



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## ACHIEVING SDG INDICATOR 5.A.2 IN THE WESTERN BALKANS: THE ROLE OF NOTARIES

**Naomi Kenney,<sup>1</sup> Adela Llatja,<sup>2</sup> Margreet Goelema,<sup>3</sup> Rumyana Tonchovska,<sup>4</sup> Lovro Tomasic,<sup>5</sup> Margret Vidar,<sup>6</sup> Bianca Wengenmayer<sup>7</sup>**

[Naomi.Kenney@fao.org](mailto:Naomi.Kenney@fao.org)

[Adela.llatja@giz.de](mailto:Adela.llatja@giz.de)

[Margreet.goelema@giz.de](mailto:Margreet.goelema@giz.de)

[Rumyana.Tonchovska@fao.org](mailto:Rumyana.Tonchovska@fao.org)

[lovro.tomasic@gmx.de](mailto:lovro.tomasic@gmx.de)

[Margret.Vidar@fao.org](mailto:Margret.Vidar@fao.org)

[b.wengenmayer@bnotk.de](mailto:b.wengenmayer@bnotk.de)

**Paper prepared for presentation at the  
“2019 World Bank Conference on Land and Poverty”  
The World Bank - Washington DC, March 25-29, 2019**

*Copyright 2019 by author(s). All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies.*

---

<sup>1</sup> Food and Agriculture Organization of the United Nations (FAO)

<sup>2</sup> Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

<sup>3</sup> Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

<sup>4</sup> Food and Agriculture Organization of the United Nations (FAO)

<sup>5</sup> International Union of Notaries (IUNL)

<sup>6</sup> Food and Agriculture Organization of the United Nations (FAO)

<sup>7</sup> International Union of Notaries (IUNL)



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## Abstract

*With the adoption of the Sustainable Development Goals (SDGs) in 2015, gender equality has become more and more prominent in the agendas of the governments and the international community. This paper will present how the countries of the Western Balkans, assisted by the German Government, the International Union of Notaries (UINL) and the Food and Agriculture Organization of the United Nations (FAO) have moved forward in strengthening women's access to land. Since 2015, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)<sup>8</sup> GmbH, UINL and FAO, in partnership with ministries, notaries and members of registration offices have investigated the challenges that women face in accessing economic resources. It will introduce a set of practical guidelines to invite members of the notarial profession to consider how the services that they provide might affect the rights of spouses, partners and daughters.*

**Key words:** SDG Target 5a, VGGT, Gender equality, Land rights, Western Balkans, Notaries, Land registration

---

<sup>8</sup> Commissioned by the German Federal Ministry for Economic Cooperation and Development (BMZ)



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## I. Background, tools and methodology

In the Western Balkans, legal frameworks have made great advances to strengthen gender equality in land ownership and control. Waves of legal reforms have eliminated gender-based discrimination in the law and provided legal safeguards for women's property rights during marriage, cohabitation and inheritance. Nevertheless, properties are still overwhelmingly registered in the sole name of the husband, partner or brother (Tonchovska, Kelm, & Giovarelli, 2014). There is therefore a clear need to bridge the implementation gap between the law (*de jure*) and the practice (*de facto*), to strengthen the property rights of women and daughters. Institutional and legal frameworks need to address the culture and tradition in the countries, so that women are not faced with the sole burden of wanting to have their name registered, but the institutions and laws need to be such that women get what they are legible for (Llatja & Saliuj, 2017).

In 2012, UN Members states endorsed the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGTs) (FAO , 2012). The Voluntary Guidelines on the 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 strengthen gender equality in 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.

To identify the specific obstacles that women face in securing their rights to land, in 2014 FAO developed a Legal Assessment tool (LAT) for gender-equitable land tenure (Kenney & DeLaOCampos, 2016). Building on one of the LAT's existing indicators, FAO proposed an



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



indicator on women's land ownership and control, to be included in Agenda 2030 (United Nations, 2018). These tools have been used by GIZ and FAO in the Western Balkans, to identify the obstacles that women face in relation to land tenure. Despite the prohibition of gender-based discrimination in the constitution, and the recognition of gender equality in property rights, in the region women's rights to land ownership and control remain less secure than men's.

To address these barriers, gender teams were established in 2013 with initial support of the World Bank and Food and Agriculture Organization of the United Nations (FAO). The initiative has been further supported by the German Government and implemented by Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH. The gender teams are composed of representatives of relevant Ministries dealing with land administration, ministries of Justices, notary offices, land registration office, ministries of agriculture and statistical offices.

As candidate and potential candidate countries to European Union (EU) membership, countries in the Western Balkans are in the process of harmonizing their legal frameworks with EU law. While statistical data shows that a high proportion of men is registered as land owners, women still lag behind (Tonchovska, Kelm, & Giovarelli, 2014). The gap in property registration between men and women served as the starting point for national institutions to ask the support of the GIZ and FAO to identify and address challenges in relation to gender equality in land tenure.

In order to identify the reason behind the very low percentage of women registered as owner or co-owner, the Legal Assessment tool (LAT) was applied in every country of the region. The national policy and legal framework provides a crucial foundation for gender equality. While law in itself cannot generate gender-equitable land tenure, it provides an authoritative framework for its realisation. It allows policy makers, national stakeholders and development practitioners to better visualise the legal intricacies surrounding men and women's access to land, the progress made, the existing strengths in the legal framework. It also helps them identify areas where women are at a disadvantage and where legal reform is needed. Alternatively, it helps them identify bottlenecks in implementation, and target key actors to bring about change.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



The LAT is designed to highlight the sources of gender inequality in the legal framework. The LAT is built around 30 indicators divided into 8 key elements – constitution, legal capacity, nationality, property rights, inheritance, decentralization, the delivery of justice and female representation in land administration bodies. The LAT helped 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 the necessary regulations and procedures. Importantly, the LAT results enabled some countries to take legal and administrative steps to bring about meaningful change and address some of the bottlenecks to female property registration. As countries in the region learn from each other, more changes can be expected.

The LAT has also served as a donor coordination mechanism, where donors in the sector of Gender and Land Rights in the Western Balkans use the LAT to coordinate their interventions, and build synergies across programmes and areas of work. For the moment donors who coordinated their actions based on the results of the LAT are, GIZ with FAO and different World Bank teams, UN Women, Justice sector donors etc.

The participatory approach used in conducting the LAT partly explains its success. Throughout the legal assessment phase, national institutions and the donor community were involved at all stages (see annex 1).

Supported by Open Regional Fund for South East Europe- Legal Reform, a project implemented by GIZ, all interventions to achieve gender equitable land tenure were regional, for the discussions and prioritization of the result of the LAT, regional workshop were organized, where partner institutions and national stakeholders agreed regionally on the interventions needed, and also sharing of the experiences took place.

The LAT results, which coincided with the roll out of Agenda 2030 for sustainable development, served as a trigger for national authorities to scale up their efforts around SDG Goal



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



5 on gender equality.<sup>9</sup> Albania and Serbia who had already taken steps, became pilot countries to test FAO's reporting methodology under SDG Indicator 5.a.2.

Indicator 5.a.2 looks at the extent to which the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control. The indicator measures the level to which a country's legal framework supports women's land rights, using six proxies drawn from international law and internationally accepted good practices. In particular, the proxies draw from the Convention on the Elimination of Discrimination Against Women (CEDAW) ratified by 189 countries, and the Voluntary Guidelines for the Responsible Governance of the Tenure of Land Fisheries and Forestry (VGGT) endorsed unanimously by Committee of Food Security (CFS) members in 2012 (United Nations, 2018).

The six proxies through which indicator 5.a.2 is monitored are the following:

Proxy A: Is the joint registration of land compulsory or encouraged through economic incentives?

Proxy B: Does the legal and policy framework require spousal consent for land transactions?

Proxy C: Does the legal and policy framework support women's and girls' equal inheritance rights?

Proxy D: Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?

Proxy E: In legal systems that recognise customary land tenure, does the law explicitly protect the land rights of women?

Proxy F: Does the legal and policy framework mandate women's participation in land management and administration institutions?

The legal assessments and the piloting of SDG Indicator 5.a.2 showed that in addition to targeted legal reform, the implementation of existing laws and regulation could help achieve significant progress towards *de facto* gender equality in land ownership and control. On the basis

---

<sup>9</sup> The focus of this paper is on **SDG 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;* and **Indicator 5.a.2:** *Proportion of countries where the legal framework (including customary law) guarantees women's equal rights to land ownership and/or control.*



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



of these findings, the programme's next phase focused on the identification and capacity building of key actors in the implementation of national laws and regulations. In particular, National Chambers of Notaries and registration offices were consulted and invited to participate in the design of the Programme's activities. The decision was made to develop tailored guidance tools for practitioners to use in their daily activities.

Two sets of guidance tools have been developed: A set of guidelines for notaries and a guidance document for registration offices. This paper focuses on the newly published FAO/GIZ *Guidelines on strengthening gender equality in notarial practices - South-East Europe*, and highlights the role of notaries in the implementation of SDG Indicator 5.a.2.

## **II. The role of notaries in achieving gender equality in land ownership and control**

Paragraph 17.3 of the VGGTs encourages States “to ensure that everyone is able to record their tenure rights and obtain information without discrimination on any basis. Where appropriate, implementing agencies, such as land registries, should establish service centres or mobile offices, having regard to accessibility by women, the poor and vulnerable groups.” States are also encouraged to “consider using locally-based professionals, such as lawyers, notaries, surveyors and social scientists to deliver information on tenure rights to the public.” This paragraph is important because it acknowledges that gender equality is an essential part of a responsible land administration and reminds notaries of their role in upholding it.

At the national level, the notarial profession is overseen by a national Chamber of notaries which is itself answerable to the Ministry of Justice. The International Union of Notaries (UINL) is a non-governmental international organisation made up of 88 nation Chambers whose objective is to promote, co-ordinate and develop the functions and activities of notaries throughout the world.





# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



The UINL defines the notary as a legal practitioner, depositary of public authority, whose work contributes to the prevention of disputes by ensuring the validity and force of the agreements that he or she draws up.<sup>10</sup> As legal service providers, notaries are required to explain the law their clients and to enforce it. Notaries, when handling their clients' requests are in a position of trust and are able to influence their clients' decisions through the provision of information and advice. This privileged position requires notaries to exercise a high level of professionalism and ethical standard. At the request of its members, the Union adopted Principles of Notarial Ethics which set out the fundamental values of the notarial profession. These principles guide inter alia, the notary's relations with colleagues and professional bodies, aspects related to confidentiality, impartiality and independence, and due diligence and liability.<sup>11</sup> Although these principles are non-binding, they are given legal force through enactment at the national level. Indeed, in most countries notarial functions and practices are governed by specific legislation which incorporates these principles, making them binding on the profession.

The joint FAO/GIZ "*Guidelines on strengthening gender equality in notarial practices - South-East Europe*", published in 2018, follow the UINL's Principles of Notarial Ethics and focus on two principles which are of particular importance to the rights of spouses, surviving partners and heirs. These are the duty for notaries to exercise due diligence in the discharge of their duties, and the duty to keep up-to-date with professional matters. These principles require notaries to take proactive steps to ensure that they carry out their functions to the highest standard.

Countries that rely on notaries to confer authenticity on judicial deeds and contracts, and to provide advisory services to parties in non-contentious matters, have laws that govern the profession. On the one hand, these laws place certain obligations on notaries, such as the duty to inform and advise the parties as to their rights, obligations and the legal consequences of their decisions. Notaries must also provide the parties with any clarification requested *or* necessary to ensure conformity with decisions taken and awareness of the legal force of the deed. To this end,

---

<sup>10</sup> UINL brochure, Available at: [https://www.uinl.org/c/document\\_library/get\\_file?uuid=3d43d5be-cf19-4319-9baa-18e43092f9bc&groupId=20181](https://www.uinl.org/c/document_library/get_file?uuid=3d43d5be-cf19-4319-9baa-18e43092f9bc&groupId=20181)

<sup>11</sup> UINL's Principles of Notarial Ethics, available online at : [https://www.uinl.org/en\\_GB/principios-de-deontologia](https://www.uinl.org/en_GB/principios-de-deontologia)





# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



the notary routinely checks the identity, capacity and consent of the parties, and ensures that their wishes are expressed freely and in the full knowledge and understanding of the legal implications of their decisions. On the other hand, clients also have rights and obligations derived from national law. These include *inter alia* laws on property, personal status, inheritance and gender equality. These rights and obligations must be identified, respected and protected, prior to drafting an official document that will lock the parties in a new legal situation. Notaries therefore have to comply with the specific obligations that the law places upon their profession, and ensure that their clients' wishes are given authority within the broader confines of the law.

The objective of the joint FAO/GIZ “*Guidelines on strengthening gender equality in notarial practices - South-East Europe*” is to help notaries advance gender equality by a) exercising due diligence from a gender perspective, and b) engaging in advocacy. To address these two dimensions of the role of notaries in strengthening gender equality, the guidelines are structured in two parts. Part one unpacks the concept of due diligence and what it means in relation to gender equality, and Part two focuses on the duty to keep up-to-date with professional matters and the valuable contribution that notaries can make to the advancement of gender equality.

These guidelines are intended as a practical assistance document that notaries can use to strengthen gender equality in the services that they provide. They offer quick and easy steps and checklists to identify and protect the rights of all those with a legal interest in the service, particularly those of vulnerable clients such as wives, cohabitating partners, surviving partners and daughters. They also offer additional information to notaries wishing to enhance their knowledge and understanding of the gender implications of the services that they provide, and tips on how to engage in advocacy.<sup>12</sup>

## 2.1 Due diligence

---

<sup>12</sup> The guidelines are without prejudice to the legal duties of the notaries according to the national laws in force.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Notaries are sworn by oath and bound by law to exercise due diligence in the services that they provide, and to identify potential infringements on the weaker party's rights that are guaranteed by the law. Due diligence requires notaries to act suitably and constructively in the discharge of their duties, to inform and advise the parties as to the possible consequences of their instructions, and to act in accordance with the law. In addition, it requires them to provide the parties with any clarification requested *or* necessary to help them make a decision in full awareness of the implications of such decision for their rights and interests. For notaries to exercise due diligence, they must therefore anticipate any risk that the weaker party – in this case the wife, the cohabitating partner, the surviving partner or the daughter – could face during the proceedings and provide any additional information that may be needed to ensure that they are able to make an informed decision, which protects their rights and interests. It is the duty of the notary not only to identify the risks associated with certain services and the consequences of not addressing the risks, but also to recommend an approach which mitigates the risks that he or she has identified.

Notaries are responsible for property transactions and for inheritance and probate proceedings. It requires notaries not only to protect the property rights as recorded in the property registry, but to identify hidden rights and interests in application of a range of laws and regulations (e.g. civil code, land laws, laws on personal status, laws on gender equality, laws and regulations on property registration).

Although the legal frameworks in the Western Balkans provide legal entitlements to spouses and cohabitating partners, many have to petition the courts to uphold their rights upon separation, death or infringement. In practice, these rights often do not translate into joint registrations or a higher rate of female property registrations because there is a wide gap between the co-ownership or joint ownership provisions under property law and the document delivered by registration offices, which serves as proof of ownership. In the region, the default property regime for married couples is co-ownership or joint ownership. This means that the property is collectively owned by the couple, either as an undivided share or in equal shares. This is the property regime that married couples enter into by default, that is if they don't contractually agree on an alternative



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



property arrangement. Under the law, co-ownership or joint ownership gives the couple equal rights over the administration of property and carries a number of obligations for the spouses. An example of such obligations is the requirement that the spouse provides written consent to a property transaction prior to the transaction taking place.

Co-ownership or joint ownership do not automatically translate into joint registration of the property. Joint registration is where the names of both spouses are entered into the property registry, as the owners of the property being registered. It is commonly used to provide proof of ownership. But the law doesn't always make it mandatory for spouses in co-ownership regimes to be registered jointly. When co-owned property is entered in the name of one spouse only, the spouse whose name is not entered in the property registry is at risk of being denied his or her share of the property when that property is the object of a sale or part of an inheritance proceeding. Data shows that when properties are registered in the name of one spouse only, it is overwhelmingly registered in the name of the husband, putting wives at risk of being denied their share of the property. This has implications beyond the couple itself. If a couple separates, the property which they have acquired during their union and which is jointly or co-owned should be inherited by all the children, including those born out of a new union. If the former wife is denied her share of the property acquired during the previous union, the children born out of her new union will not be able to inherit her share of the property, which they are entitled to under the law. The only option available to them is to petition the court to uphold their right.

In most countries in the Western Balkans, the law extends co-ownership or joint ownership to partners living in a legally recognised cohabitation. Female cohabitating partners whose names are not entered in the property registry face the double challenge of having to prove that their cohabitation creates rights and interests before they can even exercise these rights to refuse consent to a transaction, or to be awarded their share of the property upon separation.

Although legal reform is one avenue to help secure the rights of both spouses or cohabitating partners, it can be a lengthy process before joint registration becomes mandatory, during which properties will continue to be registered in the name of one spouse or partner only. Notaries therefore have an important role to play to bridge the gap between the law and the practice.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



Inheritance proceedings carry specific risks for surviving partners and daughters. In the region, the law makes provision for statutory inheritance orders and prescribes relatively limited freedom of testation thus providing a relatively high degree of protection to statutory heirs, including the surviving spouse and the deceased's descendants. The law limits the ability of the testator to fully disinherit the surviving spouse, children or other heirs by granting them a minimum statutory share in the deceased's estate. Despite these safeguards, and despite the prohibition of gender-based discrimination in the law, the traditions and customs that permeate society put certain heirs at a disadvantage when it comes to securing the share of inheritance that is theirs under law. When the deceased was married or lived in a cohabitation under the regime of co-ownership or joint ownership of property, and when the surviving spouse or partner's rights are unregistered, there is a risk that the share of the property that they are entitled to under the law will not be taken out of the estate and protected during the proceeding. Similarly, the tradition that the oldest son retains the agricultural holding, or that only male children receive the farm to cultivate agricultural land may put pressure on daughters and other female heirs to relinquish their right to inheritance in favour of their brother(s) and/or other male heirs. Here as well the notary is instrumental in ensuring that the law is upheld in inheritance proceedings, and that the rights and interests of all heirs are equally identified and protected. He or she should create a safe space in which any party can make an autonomous and informed decision without undue pressure.

## **2.2 Advocacy**

Despite its recognised status as a human right, gender equality is usually not on the curriculum of qualifying notaries. When it is, newly qualified notaries are still ill-equipped to identify the specific gender-based risks that some of their clients face.

As part of their duties, notaries are expected to engage in self-learning activities to keep up to date with any legal changes and crucially, to perfect their understanding of any matter that touches upon their sphere of activity. This should include taking part in courses, discussions, workshops and reading material that bring out the gender implications of their activities. To help



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



them keep up to date with the latest legal news and developments, notaries often do weekly legal reviews. These could include news and developments pertaining either specifically to women, or, more generally, to gender equality.

In the region, notaries are members of national chambers of notaries. These chambers represent notaries and assist them in performing their duties. They deliver trainings, ensure compliance with the law and, in many cases, oversee members of the profession. National chambers of notaries answer to the ministry of justice in their respective countries. As such, they play an important role in relaying information between government and notaries, and vice versa. By working through their national chambers of notaries, notaries can be powerful agents of change. Their functions requires them to act in accordance with the law and to implement it in their daily practice. This puts them in a privileged position to identify weaknesses in the legal framework and to propose solutions to promote effective, transparent and equitable enforcement of legal protections for tenure rights.<sup>13</sup>

Notaries and their chambers are expected to co-operate with state institutions, especially as a part of the preventive administration of justice. As legal practitioners in non-contentious matters and delegates of state authority, notaries and the chambers representing them, co-operate with the judicial authorities in the performance of their public function. Such co-operation contributes to the efficiency of the justice system. Gender equality is a key part of an effective justice system. In their relations with other notaries and professional bodies, notaries can help ensure that gender equality, as a human right, is recognised and systematically enforced by all members of the profession.

To this end, the guidelines encourage notaries to co-ordinate, exchange ideas and experiences with other professional bodies. Networks can help build bridges between different institutions and professions, thus expanding the reach of information. Notaries, lawyers, members of public administration bodies, officials of property registries, civil society and academic staff all have an important contribution to make to advance gender equality in land ownership and control. Professional networks serve as platforms to share experiences, discuss challenges and advocate

---

<sup>13</sup> See FAO. 2016. *Responsible governance of tenure and the law – A guide for lawyers and other legal service providers*, Governance of Tenure Technical Guide No.5, Rome, Italy. Available at: <http://www.fao.org/3/a-i5449e.pdf>



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



for change. Being a member of a professional network contributes to personal development and to building a critical mass that can be a powerful voice for change.

Organising trainings, including online trainings through the national Chambers of notaries can be a useful way to raise awareness across the profession. The participation of other legal service providers and registration offices can help identify practical solutions to overcome some of the barriers to gender equality.

### **III. Lessons learnt**

The regional and participatory approach followed by this Programme has proved successful in strengthening gender equality in land tenure. The countries of the Western Balkans share a similar history and a similar legal culture which has greatly facilitated the discussions around the legal, administrative and practical challenges that women face in securing their rights to land in the region. The findings of the Legal Assessment Tool and the exposure of national stakeholders to the practices of other countries prompted meaningful change across the region. As a result, several countries have carried out legal and administrative reforms with positive outcomes on women's tenure security. During the regional exchanges, challenges and best practices were shared and discussed. National institutions and practitioners have been able to learn from each other and to situate themselves within the broader development context. Notaries and land registration authorities have taken internal measures to ensure a more equitable enforcement of women's property rights.

The Legal Assessment Tools served as a starting point to understand the tenure situation of men and women. The results of the assessments showed that gender neutral legal frameworks do not necessarily translate into gender equality in practice. To achieve meaningful change, it may be necessary to initiate gender-responsive legal and administrative reform, and to mobilise practitioners. Across the region, the following change and reforms have been undertaken:





# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



- Based on the experience of Macedonia, Serbia and Montenegro changed the law to grant user right to the surviving spouse over the matrimonial house for life, when the spouse is second in the ranks categories of potential beneficiaries. While Kosovo has addressed the issue in the National Strategy for Land Administration.

The registration office of Serbia has established mobile registration service centres to improve the access to property registration services for women, the poor and vulnerable groups.

- The notary Chamber of Albania and the Ministry of Justice of Albania, are working together to align the new Notary Law in Albania with other existing laws, and to make the registration of both spouses/partners as co-owner of the property mandatory. Gender-sensitive articles have also been added to the law with the support of the project (Notary Law No. 110/2018)
- The Ministry of Justice of Albania drafted an order with the support of the Land Registration office to lift some barriers resulting from inheritance cases and already registered property. As a result, already registered matrimonial properties that are only under a single name can now be amended and registered in the name of both spouses.
- In Macedonia Notaries and the Agency for Real Estate Cadastre are organizing open days for providing free legal and professional assistance to citizens.
- Republica Srpska, Bosnia and Herzegovina, the Notary Chamber has introduced a reduction in notary fees when spouses conclude legal transactions on the acquisition or transfer of common matrimonial property.
- Gender-disaggregated data is generated from the property registration and cadaster IT systems in most of the Western Balkans countries.
- The Property Registration office of Serbia introduced in the new Law for Land registration, the mandatory registration of both spouses as co-owners/joint owners based in the experience of Albania. The Land Registration office of Serbia, has introduced simplified procedure for ex-officio joint registration of both spouses (joint ownership), based on the marriage certificate and on the statement of both spouses for subsequent registration of unregistered spouse for properties obtained during the marriage as of 08/06/2018.
- The Land Registration office of Serbia, with the support of the Ministry of Finance, has introduced special measures for the reduction of property registration fees. It consists in an





# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



incentive tax costing a token fee of 3 euros, aiming to encourage and increase women's ownership of land, in cases when both spouses/partners are registered as co-owners of the property and for the property registration of people with disabilities (Law on Public Administration Taxes).

- The Ministries of Justice of Albania and Serbia and the national SDG bodies have managed to test the reporting methodology of the SDG 5a2 with the technical and financial support of the project. The next reporting is being managed solely by the national institutions, without the financial support of the project.
- Four of the participating national Chambers of Notaries have committed to use the “*Guidelines on strengthening gender equality in notarial practices - SEE*” as their internal document.
- All involved institutions are working closely together, as well as with other international organization such as FAO, UNIL, UNECE etc.

Due to the regional exchange, the individual notaries have become more aware of unique their role in addressing gender and land right issues. The International Union of Notaries (UINL) has decided to use its experience from the region and share its insights on a global basis.



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019



## Bibliography

FAO . (2012). *Food and Agriculture Organization of the UN* . Retrieved from <http://www.fao.org/cfs/home/activities/vggt/en/>

Habitat for Humanity . (2016). *Shelter Report*. Retrieved from <https://www.habitat.org/sites/default/files/shelter-report-2016.pdf>

Kenney, N., & DeLaOCampos, A. P. (2016). Developing gender-equitable legal frameworks for land tenure - A Legal Assessment Tool.

Llatja, & Saliag. (2017). The Role of Legal Professions in Addressing Gender Equality in Land Ownership, Cases from the Office a Public Notary in Albania. *Land and Poverty* .

Tonchovska, R., Kelm, K., & Giovarelli, R. (2014). ICT in Support of Evidence Based Policy Making: Land and Gender in The Western Balkans. *World Bank Confrence on Land and Poverty*.

United Nations. (2018, February). *Sustainable Develeopement Goals*. Retrieved from UN, Statistical Devision: <https://unstats.un.org/sdgs/metadata/files/Metadata-05-0A-02.pdf>

Vidar, M., & all, a. (2017). UNDERSTANDING LOCAL CUSTOMS TO ACHIEVE THE 2030 AGENDA: LAND AND GENDER IN THE WESTERN BALKANS. *Responsible Land Governance: Towards an Evidence Based Approach*. Washington DC: World Bank.

World Bank. (2016). *Women, Business and Law* . Retrieved from <http://wbl.worldbank.org/data/exploreconomies/serbia/2015>



# Catalyzing Innovation

ANNUAL WORLD BANK CONFERENCE ON LAND AND POVERTY  
WASHINGTON DC, MARCH 25-29, 2019

