criteria specified in article 94 of this Code.

<table>
<thead>
<tr>
<th>The law recognises full or partial community of property as the default marital property regime.</th>
<th>3</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Law:</strong> The legislation stipulates that in absence of a specific agreement of the spouses designating their marital property regime, the regime of community of property would apply. Based on this provision the wealth of the spouses created after the marriage is presumed joint, unless the spouse proves the personal nature of the asset.</td>
<td>3</td>
<td>N/A</td>
</tr>
</tbody>
</table>

**The Family Code**

**Article 66 - The marital property regime of spouses**

The marital property regime of spouses is regulated by the law, in the absence of a specific agreement by the spouses designating their own regime, which must not be contrary to the
- Article 73

The Regime of Community of Property is applicable in case the couple did not sign a contract for another marital property regime.

- Article 76

The wealth of the spouses is presumed as joint, unless one spouse proves its personal character.

| Provisions of this Code and any other legislation. |
|---|---|

<p>| Spousal consent is mandatory for any transaction involving matrimonial property. | 3 | N/A | Law: As to the consent needed for transactions regarding the matrimonial property, the Family Code distinguishes between ordinary and extraordinary administration of matrimonial property. In case of transfer of ownership over an immovable property the consent of both spouses is needed. In cases when one of the spouses individually exceeds his/her rights of the joint property the other spouse is entitled to ask for the transaction to be declared void. | 14 | 4 | The Family Code |</p>
<table>
<thead>
<tr>
<th>Article 90</th>
<th>The Administration of community property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Each spouse has the right to perform ordinary administration of community property.</td>
<td></td>
</tr>
<tr>
<td>Either spouse is considered the legal representative of the other spouse in front of administrative and judicial organs for issues of ordinary administration of community property.</td>
<td></td>
</tr>
<tr>
<td>The spouses must act jointly in the performance of actions that exceed ordinary administration.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Article 92</th>
<th>The refusal of consent</th>
</tr>
</thead>
<tbody>
<tr>
<td>If one spouse refuses to give consent for the performance of an extraordinary administration action or for other actions for which the consent is needed, the other spouse can request that the court provide such authorisation.</td>
<td></td>
</tr>
<tr>
<td>The court may order such authorisation when the performance of the action is necessary for the interests of the family or for the trading activity that is part of the estate.</td>
<td></td>
</tr>
</tbody>
</table>

| Article 94 | Exceeding property rights of the common property |
If one spouse exceeds his rights to the community property, the other may require the annulment the action, if he/she later did not agree with this action.

This claim can be filed within 1 year from the date of notification of the action, but in any case no later than 1 year from the date of the termination of the regime of community of property.

**Article 60** - Actions taken without the approval of the spouse

Each of the spouses can perform individually, without the approval of the other spouse, legal transactions that are related to the maintenance of the family or the education of children.

Obligations incurred by one spouse are the mutual obligation of both spouses.

Mutual obligations may not be incurred for extravagant expenses, taking into consideration the lifestyle of the family, the benefits of the transaction performed, and the good faith or malicious intent of third party contractors.

<table>
<thead>
<tr>
<th>Law:</th>
<th>The legislation does not provide for a presumption of ownership in consensual unions. Based on the existing legislation, - Amending the Family Code and recognizing property rights for both</th>
</tr>
</thead>
<tbody>
<tr>
<td>The law establishes a presumption of joint</td>
<td>0</td>
</tr>
<tr>
<td>Ownership of property in consensual unions.</td>
<td>the joint ownership can only be established through a contract.</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-----------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>The Family Code</strong></td>
<td></td>
</tr>
<tr>
<td>- Article 164</td>
<td>The cohabitating individuals can sign an agreement in the presence of a public notary, whereby they determine the consequences resulting from cohabitation in relation to children and assets acquired during the cohabitation.</td>
</tr>
<tr>
<td><strong>Law:</strong> There are no special measures on rights to land ownership or control over land regarding women.</td>
<td>Amend the existing implementing measures on immovable property registration by establishing the compulsory registration of spousal rights and specific sanctions in case of failure to comply with these measures</td>
</tr>
<tr>
<td><strong>Policy:</strong> Council of Ministers Decision No. 405, dated 27.06.2012 “On the approval of the Cross-cutting Strategy “Reform on Property Rights 2012-2020””</td>
<td>- Strategic Objective 1. vi. Promoting gender equality in the process of land registration</td>
</tr>
<tr>
<td></td>
<td>- Strategic Objective 4.1. Assessment of the existing legislation with the purpose of its harmonisation and clarification, and respect for gender equality.</td>
</tr>
</tbody>
</table>
- Strategic Objective 4.2. Ensuring gender equality standards in the decision-making processes regarding property issues.

**Draft of the National Strategy and Action Plan on Gender Equality 2016-2020** (Draft on public consultation)

Specific objectives and measures provided in the action plan in order to empower women’s economic rights:

- Improvement of legislation on ownership of agricultural land by ensuring joint ownership of women and girls

- Initiatives to improve legislation for a quota of at least 40% women on boards of directors

Amend legislation on immovable property and provide incentives to the registration of spousal land rights and rights of women members of the family, such as the reduction of fees and other procedural costs.

Adopt specific guidelines by the National Chamber of Notaries for raising awareness with regard to women tenure rights before the conclusion of the transactions in order to ensure better informed land transactions. Adopt a guideline by the National chamber of Notaries for including in the checklist of documents that have to be filled out before the initiation of any legal transaction on immovable property.

Amend legislation on immovable property registration and
<table>
<thead>
<tr>
<th>Key element 6: Gender equality in inheritance</th>
<th>Law</th>
<th>Policy</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>The surviving spouse is granted user rights to the matrimonial house for life.</td>
<td>0</td>
<td>N/A</td>
<td><strong>Law:</strong> There are no explicit provisions in the Family Code granting user rights of the matrimonial house for life for the surviving spouse, regardless of their gender.</td>
<td>Introduce an amendment in the Civil Code/ Family Code for enabling the surviving spouse user rights to the matrimonial house for life.</td>
</tr>
<tr>
<td>Under the law of succession, the surviving spouse is entitled to a minimum share of matrimonial property.</td>
<td>3</td>
<td>0</td>
<td><strong>Law:</strong> The Civil Code grants to the surviving spouse the right to inherit on equal share with the children. If there are no children heirs, the spouse is allocated the half of the estate and the other half shall be divided between the heirs of the other ranks, including parents, persons unable to work under the custody of the testator, siblings and children of his/her siblings. If there are no other relatives of the latter ranks, the</td>
<td>Amend the Civil Code in order to clarify that the partition of the property of the testator will take place taking into consideration property rights based on the applicable marital property regime beforehand.</td>
</tr>
</tbody>
</table>
inheritance shall belong solely to the surviving spouse.

Civil Code
- Article 361

In the first rank are called to inherit the children and the spouse able or unable to work, each inheriting in equal shares.

When one of the children has died before the estate-leaver, has become unworthy of inheriting, or has renounced the inheritance, his/her children take his/her place by substitution, and if they cannot be heirs for the same reasons, their descendants shall be called to inherit without limitation. In this case, the share of the parent who does not inherit is divided among his descendants in equal parts.

When there are no other heirs of the first rank besides the spouse, those of the succeeding rank contemplated in article 363 of this Code are called to inheritance, and when there are none such, the heirs of the next succeeding rank as specified in article 364 of this Code are called.

In any case the spouse receives half of the estate.
<table>
<thead>
<tr>
<th></th>
<th>The law allows partners living in consensual unions to inherit from each other.</th>
<th>0</th>
<th>0</th>
<th>If there are no heirs of the above-mentioned rows, the inheritance shall belong to the surviving spouse.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Law: The law grants inheritance rights only to married couples.</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>The Civil Code</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Article 360</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The legal heirs are the children, the children of the children, the spouse, the parents, the siblings and the children of the siblings deceased before, the grandparents and other predecessors, the persons unable to work and dependant on the estate-leaver, his other kin up to the sixth degree as well as the State. These are called to inherit in the order provided for in this Code.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Amend the Civil Code in order to allow partners living together for a significant period of time to inherit from each other.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Brothers and sisters have an equal right to inherit.</td>
<td>3</td>
<td>N/A</td>
<td>Law: The Law grants children of both genders an equal right to inherit, and does not distinguish between brothers and sisters.</td>
</tr>
<tr>
<td></td>
<td>The Civil Code</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Article 360</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>The legal heirs are the children, the children of the children, the spouse, the parents, the siblings and the children of the siblings</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
deceased before, the grandparents and other predecessors, the persons unable to work and dependant on the estate-leaver, his other kin up to the sixth degree as well as the State. These are called to inherit in the order provided for in this Code.

- **Article 361**

  In the first rank are called to inherit the children and the spouse able or unable to work, each inheriting in equal parts.

  When one of the children has died before the estate-leaver, has become unworthy of inheriting, or has renounced the inheritance, his children take his place by substitution, and if they cannot be heirs for the same reasons, their descendants shall be called to inherit without limitation.

<table>
<thead>
<tr>
<th>21</th>
<th>Brothers and sisters receive an equal share of inheritance.</th>
<th>3</th>
<th>N/A</th>
<th>Law: The law grants brothers and sisters the right to receive and equal share of inheritance.</th>
</tr>
</thead>
<tbody>
<tr>
<td>- <strong>Article 361</strong></td>
<td>In the first rank are called to inherit the children and the spouse able or unable to work, each inheriting in equal parts.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
When one of the children has died before the estate-leaver, has become unworthy of inheriting, or has renounced the inheritance, his children take his place by substitution, and if they cannot be heirs for the same reasons, their descendants shall be called to inherit without limitation.
<table>
<thead>
<tr>
<th>Key element 7: Gender-equitable implementation, dispute mechanisms and access to justice</th>
<th>Law</th>
<th>Policy</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>A right to compensation of other siblings giving up their claims on the family property exists.</td>
<td>0</td>
<td>0</td>
<td>Law: The legislation does not provide a right to compensation in case of renunciation of rights to family property in case of inheritance.</td>
<td>Amend the Civil Code and recognize and guarantee the right to compensation of other siblings giving up their claims on the family property.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Civil Code</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Article 333</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Renunciation of inheritance shall be done with a written statement, which is registered to the notary of the local government unit where the inheritance is opened, or by a notarized declaration edited by a notary.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>The renunciation may also be done by a representative with special power of attorney. After recording the renunciation of inheritance, the notary <em>ex officio</em> issues a new certificate of inheritance, which reflects the change in the circle of heirs, as well as the parts belonging to them, which he/she sends to the person who has requested the issuance of the initial certificate of inheritance.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Decentralisation of land administration services is effected through recognised customary land institutions.</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

### Law

There is a myriad of administration institutions at the local level performing land administration and protection services and duties.

**The local government bodies** include the Council of the Municipality, the Council of the Region, the Mayor, and the Steering Board of the Region. They are, *inter alia*, in charge of establishing the bodies responsible for the process of legalisation according to article 5 of Law No. 9482 dated 03.04.206 “On legalisation, urbanisation and integration of informal settlements” and on site identification of informal settlements.

The local government bodies perform duties regarding the communal forests based on the

Amending legislation on the state budget for the Regional Council and taking into account the effective functioning of the land management, administration and protection structures at the local level.

Strengthening the application of the quota on the land administration/protection/management/institutions subordinated to the local administration bodies.

Strengthening the implementing measures on the training of the personnel of local...
Based on Law 147/2015 “For the state budget of 2016” the personnel of the Regional Council should not exceed 10 members.

**Local Immovable Property Registration Offices** - based on Law No. 33/2012 “On registration of immovable property” offer services on the process of registration of immovable property in all the regions. They are subordinated to the Central IPRO.

**The Directorates of Land Administration and Protection** are established based on Law No. 8752 dated 26.03.2001 “On the establishment and functioning of the structures of land administration and protection” (amended). The Directorates of Land Management and Protection in the Regional Council function as administrative structures of the Regional Council, consisting of one directorate and two sectors. The director of DLMP is responsible to the Regional Council and to the responsible bodies for the land management and protection of the Ministry of Agriculture, Rural Development and Water Administration, in order to implement the provisions
of the legislation for the management and protection of land, as well as preserve the cadastral archive, land books, books of plots, floor plans, cadastral maps, topographical and other documents of the existing cadastre archive. This body is composed of the land administration unit and the land protection inspectorate at the local level, as a function of the Regional Council in accordance with Law No. 9244 dated 17.06.2004 “On protection of agricultural land”.

The Land Management and Protection offices near the municipalities based on the Law No. 8752 dated 26.03.2001 “On the establishment and functioning of the structures of land administration and protection” (amended) and the Council of Ministers’ Decision No. 64 dated 23.1.2003 “For determining the number of employees of the land management and protection sections of land in Regional Councils and offices of the management and protection of land in municipalities” (amended). The offices are responsible for the management and protection of the agricultural land under public or private ownership, maintaining
the cadastral documentation
prepare and submit for approval to
the responsible units of the
municipality and/or commune the
requests and documentation of
natural persons or legal entities to
lease, for the granting of
exploitation permits or other
forms of transfer of rights
provided by normative legal acts,
free rural land and river banks,
which administration or
ownership is transferred to the
region, commune and/or
municipality based on the law.

**The Land Protection Inspectorates** based on the
Council of Ministers’ Decision
No.121, dated 17.02.2011 "On the
exercise of the management
functions and protection of land in
the regions and offices of
management and protection of
land in the
municipalities/communes"
exercise methodological and
routine controls on the measures
of protection and rehabilitation of
agricultural land in the
municipalities and communes.

**Local Commissions on the Evaluation of Property Titles**
based on Law No. 9948 dated
07.07.2008 “For the review of
validity of the creation of property titles over agricultural land” (amended), are established near the Prefect’s office in every region. The Local Commissions review the legality of the creation of property titles over agricultural land within the jurisdiction of the prefecture, verify complaints, and enforce the decisions of the Governmental Land Commission. The Local Commissions are also responsible for resolution of disputes on the legality of the property titles over agricultural land, based on complaints or on its own motion.

**ADISA local offices** based on Law No. 13/2016- offer public services to natural and/or legal persons through front offices, one stop shops and integrated public services, including the registration of immovable properties.

**Policy:**

**Council of Ministers Decision No. 405, dated 27.06.2012 “On the approval of the Cross-cutting Strategy “Reform on Property Rights 2012-2020””**

- Strategic Objective 3.2 v. : Enhancing the inter-institutional
cooperation based on the principle of public consultation throughout the process of transfer of ownership over state-owned forests and pastures to the local administration bodies and their registration during the process of privatisation with the purpose of avoiding overlapping in the territorial administration and property titles.

**The National Strategy and Action Plan on Gender Equality 2016-2020 (Draft on public consultation)**

- Improvement of legislation on ownership of agricultural land by ensuring joint ownership of women and girls
- Training for employees and local administration in accordance with the status of civil servants, training on issues related to gender equality and gender mainstreaming;
- Develop procedures (regulations) to ensure local nomination of at least 40% of local women administrators under paragraph (e), Article 64 of Law no. 139/2015 "On Local Self-Government"
<table>
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<tbody>
<tr>
<td>-Training of officials (local IPROs and local government institutions) and raising awareness of women on tenure rights</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>The law guarantees equality before the law.</th>
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<tbody>
<tr>
<td>Law: The legislation recognizes equality before the law in many various acts regarding gender equality, anti-discrimination, and anti-discrimination in areas such as labour, services, education and so on.</td>
</tr>
<tr>
<td>Law No. 10221 dated 04.02.2010 “On protection against discrimination”</td>
</tr>
<tr>
<td>- Article 7</td>
</tr>
<tr>
<td>Every action or failure to act of the public authorities or of natural or legal persons who take part in the private or public domain, which creates a basis for denial of equality against a person or a group of persons, or which exposes them to an unfair, and unequal treatment regardless if they are in the same or similar circumstances in comparison with</td>
</tr>
</tbody>
</table>
other persons or groups of persons, constitutes a discrimination.

The elimination of privileges or unfair discrimination is guaranteed to everyone based on the personal, politic, economic, social and cultural rights entrenched in the Constitution of the Republic of Albania, international acts ratified by the Republic of Albania, as well as the legislation in force.


- Article 6 Prohibition of gender discrimination

1. Any treatment of a person less favourably because of his/her gender, compared with the treatment that is made, was made or would have been made to a person of the opposite gender in a similar situation, shall constitute direct gender discrimination and shall be prohibited.

2. The compilation, implementation, encouragement, and the drafting of the provisions, conditions, criteria or practices, which are apparently neutral, but put a person of a certain sex in a situation less favourable compared with persons of the
opposite sex, constitutes indirect gender discrimination and shall be prohibited. This prohibition shall not apply when such provisions, conditions, criteria and practices are justified by a legitimate purpose, and the means and ways to reach that purpose are necessary and appropriate.

**Policy: Draft of the National Strategy and Action Plan on Gender Equality 2016-2020**
(Draft on public consultation)

<table>
<thead>
<tr>
<th>The law guarantees equal access to judicial systems and statutory or customary dispute resolution mechanisms to resolve disputes over tenure rights.</th>
<th>4</th>
<th>1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Law:</strong> The law guarantees to everyone, regardless of gender, equal access to court or other statutory dispute resolution mechanisms. Legislation specific to land tenure provides both administrative appeal mechanisms as well as access to courts. The law does not recognize customary dispute resolution mechanisms on tenure rights.</td>
<td></td>
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</tbody>
</table>

**The Constitution**

- **Article 42 of the Constitution**
  1. Liberty, property, and rights recognized in the Constitution and

<table>
<thead>
<tr>
<th>Reorganize the system of court fees in order to facilitate women and vulnerable groups’ better access to justice</th>
</tr>
</thead>
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<tr>
<td>Adopt speedy enforcement procedures for final decisions</td>
</tr>
<tr>
<td>Amend the legislation for small claims court/tribunals</td>
</tr>
<tr>
<td>Amend the legislation for the promotion of the legal clinics approach to cases</td>
</tr>
</tbody>
</table>
by law may not be infringed without due process.

2. Everyone, in order to protect his constitutional and legal rights, freedoms, and interests, or in the case of charges against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.

- Article 135

1. The judicial power is exercised by the High Court, as well as by the courts of appeal and courts of first instance, which are established by law.

-Article 131

The Constitutional Court decides on:

f) The final adjudication of the complaints of individuals for the violation of their constitutional rights to due process of law, after all legal remedies for the protection of those rights have been exhausted.

Code of Administrative Procedures

Amend the implementing measures for the functioning of the appellate bodies for dispute resolution in order to ensure the legal requirement of laid down in the Law “On gender equality in the society” for ensuring at least 30% participation of women in these bodies. Amend the legislation in order to provide specific incentives for using mediation for the settlement of disputes.
- Article 128

3. The available administrative remedies are the following:

a) the administrative appeal, which includes:

i) the administrative appeal against an administrative act or omission of a public body in case of failure to deliver the act within the prescribed period and/or the procedural action of a public body during the administrative procedure (administrative appeal against an administrative act); or

ii) administrative objection to another administrative action under administrative law (administrative objection);

b) the review.

- Article 130 The administrative appeal and its purpose

1. The administrative appeal may be filed against an administrative act or omission of a public body to the issuance of the act within the prescribed period, except when otherwise provided by law.

- Article 144 The review
1. The review is an administrative remedy, by which it is claimed the annulment or modification of an administrative act, or the delivery of an administrative act in case of refusal, against whom the appeal is not acceptable due to the expiry of the period laid down in this Code.

2. A party may seek review if new circumstances or new evidence in writing emerge, which were not known and could have not been known in the course of the administrative procedure that led to the issuance of an administrative act or the refusal to issue the act.

The Code of Civil Procedures

- Article 31

Every person has the right to file a lawsuit so that it can be heard on the foundation of such claim, in order for the court to declare it founded or not. The opposing party has the right to discuss on present evidence against the foundation and the legal grounds of the claim.

- Article 32

The lawsuit can be filed:
a) to claim the restoration of a right or legitimate interest that has been infringed;

b) to prove the existence of a legal relationship or of a right or lack thereof;

c) To recognise the truthfulness or untruthfulness of a document bearing legal consequences for the plaintiff.

Constitutional Court Decision No. 7 dated 27.02.2013

According to Article 105/b of the Code of Civil Procedures the judge enjoys a margin of appreciation for exempting applicants from the payment, in order to ensure access to justice. According to the provisions of civil procedure in cases of exclusion of individuals from court expenses, including taxes on acts, these costs are borne by the respective funds of the State Budget.

Law No. 49/2012 “On the organisation and functioning of the administrative courts and judgments on the settlement of administrative disputes” (amended)
### Article 7 Jurisdiction

Administrative courts are competent for settling:

- **a)** Disputes that arise from individual administrative acts, normative sub-legal acts and public administrative contracts issued during the exercise of administrative activity by the public administration bodies;

- **b)** Disputes that arise due to the unlawful interference or failure to act by the public administration body;

- **c)** Disputes of competences between different administrative organs in the cases provided by the Code of Administrative Procedures;

#### Law No. 10385 dated 24.02.2011 “On mediation in dispute resolution” (amended)

### Article 1 Meaning of mediation

1. The mediation is an extrajudicial activity whereby the parties seek resolution of a dispute with the assistance of a third neutral party (mediator) in order to reach an acceptable agreement on the resolution of the dispute, which is not contrary to the law.
2. The mediation for the amicable resolution of disputes is an independent activity which is exercised in line with this law and under the auspices of the Ministry of Justice.

**Article 2** Scope of application

2. Mediation applies for the resolution of all the disputes in civil, commercial, labour and family law.

4. The court, or the respective state body, within the competences foreseen by the law, when seized to resolve disputes in the civil, commercial, labour or family matters, shall invite the parties to resolve disputes through mediation, in particular, but not limited only to:

a) Civil and family cases, which involve interests of minors;

b) Conciliation cases in case of dissolution of marriage foreseen in article 134 of the Family Code

c) property-related disputes which subject matter of the lawsuit is up to ALL 500 000 and also lawsuits for the soliciting of the objects, denying lawsuits, and lawsuits for the cessation of the adverse effect on possession.
Law No. 9970, dated 24.7.2008
“On gender equality in the society”

Article 30 Dispute resolution procedures

1. Complaints on the violation of gender equality according to this law are adjudicated by the administrative organs in accordance with the provisions of the Code of Administrative Procedures. The procedure takes place based on the provisions of this law.

2. For claims under this law, the parties, according to their free choice, where appropriate, make recourse to mediation as provided by the legislation in force. Following these procedures do not prevent the parties to pursue their claims at the competent administrative body or at the court.

3. If the offense is committed by public administration officials, the provisions of law no 8510, dated 07.15.1999 "On the responsibilities of organs of state administration" applies.

4. Non-profit organisations licensed to offer social services, can represent or support the
claimant in legal proceedings, under the provisions of this law.

**Law No. 10 221, dated 4.2.2010**
**“On protection against discrimination”**

- **Article 34** Entities that are entitled to file a suit for discrimination

1. Any person or group of persons who claim that they had been discriminated based one of the grounds mentioned in Article 1 of this law, can file a suit for compensation before the competent court according to the provisions of the Code of Civil, or to report before the competent authorities for prosecution for the pursuit of a criminal charge.

2. The appeal before the Commissioner does not need to be exhausted as a condition for filing a suit, and does not constitute an obstacle to the injured person to address the issue to the court or to the prosecution authorities.

3. An organisation with a legitimate interest or the commissioner may file suit on behalf of a person or group of persons, provided that the Commissioner or organisation have the consent of the party
through a special power of attorney or declaration before the court of the person or group of persons affected by discrimination.

The Constitution

-Article 60
The Ombudsman/People’s Advocate protects the rights, freedoms and legal interests of the individuals from illegal or irregular actions of omissions of the public administration institutions.

Law No. 8454, dated 4.2.1999
“On the People’s Advocate”
(amended)

-Article 12 Right to complain
Any individual, group of individuals or non-governmental organisations, who claim that their rights and freedoms and legal interests have been violated by an illegal and irregular action or omission of the public administration bodies, has the right to complain or notify the People’s Advocate and seek his
| intervention for remedying the violated right or freedom. |
|---|---|
| **Law No. 33/2012 “On the registration of immovable property”** (as amended) |
| *Article 28* Settlement of Claims Related to the initial registration |
| 2. Disputes that cannot be resolved amicably shall be settled by the judicial authorities and the fact of the existence of that dispute shall be noted in the immovable property folder. |
| **Law No. 133/2015 “On treatment of property and the completion of the property compensation process.”** |
| *Article 19* Complaints against the financial assessment for compensation |
| Any interested party has the right to appeal to the Administrative Court of Appeal within 30 days from the publication of decision on the financial evaluation carried out by the Property Treatment Agency on the value of property, only with regard to the amount of compensation. |
- Article 29 Complaints

Any interested party and the State Attorney's Office have the right to appeal to the Court of Appeal against the decision of Agency on the recognition of the right to compensation, within 30 days from the date of notification of the decision, based on the Code of Civil Procedure.

Law No. Law No. 9482 dated 03.04.2006 “On legalisation, urbanisation and integration of unauthorised buildings”.

- Article 26 Settlement of disputes

1. If in the course of the process of legalisation there are disputes on the ownership of the settlement or in case of claims of other persons over the settlement to be legalized under the law, they shall be settled by the court.

Civil Code

- Article 354

When the heirs do not agree even with the solutions offered by the notary, the division of the inheritance is made by a court competent to deal with claims arising from inheritance.
### Law No. 9948 dated 07.07.2008 “On the verification of validity of property titles on agricultural land”

**-Article 9/1 Appeals**

2. The interested subject and the relevant municipality/commune, have the right to file an appeal against the Evaluation Commission’s decision to the Governmental Land Commission, within 30 days from receiving notice of the decision of the Evaluation Commission.

7. The GLC decision can be appealed in court, according, to the terms and rules for the adjudication of administrative disputes.

### Policy: Strategy on Reforming the Justice System (draft of July 2015)

| 2 | The law makes provision for legal support in civil procedures. | 3 | 1 | Law: The legislation on legal aid provides for the free legal support in civil procedures in cases when the party does not have sufficient resources to cover the costs of a proceeding. The State Commission for Legal Aid is responsible for the selection of the legal aid in order to provide transparent, flexible and clear procedures in a granting free legal aid to women who do not have sufficient resources. |
beneficiaries of legal aid, as well as the law firms or NGOs that will offer the service.

**Law No. 10 039, dated 22.12.2008 “On legal aid”**

*(amended)*

**-Article 13**

1. Entitled to benefit legal aid shall be the person who needs:

   b) legal aid in civil or administrative cases, but who does not have sufficient resources to pay for the legal aid or the cases are too complex in terms of contents and procedure;

   c) To protect his/her rights, through the submission of a lawsuit, but who does not have the sufficient resources to pay for the tax on the acts, as well as for the necessary expenses for the notifications or other judicial services.

In order for a person to benefit the legal aid, he must establish that: i) he/she is included in the social protection programs or meets the conditions to be included therein; or ii) he/she is a victim of the domestic violence or victim of the trafficking of human beings, concerning the judicial cases connected to them.

| Resources to cover the expenses of a proceeding |
| Reduce women’s barriers to advisory services, producing special financial packages for women |
| Adopt measures for strengthening the network of legal aid offices in all the regions |
| Enhance the transparency through publication of information on legal aid in the Commission for Legal Aid Website |
| Establish interactive websites for legal advice on property issues online |
3. The State Commission of Legal Aid shall consider the meeting of criteria for benefiting legal aid, such as the insufficient financial income of the person and persons being his/her dependants, family composition, social status, involvement in social protection programs and meeting of conditions to be included therein, as well as any other circumstance placing the person under the circumstances of impossibility of ensuring the legal aid privately.

**Policy: The Draft Strategy on Reforming the Justice System 24.07.2015**

- Reforming the legal aid service

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<tr>
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<tbody>
<tr>
<td>2</td>
<td>A human rights commission or gender-specific institution is in place.</td>
<td>4</td>
</tr>
<tr>
<td>8</td>
<td>Law: The legislation establishes independent human rights institutions such as the Commissioner for the Protection against Discrimination established by Law No. 10221 dated 04.02.2010 “On protection against discrimination” and the People’s Advocate/Ombudsman as a constitutionally established body. The National Council for Gender Equality established by the No. 9970 dated 24.07.2008 “On gender equality in the society” is a gender specific institution chaired by the minister who covers the issues of gender equality</td>
<td>N/A</td>
</tr>
<tr>
<td></td>
<td>Strengthening the role of the Commissioner for Protection against Discrimination and its outreach activities by expanding the focus on land tenure issues.</td>
<td></td>
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</table>
established as an advisory body for improving gender mainstreaming in all policy areas.

Law No. 10221 dated 04.02.2010 “On protection against discrimination”

- Articles 21-33

The Commissioner for Protection against Discrimination is an independent body elected by the majority of the members of the Assembly for a mandate of 5 years, with the right to be re-elected only once. He/she is in charge for reviewing complaints from persons or groups of persons who claim being discriminated or organisations who are acting on behalf of persons that claim to be discriminated. The Commissioner is responsible, inter alia, for conducting administrative investigations, imposing administrative sanctions, monitoring the implementation of the law on discrimination, conducting surveys and developing awareness, representing the applicant in the judiciary in civil matters with his consent.
The Constitution – Articles 60-63

Law No. 8454, dated 4.2.1999
“On the People’s Advocate” (amended)

The Ombudsman/People’s Advocate is an independent constitutional institution elected by the Assembly for a 5 year term. The Ombudsman/People’s Advocate is responsible for reviewing claims for violations of rights, liberties and legitimate interests from the public administration bodies.

Law No. 9970 dated 24.07.2008
“On gender equality in the society”

The National Council for Gender Equality is an advisory body established by an order of the Prime Minister. The National Council on Gender Equality is chaired by the minister who covers the issues of gender equality and is composed of thirteen members, out of which ten are representatives appointed by the government and three are appointed by the civil society organisation. The mandate of the members of the National Council for Gender Equality is 4 years, with the right to re-appointment, with the exception of members elected *ex officio*. The main duties
of the Council involve, counselling the government in defining the direction of state policies on gender equality with the exception of those issues that fall within the mandate of the National Council on Labour, ensuring gender mainstreaming in all areas, especially in the political, social, economic, and cultural ones, proposing the Council of Ministers the main programs for encouraging and achieving gender equality in Albania, evaluating the current situation on gender equality and coming up with guidelines and recommendations.

<table>
<thead>
<tr>
<th>Key element 8: Women’s participation local institutions enforcing land legislation</th>
<th>Law</th>
<th>Policy</th>
<th>Legal Basis</th>
<th>Recommendations</th>
</tr>
</thead>
<tbody>
<tr>
<td>29</td>
<td>The law sets quotas for the appointment of women in land management and administration committees.</td>
<td>0</td>
<td>2</td>
<td>Law: There are no explicit gender sensitive provisions in the legal and sub-legal acts regarding the organisation and functioning of land administration committees. However, gender-specific quotas are specified in the Electoral Code, the Law “On local self-government”, and implementing measures of the legislation on the civil service. Specific units of the local government bodies such as the Councils of the Regions and Amend the Draft National Strategy on Gender Equality 2016-2020 and establishing special actions on the application of quota for the participation of women in the land management institutions at the central and local level regarding property</td>
</tr>
</tbody>
</table>
Municipalities are involved in the process of land management and administration through their subordinated institutions. Moreover, there is a general requirement based on the Law “On gender equality in the society” for equal gender participation and representation in all public institutions by ensuring that 30% of both sexes is ensured, including their steering bodies.

**Draft of the National Strategy and Action Plan on Gender Equality 2016-2020** (Draft on public consultation)

- Initiatives to improve legislation for a quota of at least 40% women on boards of directors
- Amendment of the draft National Strategy on Gender Equality 2016-2020 and establish the adoption of quota for the appointment of women in land dispute resolution committees at the central and local level, and the land registration, compensation, legalisation, and agricultural land management.

*Amend the draft National Strategy on Gender Equality 2016-2020 and establish the adoption of quota for the appointment of women in land dispute resolution committees at the central and local level, and the land registration, compensation, legalisation, and agricultural land management.***

30

*The law sets quotas for the appointment of women in land dispute resolution committees.*

02

Law: There are no explicit quotas for the appointment of women in the land dispute resolution committees. However, there is a general requirement based on the Law “On gender equality in the society” for equal gender participation in the decision-making bodies of the legislative, executive and judicial authorities.
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<tbody>
<tr>
<td>Article 15 Participation in the decision making process</td>
</tr>
<tr>
<td>1. Equal gender participation and representation in all legislative, executive, judicial power bodies as well as in other public institutions shall be achieved when:</td>
</tr>
<tr>
<td>a) A representation of above 30% of both sexes is ensured, including their steering bodies;</td>
</tr>
<tr>
<td>b) Equal observation of competition procedures and criteria for both genders for the assignments in these bodies is ensured;</td>
</tr>
<tr>
<td>- Strategic Objective 4.2. Ensuring gender equality standards in the decision-making processes regarding property issues.</td>
</tr>
</tbody>
</table>

2 2014, OECD, Social Institutions and Gender Index, Available at: http://www.genderindex.org/sites/default/files/datasheets/AL.pdf (Accessed 03 May 2016)


6 2011, USAID Country Profile, Property Rights and Resource Governance, Albania Available at: http://www.usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Albania_Profile_0.pdf (accessed 03 May 2016)


14 Nyje 13/1 of the Kanun of Lekë Dukagjini


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2012, Council of Ministers’ Decision No. 576 dated 29.08.2012 “On the list of services delivered by the IPRO” and Co


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