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NO WOMEN'S LAND - GENDER ANALYSIS ON PROPERTY OWNERSHIP

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BACKGROUND

In North Macedonia, both men and women have the right to own and inherit property, however men possess 7 out of every 10 ownership records for properties according to the administrative data from Cadastare. Although the administrative data (gender disaggregated upon request) highlights one of the most pronounced inequalities in our society, the issue remains significantly under-researched from a gender perspective, and there is a notable absence of policy debate surrounding it.

This analysis aims to initiate a robust discussion by examining various facets of the issue. It incorporates insights from current administrative data, legal examinations of inheritance and property laws, as well as input from court cases and notarial practices. It is part of the regional EU Action *Furthering Gender Equality through the Accession Process*, funded by the EU and Sweden, and led by Reactor – Research in Action and implemented with the partner organizations Kvinna till Kvinna Foundation (North Macedonia office), Kosovo Women's Network (Kosovo), AWEN (Albania), Right for All (Bosnia and Herzegovina) and Women's Rights Center (Montenegro). The objective is to improve and expand current regional collaboration, bolstering participatory democracies and fostering an accession process that is both inclusive and sensitive to gender considerations.

Its specific goals include strengthening the capacities of (women's) civil society organizations (WCSOs) to effectively interact with governments, EU Delegations and offices (EUD/EUO), as well as other WCSOs in the region, with the aim of raising awareness among all stakeholders about the gender aspects of the EU Accession process. Additionally, the objectives involve enhancing the accountability of governments and EUD/EUO in fulfilling their commitments to gender equality and women's rights during the EU Accession process. As part of the planned outputs, this Action foresees three sectoral gender analyses to be published throughout its duration (2020 – 2024) in each partner country, and this document is the third of these analyses in North Macedonia.

Currently, North Macedonia lacks specific, recent, and thorough gender analyses for thematic areas and sectors relevant to the Stabilization and Association Agreement (SAA) and the broader national processes of EU Accession, including IPA III funding opportunities. This analysis aims to fill these gaps by providing valuable insights into gender equality issues, thus contributing to the advancement of these processes. Additionally, it seeks to support the objectives of GAP III by offering gender-related knowledge and expertise through research, which in turn facilitates gender mainstreaming and aids in the implementation of strategic documents like the Country Level Implementation Plan (CLIP).¹

¹ European Commission. EU gender action plan (GAP) III. Available at: https://international-partnerships.ec.europa.eu/system/files/2021-01/join-2020-17-final_en.pdf

EXECUTIVE SUMMARY

This gender analysis offers a comprehensive overview of gender disparities related to property ownership in North Macedonia, while delving into gender stereotypes constraining women's access to property, normative conditions sustaining unequal inheritance practices, and socioeconomic inequalities, all acting as barriers to women's access to assets and property acquisition. It also aims to highlight potential shortcomings in the legal framework and its practical implementation, provides gender-disaggregated administrative data on ownership and explores the role of gender in real estate transactions and probate proceedings.

Official gender-disaggregated data on ownership is currently unavailable in North Macedonia, but **administrative data from the Cadastre**, disaggregated by gender upon Reactor's request, **offers valuable insights**. As of 2023, the available data highlights significant gender disparities, with **men constituting 71% of property records compared to women's 29%**, a trend consistent across different regions. These findings underscore a persistent gender gap in property ownership across North Macedonia. However, caution is needed in interpreting this data, as **the number of property records does not necessarily equate to the number of owners** and the data does not distinguish between different ownership rights. Additionally, the data obtained lacks segregation by property type, encompassing records for property of both land and objects, which is unfortunate since **gender disparities could be different for land and object ownership**.

The legal system still holds legal ambiguities that perpetuate inequality and primacy of men over women in ownership and inheritance. From a legal point of view, **equality, the right to ownership and the right to inheritance are all guaranteed by the Constitution of the Republic of North Macedonia.** While analysed legislation is non-discriminatory in principle, it often faces challenges in practical implementation due to diverse factors. These challenges stem from entrenched social norms and cultural attitudes, such as primogeniture – the tradition of granting the firstborn son exclusive inheritance rights – and gender stereotypes that prioritize men over women in matters of inheritance and ownership. However certain legal ambiguities further sustain and perpetuate traditions of primacy and inequality in ownership. **Concerns arise regarding the current legal solution for registration of joint ownership in the Cadastre**, which incorporates a certain level of legal ambiguity, potentially **leading to sole registration under the husband's name and creating legal uncertainty for women as unregistered joint owners.** Therefore, **amendments to the Law on Ownership should prioritise obligatory joint registration while also continuing to**

safeguard the rights of unregistered owners. Inheritance legislation reinforces the constitutional commitment to equality, but challenges persist in its practical implementation, with **women potentially being more likely to renounce their inheritance rights.**

The assessment of gender breakdown in declarations of disinheritance or statements assigning inheritance reveals significant data challenges and highlights potential gender disparities. To assess the gender breakdown in declarations of disinheritance or statements assigning inheritance to a specific heir from 2021 to 2023, freedom of information requests were sent to 26 basic civil courts. While 22 courts responded, only seven smaller courts provided gender-disaggregated data, manually counting declarations and statements in each individual case file. The other **15 courts explained that such information is not logged in the Automated Court Case Management Information System (ACCMIS), making automatic extraction impossible** and due to the substantial number of probate cases archived in the past three years, they lack staff to manually sift through each file. Although not statistically representative, the data provided from the seven smaller courts highlights a noteworthy pattern - **women represent a significant proportion of the individuals that gave declarations of disinheritance in these jurisdictions.** Statements assigning inheritance to a specific heir are infrequent, making thorough analysis of gender disparities challenging. The limited availability of gender-disaggregated data hampers a comprehensive understanding of the role of gender in inheritance practices.

Expert consultations with notaries reveal **reveal** a gender disparity in property ownership within married couples, with **joint property often recorded in the husband's name** during real estate transactions. This practice of men being stated as sole owners seems to be connected to a prevailing mentality that still perceives the man as the primary breadwinner. Joint ownership within extramarital unions shows a different trend, with both partners' names recorded more frequently. Furthermore, interviews revealed a notable pattern regarding declarations of disinheritance. While women were the primary actors in these cases, men also made such declarations, especially when inheritance was intended for the surviving parent. **Despite notaries typically informing the parties of their rights and consequences of these declarations, it is often perceived as a family matter to be addressed at home and the parties come to the notary with a decision already made.** Same as the ACCMIS, **the electronic records of notaries do not include the gender of the individuals included in ownership transactions, nor the inheritance declarations made.** Therefore, data collection lacks gender information, continuing the challenge of assessing gender disparities in property ownership.

While women possess the legal entitlement to property ownership, a comprehensive socioeconomic analysis reveals significant hurdles that impede their ability to acquire it, perpetuating existing disparities. Factors such as **lower employment rates, high levels of inactivity, diminished wages, and women's disproportionate representation among unpaid family workers collectively erect multifaceted barriers to property ownership**. For instance, only 38.8% of women are employed compared to 55.9% of men², highlighting a substantial disparity in income stability among working-age women. Moreover, an examination of the occupational structure of employment reveals a gender imbalance, with men predominantly occupying positions of economic authority. Specifically, men constitute 75.32% of employers and 77.61%³ of self-employed individuals, further exacerbating the financial gap between genders.

The overrepresentation of women among unpaid family workers, particularly in the agricultural sector, **highlights the paradox that, despite women constituting the majority of family workers⁴, they seldom own the land they cultivate**.

The research approach used behind the analytical explorations is based on a mixed method and it incorporates analysis of existing secondary data, desk reviews, and primary data collection, including consultations and interviews with some of the key stakeholders. **The analysis underscores the notion that property deprivation contributes to the perpetuation of financial inequalities and feminization of poverty.**

² MakStat database (30.3.2023). Activity rates of the population aged 15 years and over by gender and age, annual

³ MakStat database (05.4.2023). Inactive population by categories and age, annual

⁴ MakStat database (29.02.2024) Full time and part time employed by working time, gender, hours and employment status, annual

INTRODUCTION: CAN WOMEN OWN PROPERTY? YES, BUT...

Gender stereotypes limit access to assets and property

Gender stereotypes have long played a crucial role in shaping the gender gap in property ownership. These stereotypes, often deeply ingrained in societal norms and expectations, have a profound impact on how property rights are distributed and perceived.

Throughout history, women have often faced exclusion from property ownership, a consequence of prevailing gender norms and legal constraints. This exclusion persisted well into the 20th century, as Western civilization and European jurisdictions, among others, upheld practices like male-line primogeniture, which favored male over female children in inheritance matters. Married women also experienced unequal treatment under the law regarding inheritance rights. In our region, the Serbian Civil Code of 1844 significantly influenced inheritance laws until post-Second World War reforms. Rooted in patriarchal ideals of family and marriage, this code reinforced male primacy in inheritance and perpetuated unequal legal treatment for married women.⁵

For centuries, gender norms have dictated that women are financially dependent on men, and their primary role is to manage domestic affairs. These stereotypes have been perpetuated through various means, including literature, media, and cultural practices. As a result, women have been systematically excluded from property ownership, as it was believed that they lacked the financial acumen and capability to manage such assets. The majority of research indicates that cultural norms surrounding gender roles often develop in response to particular historical contexts, and these norms can persist even after the conditions that created them have changed⁶. As a result, the distant past continues to influence contemporary gender norms. Studies also show that these norms are more likely to persist in environments that are highly stable, where there is less need to experiment with new norms⁷.

5 Inheritance law [Electronic source] / Dejan Mickovic, Angel Ristov. - Skopje: "St. Cyril and Methodius" University - Skopje, 2020 Method of access (URL): https://www.ukim.edu.mk/e-izdanija/PRF/Nasledno_pravo.pdf

6 Giuliano, P. (2017). Gender: An Historical Perspective (Working Paper No. 23635). National Bureau of Economic Research. Retrieved from <http://www.nber.org/papers/w23635> (Last accessed on 28.02.2024).

7 Giuliano, P. and N. Nunn. (2016). Understanding Cultural Persistence and Change, Harvard University. Retrieved from https://scholar.harvard.edu/files/nunn/files/giuliano_nunn_restud_2021.pdf (Last accessed on 29.02.2024)

Social expectations and norms can significantly influence the gender gap in property ownership. Stereotypes that dictate traditional gender roles and norms can have a profound impact on women's ability to acquire and own property. One such stereotype is the expectation that women prioritise family over career. This stereotype often leads to women prioritising family responsibilities and caregiving duties over financial independence and, consequently, investing in property. On the other hand, men are often encouraged to invest in property early in their lives. This expectation is rooted in the belief that men are the primary breadwinners and providers for their families. As a result, men may be more likely to prioritise property ownership and financial investments over other life goals.

Moreover, perceptions of financial literacy play a significant role in perpetuating the gender gap in property ownership. Gender stereotypes often assume that men are inherently more financially literate and better equipped to handle property matters than women. This assumption is deeply rooted in societal beliefs about gender roles and capabilities, and it can have profound implications for women's access to property ownership. Apart from being more likely to encounter barriers when seeking loans⁸, these stereotypes can also affect women's confidence and self-perception when it comes to managing property and finances. Women may internalise these beliefs and feel less empowered to assert their rights or make informed decisions about property ownership. This can further exacerbate the gender gap in property ownership, as women may be less likely to pursue opportunities or advocate for themselves in property-related matters.

Workforce participation and income disparities are significant factors that contribute to the gender gap in property ownership. As explained in more detail in the following chapter of this analysis, gender stereotypes play a crucial role in shaping women's earning potential, leading to lower income and savings compared to men. These stereotypes often dictate that women are either obliged to be the primary caregivers or are less capable or less deserving of high-paying jobs, leading to unequal opportunities and compensation in the workforce⁹. As a result, women may face challenges in achieving financial stability, which is often a prerequisite for property ownership. Owning property typically requires a significant financial investment, including down payments, mortgage payments, and ongoing maintenance costs. Without a stable income or savings, women may struggle to afford these expenses, perpetuating the gender gap in property ownership.

8 Fletschner, D., Kenney, L. (2014). Rural Women's Access to Financial Services: Credit, Savings, and Insurance. In: Quisumbing, A., Meinzen-Dick, R., Raney, T., Croppenstedt, A., Behrman, J., Peterman, A. (eds) *Gender in Agriculture*. Springer, Dordrecht. https://doi.org/10.1007/978-94-017-8616-4_8

9 Reactor - Research in Action. (2022). Gender-based Discrimination and Labour in North Macedonia. https://reactor.org.mk/en/wp-content/uploads/sites/4/2022/03/en_b5-web.pdf

Unfortunately, the phenomenon of women holding less ownership of property than men is a global issue. A 2020 World Bank report highlights significant differences in gender gaps in property ownership across countries¹⁰. In nearly all nations, men are more likely to own property than women. Additionally, within individual countries, these gender gaps are more pronounced among disadvantaged population groups. Specifically, the gaps are more significant in rural areas compared to urban areas and among the poorest wealth quintiles compared to the wealthiest.

Additionally, this report emphasises the significant impact of women's property rights on their well-being and agency. It suggests that property distribution within a household influences each spouse's bargaining power, affecting their decision-making within the marriage. This is supported by empirical studies showing that a more equal asset distribution or women's property ownership correlates with increased participation in household decision-making by women, indicating greater agency. Additionally, the report highlights how women's property ownership benefits children, leading to increased spending on food, health, education, and children's goods, which improves their development outcomes. The report also notes inefficiencies resulting from women's lack of land and asset ownership, exacerbated by gender gaps, which can restrict women's access to credit and productive inputs, as seen in the 2011 World Bank report.

On a national level, there are a couple of reports that aim to give insight into the role of tradition on inheritance. One study conducted among women of Albanian ethnicity residing in North Macedonia highlights the societal pressure on female heirs to renounce their rights in accordance with family expectations and tradition¹¹. In addition to that, another research study¹² claims that one in four citizens involved in the study perceive tradition as a factor in the division of inheritance.¹³ However, it is worth noting that both papers are somewhat outdated. They also lack sufficient details regarding the attitudes and experiences assessed, the representability of the sampled population, and the reliability of the measurement techniques employed.

10 World Bank. (2022). Policy Research Working Paper 9444: Women's Legal Rights and Gender Gaps in Property Ownership in Developing Countries. <https://openknowledge.worldbank.org/server/api/core/bitstreams/a7487402-9d25-588e-9018-44686af15266/content>

11 Neziri, L., Azizi, A. (2018). Between Law and Traditions: the Practice of (Non) Participation of Girls from the Albanian Community in Macedonia in the Family Property Inheritance. *European Journal of Interdisciplinary Studies*, Volume 4, Issue 1, January- April 2018. Available at: https://revistia.org/files/articles/ejjs_v4_i1_18/Lindita.pdf

12 At the time of writing the report we were unable to find out the sample of the study since the methodology is not publicly available

13 <https://www.oicrf.org/documents/40950/43224/Land+and+Gender+Macedonian+Experience%281%29.pdf/3cd1558d-78ab-72a9-de4d-2c906cbe6879?t=1510194015937>

Socioeconomic gaps hinder property ownership

The nexus between gender and economic disparities presents a formidable obstacle to women aspiring to own property. The economic vulnerability stemming from lower employment rates and high inactivity rates among women amplify the pre-existing gaps in property ownership, particularly those rooted in discriminatory inheritance practices. Consequently, the economic disenfranchisement of women hinders their ability to enter the property market and perpetuates an ongoing cycle of gender-based disparities in asset ownership.

Analysing the working-age population shows a clear difference, where only 38.8% of women are employed compared to 55.9% of men¹⁴. This notable gap not only points to unequal employment opportunities but also underscores that a substantial majority of working-age women don't have a steady monthly income from employment.

Indeed, official statistics indicate that the majority of working-age women are economically inactive. Specifically, 55.7% of working-age women are economically inactive, contrasting with a much lower rate of 33.7% among men¹⁵. Within this economically inactive group, 41% of women identify as homemakers, a figure in stark contrast to the absence of men in this category¹⁶. Additionally, 18% of economically inactive women are students, compared to 26% of men, and 34% are pensioners, compared to 52% of men¹⁷.

The economic inactivity of women is often tied to dependency on other family members for income. Astonishingly, only 0.5% of economically inactive women have individual income sources such as rent, dividends, savings, or royalties¹⁸. In contrast, 8.3% depend on social benefits or assistance, while a substantial 49.8% rely on the salary or pension of other household members. Furthermore, 33.9% have a personal or family pension¹⁹.

In the absence of official data addressing the gender pay gap, a detailed analysis of earnings structure becomes imperative to gain nuanced insights. As an illustration, data from 2022 reveals that 71.1% of employed women earned less than 25,001 Macedonian denars, in contrast to 66.6% of men²⁰. Although not explicitly framing the gender pay gap, this breakdown underscores substantial

14 MakStat database (30.3.2023). Activity rates of the population aged 15 years and over by gender and age, annual

15 Ibid.

16 MakStat database (05.4.2023). Inactive population by categories and by age, annual

17 Ibid.

18 MakStat database (05.4.2023). Unemployed and inactive persons by gender and main sources of livelihood, annual

19 Ibid.

20 MakStat database (08.4.2022). Employed by net pay and gender, annual

discrepancies in income distribution, particularly highlighting that a significant majority of employed women fall into the lower income strata, earning below 25,001 Macedonian denars.

The analysis of the occupational structure of employment further suggests that men occupy prominent positions of economic authority, constituting 75.32% of employers and 77.61% of the self-employed citizens²¹. The concentration of men in employer and own account worker roles signals a significant gender imbalance in positions of economic leadership and economic agency. Conversely, women are predominant in the category of unpaid family workers, comprising 65.74% of this segment. An unpaid family worker is someone who operates within a family economic unit overseen by a family member or relative and receives no compensation, either in the form of a wage or in kind. This classification extends to farm households, particularly those involved in agriculture. In cases where multiple individuals within a household contribute to the family farm, one of them, typically the head of the household, is designated as self-employed, while the others are categorised as unpaid family workers. The gender imbalance among the self-employed workers and unpaid family workers, especially in the agricultural sector underscores a critical aspect of gender disparities, indicating that even in roles where women contribute significantly to family economies, they often lack ownership or control over the very resources they help sustain.

Women's lower employment rates, high inactivity rates, lower pay, and overrepresentation among unpaid family workers collectively create a multifaceted barrier to their ability to buy and own property. Firstly, lower employment rates limit women's access to stable incomes, making it challenging to accumulate the necessary financial resources for property ownership, including down payments and ongoing mortgage payments. The associated high inactivity rates further exacerbate this issue, as women may face difficulties in establishing a robust financial foundation due to limited participation in the workforce. Additionally, employment status significantly influences creditworthiness, with lower employment rates potentially leading to challenges in securing favourable mortgage terms.

The lower pay that women often receive compared to their male counterparts compounds these challenges, as it restricts their capacity to save and invest in property. Insufficient income hinders their ability to meet the financial requirements associated with property acquisition, potentially leading to dependence on external sources or familial support. Moreover, the overrepresentation of women among unpaid family workers

²¹ Ma Stat database (05.4.2023). Inactive population by categories and age, annual

highlights a structural imbalance, where their contributions to family economies may go unrecognised and uncompensated. This overrepresentation in unpaid family work can perpetuate financial dependence and limit women's agency in making independent decisions, including those related to property ownership.

Even though in North Macedonia there are laws that prohibit gender-based discrimination in employment and remuneration there are many factors that, singly or in combination, can lead to gender gaps in economic opportunities. These factors, as noted in the 2020 World Bank report include gender differences in access to productive resources (e.g. land and other property, capital and labour) and investment security, organisational practices or sticky social norms. As a result, women typically earn and control a smaller share of household income than men and are hence disadvantaged in accumulating savings for property investment. Moreover, the report highlights that women may face disproportionate barriers in access to financial products commonly used to finance land and housing acquisitions, especially savings accounts and mortgages and may face discrimination in property markets due to lack of bargaining power.

Collectively, these factors contribute to a cycle of economic disadvantage for women, hindering their ability to build wealth through property ownership. The impact extends beyond immediate financial constraints, affecting long-term economic security, independence, and the potential for wealth accumulation.

IN HER NAME

After the death of my father, part of my happiness was lost. (...) We initiated the inheritance procedure with my brother and mother, and we didn't even discuss the issue of division, because it was already decided by our parents that everything will be divided into equal parts: it was a mere formality...However, I was not prepared for what came next. After the division of the property, I faced a lot of insults and criticism from family members, colleagues, as well as friends, and even from some students... Accusations were foul-mouthed and came from all sides ("You will never enjoy it!"; "Does your brother speak to you?"; "I would never have done this to my brother"; "How did your husband let you do this stupid thing"; "You should feel guilty for shaming your brother"; etc.) Even those who liked this act of mine, could not declare that explicitly. None of these accusations and curses mentioned my mother, though, because according to our "traditional values", after the death of the husband, the son gets the wealth: not the mother nor the sister(s). (...) Did I feel bad that I "halved" my brother's wealth? I

often show these accusations to my brother, he laughs and says: "... we are very privileged that our parents have worked all their lives so that we can both preserve and cultivate what they have left us."

Arta Mero, a professor in the field of family and inheritance sharing her personal experience following her father's passing, shedding light on the complexities of inheritance and societal expectations surrounding gender roles and family dynamics.

LEGAL ANALYSIS

Constitution of the Republic of North Macedonia

The Constitution of the Republic of North Macedonia guarantees the fundamental freedoms and rights of its citizens²². Equality is one of the civil and political freedoms and rights enshrined in Article 9. According to this article, all citizens enjoy equal freedoms and rights, irrespective of sex, race, colour of their skin, national and social origin, political and religious beliefs, property and social status. Furthermore, everyone is considered equal before the Constitution and the law²³.

The Constitution guarantees the right to ownership of property²⁴ and the right to inheritance²⁵. Under these provisions, individuals and legal persons are granted the right to own property, and with that right come corresponding duties. This dynamic relationship is designed to contribute not only to the well-being of the individual property owner, but also to the overall well-being of the community. The Constitution acts as a shield, explicitly protecting owners from unwarranted deprivation of their property or associated rights. The principle is quite clear: no one can be arbitrarily deprived of their property, except in cases where the greater public interest is at stake, as determined by law²⁶.

Despite these formal guarantees, in 2013, only 16,63% of records listed women as owners or co-owners of property in North Macedonia, with this number rising to 27,27% in 2019²⁷ and 29% in 2023. This section of the analysis aims to scrutinise the relevant legal norms to uncover potential gaps in legislation or in its practical implementation, potentially contributing to the observed disparity where women own only a fraction of the property in the country.

22 Constitution of the Republic of North Macedonia. Official Gazette of the Republic of Macedonia no. 1/92, 31/98, 91/01, 84/03, 107/05, 3/09, 49/11 and 6/19.

23 Ibid. Article 9.

24 For the purposes of this legal analysis, we use the terms property and real estate interchangeably. Within the analysis, both terms refer to immovable objects or items as defined by the Law on Ownership and other Real Rights.

25 Constitution of the Republic of North Macedonia. Official Gazette of the Republic of Macedonia no. 1/92, 31/98, 91/01, 84/03, 107/05, 3/09, 49/11 and 6/19. Article 30.

26 For example, as in cases of expropriation.

27 FAO and GIZ (2020). Achieving SDG Indicator 5.a.2 in the Western Balkans and Beyond. Partnerships for Gender Equality in Land Ownership and Control 2020. Available at: <https://bit.ly/3UPWtYa>

Right to ownership

The Law on Ownership and other Real Rights²⁸ takes centre stage as the key legislation governing the right to ownership. In North Macedonia, the right to ownership is accessible to all domestic and foreign persons, as well as legal entities²⁹. The law recognises three distinct sub-forms of shared ownership: co-ownership, joint ownership and floor ownership³⁰. Our analysis takes a closer look at the right to joint ownership within both marital and extramarital³¹ unions. As we delve into the subject, the aim is to unravel and understand any gender disparities in property ownership.

Joint ownership

Joint ownership, as defined by law, emerges when multiple persons share ownership of an undivided item. What sets it apart is that while portions owned by each individual are determinable, they aren't predetermined. This specific form of ownership arises in various circumstances, such as within marital and extramarital unions, inheritance communities, family unions, and other cases specified by law³².

Joint ownership in a marital and extramarital union

In marriage and extramarital unions, property can assume both joint and separate statuses. Any items acquired during these relationships are designated as joint ownership. On the other hand, property obtained through inheritance, gifted assets or items used exclusively for one partner's needs fall under the category of separate property³³.

When it comes to managing and using their joint property, spouses and partners are in it together and mutual agreement is needed for any significant decision.³⁴ This means that neither party can independently use, sell or otherwise encumber their portion without the explicit agreement of the other. However, there is room for flexibility. Spouses or partners can opt for a different arrangement by putting

28 Law on Ownership and other Real Rights. Official Gazette of the Republic of Macedonia no. 18/01, 139/09 and 35/10.

29 Ibid. Article 2.

30 Ibid. Article 30.

31 In Article 13 of the Family Law (Official Gazette of the Republic of Macedonia no. 80/92, 9/96, 38/04,33/06, 84/08, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 and 150/15 and Official Gazette of the Republic of North Macedonia no. 53/21 and 199/23), an extramarital union is defined as a community of life between a man and a woman not established in accordance with the provisions of the Family Law and lasting for at least one year. This union is considered equal to a marital union regarding the right to mutual financial support and property acquired during its duration.

32 Ibid. Article 59, paragraph 2.

33 Ibid. Articles 66, 67 and 68.

34 Ibid. Article 70.

it in writing. This written agreement might delegate the management and use of joint property, or a portion of it, to just one of them.

Dividing joint property

During their marriage or extramarital partnership or following its end, the spouses or partners have the option to divide their joint property, thereby initiating the regime of separate property³⁵. In cases where an agreement is not reached, upon the request of one of them, the division of the joint property will be carried out by the court. The court generally assumes an equal division, but it can award a larger portion to one individual if they can convincingly demonstrate a significantly greater contribution to the joint property³⁶. Moreover, if the court determines that one of the parties owns a significantly smaller share, it may decide to provide monetary compensation for that portion³⁷.

This raises concerns, especially considering the significant gender gaps in labour force participation and employment. As explained in previous sections of this analysis, official statistics indicate that the majority of working-age women are categorised as economically inactive, meaning they are out of the labour market and financially dependent on other family members. Additionally, the majority of these economically inactive women are not seeking employment due to family or caring responsibilities. While these women shoulder the burden of housework and unpaid care work, their labour is not financially compensated. A potential risk is that, in such scenarios, the husband or partner might demonstrate a larger financial contribution to the joint property, possibly resulting in a larger portion being awarded to him. For instance, a court might award the husband the family house due to his greater financial contribution, leaving the wife with some monetary compensation but without a home. To understand the impact and fairness of property division, further research into the practices of the courts in dividing joint property is necessary. This would shed light on whether the current legal framework and its practical implementation ensure gender equality and equitable outcomes in the division of joint property.

35 Ibid. Article 74.

36 Ibid. Article 75.

37 Ibid. Article 78.

Sale of property and registration of real estate in public records

Within the framework of the Law on Obligations³⁸, various avenues exist for transferring the right of ownership³⁹. In our analysis, we narrow the focus on the transfer through sale agreements, a method widely practised in real estate transactions. Beyond this, we delve into the registration of joint property in public records within both marital and extramarital unions.

By law, any agreement for sale of real estate should be formalised in writing. The written agreement must further undergo verification by a notary public⁴⁰. In essence, notaries serve as the crucial filter through which the right of ownership, including joint ownership, is transferred, and subsequently registered in public records. This additional step adds a layer of legal security to the transaction. The designated repository for these registrations is the Real Estate Cadastre, a public book where the right of ownership and other real rights are officially documented.

Some of the fundamental principles of the Law on Real Estate Cadastre⁴¹ include the “principle of constituency of registration” and the “principle of obligatory registration”. What these principles essentially imply is that the right to property ownership is established through its compulsory registration in the Cadastre⁴². As discussed in the previous section of this legal analysis, property acquired during a marriage or during an extramarital relationship constitutes joint ownership. The Law on Ownership and other Real Rights, specifically in article 69, outlines the registration of joint property. The first paragraph stipulates that the right to joint ownership is documented in public records under the names of both spouses. However, the second paragraph introduces a crucial provision:

“If in the public records only one of the spouses is registered as the owner of the joint property, it will be considered that the registration is carried out in the name of both spouses.”⁴³

38 Law on Obligations. Official Gazette of the Republic of Macedonia no.18/01, 04/02, 84/08, 81/09, 161/09, 123/13 and Official Gazette of the Republic of North Macedonia no.215/21 and 154/23.

39 For instance, with a sale agreement, an exchange agreement, gift agreement, agreement for the transfer of property during life, agreement for lifelong support.

40 Ibid. Article 443.

41 Law on Real Estate Cadastre. Official Gazette of the Republic of Macedonia no. 55/13, 41/14, 115/14, 116/15, 153/15, 192/15, 61/16, 172/16, 64/18 and Official Gazette of the Republic of North Macedonia no.124/19.

42 Ibid. Articles 142 and 143.

43 Law on Ownership and other Real Rights. Official Gazette of the Republic of Macedonia no. 18/01, 139/09 and 35/10. Article 69, paragraph 2

Expert interviews⁴⁴ and legal briefs⁴⁵ have shed light on the presumed intention behind this second paragraph of article 69 – to protect the interests of spouses or partners who may not have been formally registered as joint owners in the past. While this formulation safeguards the joint ownership rights of the unregistered spouse, the specific language used introduces a certain level of legal ambiguity; it opens the possibility of joint ownership being registered solely under the name of one individual. This provision is also in collision with the Law on Real Estate Cadastre and its principles of constituency of registration and obligatory registration. Further research into the practical implementation is necessary to determine whether this provision, intended as an exception from the general rule, is being routinely applied as the standard practice.

In the consultations held with notaries for the purposes of this analysis, a notary public⁴⁶ confirmed this observation, emphasising that there is no legal obligation to register property under both spouses' names.

In my experience, the predominant practice is to register the property under the husband's name. – Female notary, 50

She also believes that there is a lack of awareness among citizens regarding the legal provisions for joint property registration. Corroborating this perspective, another notary public⁴⁷ also acknowledged that, in his experience, despite the legal provision for joint registration, this article is not consistently applied in practice. However, he noted that when he educates parties involved in a transaction about joint property registration, there is generally a cooperative response without “resistance”.

Another crucial consideration is the title deed, a public document serving as evidence of registered ownership rights⁴⁸. If one of the spouses is not registered in the Cadastre, obtaining a title deed in their name becomes challenging. While their joint ownership right is legally protected, they may encounter difficulties demonstrating their ownership easily, potentially requiring additional documentation, such as a marriage certificate, in various administrative procedures. For example, to update one's address with the Ministry of Internal

44 Interview with FAO expert, February 2024.

45 Mitic, Kristina (2018). How to promote women's access to immovable property in FYR Macedonia: a review of the legislative framework : Legal brief on the regulation of ownership rights over immovable property acquired during marital union and cohabitation in FYR Macedonia (English). Washington, D.C.: World Bank Group. Available at: <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/395951530194326671/legal-brief-on-the-regulation-of-ownership-rights-over-immovable-property-acquired-during-marital-union-and-cohabitation-in-fyr-macedonia>

46 Consultation meeting with a notary public, February 2024.

47 Consultation meeting with a notary public, February 2024.

48 and Law on Real Estate Cadastre. Official Gazette of the Republic of Macedonia no. 55/13, 41/14, 115/14, 116/15, 153/15, 192/15, 61/16, 172/16, 64/18 and Official Gazette of the Republic of North Macedonia no.124/19, Article 156.

Affairs, proof of residence – typically a document confirming ownership (like the title deed) or a lease agreement – is required. In this context, the unregistered spouse might need to present a marriage certificate to affirm their joint ownership or secure a statement of agreement from their spouse as the registered owner. Apart from the administrative burdens mentioned earlier, several other concerns arise when property is registered solely under one spouse's name. For example, if the property is registered only under the husband's name, potential scenarios emerge wherein he could sell the property without his wife's consent. In such cases, the buyer, acting in good faith and unaware of the joint ownership status, is protected by law. Drawing on the principles of trust in and accuracy of public records, which will be elaborated below, it is important to note that the lack of good faith cannot be attributed to anyone simply because they did not investigate beyond what was registered in the public records⁴⁹.

The situation becomes even more challenging when one partner in an extramarital union is not registered as the owner in public records. While demonstrating property acquired during a marriage is relatively straightforward, with the marriage certificate indicating the union's start date, proving the commencement of an extramarital partnership poses greater difficulties. These partnerships are not officially registered, and the only legal criterion is the union must have lasted for at least a year. However, verifying this requirement can be complex, having in mind the various possibilities of living arrangements while cohabitating.

Furthermore, if there is no joint registration in an extramarital union, the documented owner could potentially sell the property without their partner's consent. Even for notaries, exercising due diligence when confirming whether the seller is in an extramarital union would be more than challenging. During expert consultations with notaries, recalling cases involving partners in extramarital unions proved difficult, possibly because sellers often do not disclose their relationship status if they are not married. In instances where property was registered solely under the male partner's name, one notary public directed partners to establish their joint ownership through court proceedings. Consequently, women in such scenarios would need to undergo a costly and lengthy legal process to prove their joint ownership.

Equally significant for this discussion are the aforementioned principles of trust in and accuracy of public records, embedded in the Law on Real Estate Cadastre and the Law on Ownership. These principles presume that data registered in

⁴⁹ Law on Ownership and other Real Rights. Official Gazette of the Republic of Macedonia no. 18/01, 139/09 and 35/10, Article 150, paragraph 3.

public records, such as the Cadastre, are accurate⁵⁰. Consequently, a person relying on this information, unaware of inaccuracies, is shielded from negative consequences⁵¹. Emphasising the principles of trust and accuracy of the public records, a notary public underscored that he relies on the title deed to establish ownership, without further investigation into potential unregistered owners in the Cadastre^{52,53}.

If an individual is not registered as the owner in the public records, they possess a lesser right than the registered owner. – Male notary, 60

In preventing such scenarios as the ones described in this section of the analysis, exercising due diligence in notarial practices is paramount. In 2019, the Food and Agriculture Organization of the United Nations (FAO) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH published the *Guidelines on Strengthening Gender Equality in Notarial Practices – South-East Europe*⁵⁴. Additionally, in 2021, FAO and GIZ published specific guidelines for North Macedonia⁵⁵. In both these publications they identify the unique position of notaries in the context of gender equality and property rights and offer them practical guidance for the exercise of due diligence in the situations in which women's rights are at stake⁵⁶. As elaborated in the section of this gender analysis that delves into insights gathered from our consultations with notaries, it is noteworthy that only around half of the participating notaries were aware of the Guidelines on Strengthening Gender Equality in Notarial Practices – South-East Europe. Among those acquainted with the Guidelines, the majority were female notaries who claimed to actively incorporate them into their practice.

50 Law on Ownership and other Real Rights. Official Gazette of the Republic of Macedonia no. 18/01, 139/09 and 35/10, Articles 150 and 151 and Law on Real Estate Cadastre. Official Gazette of the Republic of Macedonia no. 55/13, 41/14, 115/14, 116/15, 153/15, 192/15, 61/16, 172/16, 64/18 and Official Gazette of the Republic of North Macedonia no.124/19, Article 145.

51 Ibid.

52 Consultation meeting with a notary public, February 2024.

53 It should be noted that the notary clarified that he asks for and checks the marriage certificate of the seller.

54 FAO and GIZ (2019). Guidelines on Strengthening Gender Equality in Notarial Practices – South-East Europe. Rome.

Available at: <https://www.fao.org/3/CA2953EN/ca2953en.pdf>

55 GIZ and FAO (2021). Notarial practices in North Macedonia – Strengthening gender equality in land ownership and control. Rome. Available at: <https://www.fao.org/3/cb5715b/cb5715b.pdf>

56 Ibid.

Right to inheritance

As established in the initial section of this legal analysis, North Macedonia constitutionally guarantees both equality and the right to inheritance. The Law on Inheritance⁵⁷ reinforces this commitment by explicitly stipulating equal inheritance rights for all citizens under the same conditions. In this section, we take a closer look at the Law on Inheritance, the Law on Non-Contentious Procedure⁵⁸ and the Notary Law⁵⁹, as most relevant for probate proceedings.

Under the legal framework, object and rights belonging to individuals are inheritable⁶⁰, either by law or based on a will⁶¹. Legal heirs include the deceased's children (both biological and adopted), spouse, parents and adoptive parents, siblings, grandparents, and the descendants of these family members. The law defines three hereditary lines, with heirs from the closer lines excluding those from more distant ones⁶². The first line consists of the spouse and the children who inherit equal shares⁶³. If there are no descendants, the estate is divided equally between the parents and the spouse.⁶⁴ In the third line, inheritance is shared equally between paternal and maternal grandparents. Numerous nuances may arise, particularly when an heir has passed away before the opening of the inheritance.

Renouncing inheritance

According to the law, an heir can decide not to accept their inheritance up until the probate proceeding is concluded. The formal act of renouncing one's inheritance involves a clear and explicit refusal expressed through a "declaration of disinheritance". Importantly, the default rule is that if someone renounces their inheritance, their descendants are also considered to have renounced it, unless explicitly specified otherwise⁶⁵.

When considering the renunciation of inheritance, it's crucial to emphasise that this act cannot be partial or conditional. Additionally, any attempt to waive an inheritance that has not yet been opened carries no legal weight⁶⁶. In other words, an individual cannot preemptively give up their right to inheritance

57 Law on Inheritance. Official Gazette of the Republic of Macedonia no. 47/96. Article 3.

58 Law on Non-Contentious Procedure. Official Gazette of the Republic of Macedonia no. 9/08.

59 Notary Law. Official Gazette of the Republic of Macedonia no. 72/16, 142/16 и 233/18.

60 Inheritance Law. Official Gazette of the Republic of Macedonia no. 47/96. Article 2.

61 Ibid. Article 6.

62 Ibid. Article 12.

63 Ibid. Article 13.

64 Ibid. Article 16.

65 Ibid. Article 128.

66 Ibid. Article 132.

before the passing of the deceased. Moreover, it is crucial to understand that once a declaration of renunciation (or acceptance) of inheritance has been given, it is generally irrevocable. Exceptions are made and an heir can request its annulment if the declaration was made under duress, threat or because of fraud or misrepresentation. During our consultations with notaries, several of the participating notaries affirmed they educate the heirs on all these aspects of inheritance law.

A person can also decline their share by giving a statement assigning inheritance to a specific heir. This declaration is valid only if the designated heir agrees to receive that part of the estate⁶⁷.

In practical terms, the distinction between declarations of disinheritance and statements assigning inheritance to a specific heir is straightforward. When an individual renounces their inheritance, their portion is distributed among the remaining heirs. Conversely, if someone opts to assign their inheritance, it signifies their decision to transfer their share to a specific heir.

Probate proceedings

Since 2008, when the Law on Non-Contentious procedure came into force, probate proceedings have been carried out by the notaries as trustees of the courts. Probate proceedings are initiated ex officio by the court upon learning of an individual's death⁶⁸. The court then assigns a notary within the jurisdiction to handle the case, providing the case file with all relevant documents⁶⁹. As trustees of the court, notaries are authorised to take all necessary actions and make all decisions, except those for which the law prescribes otherwise⁷⁰. If there is an objection to the decision of the notary and in other cases specified by law, the case file is returned to the competent court of the first instance. Otherwise, the decision of the notary becomes final, the file is returned to the court and archived, while the notary retains a copy of the documents⁷¹.

Is having a good legal framework enough?

The studies mentioned in Chapter 1 of this analysis highlight that while legislative reforms can have a significant impact on women's property ownership, their effectiveness is often limited by persistent social norms. In environments where

67 Ibid. Article 131.

68 Law on Non-Contentious Procedure. Official Gazette of the Republic of Macedonia no. 9/08. Article 121.

69 Ibid. Article 126, paragraph 2.

70 Ibid. Article 126, paragraph 3.

71 Ibid. Article 134.

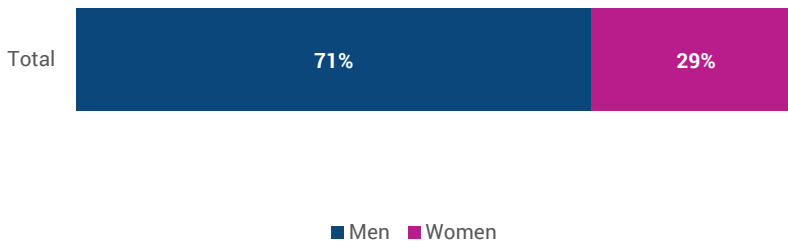
women are generally perceived as less valuable than men, these entrenched social norms can act as barriers, hindering the full realisation of legislative changes. This highlights the complex relationship between legal reforms and deeply ingrained cultural attitudes towards gender, which must be addressed simultaneously to achieve meaningful progress in gender equality and property ownership.

DIVING INTO THE DATA: RESEARCH FINDINGS

Gender Gaps in Ownership

Official gender-disaggregated data on ownership in North Macedonia is currently unavailable. However, administrative data from the Cadastre⁷², which has been disaggregated by gender upon request, offers valuable insights. Table 1 presents the number of property records owned by men and women, along with the respective share of property ownership. It is important to note that the number of property records does not necessarily equate to the number of owners. For example, one woman may own multiple properties. Furthermore, the data does not distinguish between various ownership rights (e.g., sole owners, co-owners, joint owners), so interpretation should be exercised with caution.

As of 2023, the available data underscores significant gender disparities, with men constituting 71% of property records compared to women's 29% (Graph 1).



Graph 1. Property ownership at national level, by gender (2023)

This trend is consistent across different regions. Particularly noteworthy is the highest percentage of property units owned by women in Skopje, at 36%, while the lowest percentage is observed in Debar, standing at 15%. These findings underscore a persistent gender gap in property ownership across North Macedonia.

⁷² The public book where the right of ownership and other real rights are officially documented.

Table 1. Gender distribution of ownership across cadastreunits as of 2023.

| Cadastre Unit | Property Records (Men) | Property Records (Women) | Total Property Records | Percentage of Property Records (Men) | Percentage of Property Records (Women) |
|----------------------|-------------------------------|---------------------------------|-------------------------------|---|---|
| Skopje | 368525 | 206726 | 575251 | 64 | 36 |
| Shtip | 30557 | 15700 | 46257 | 66 | 34 |
| Gevgelija | 26534 | 13473 | 40007 | 66 | 34 |
| Bitola | 86438 | 44974 | 131412 | 66 | 34 |
| Ohrid | 72748 | 35958 | 108706 | 67 | 33 |
| Berovo | 28275 | 12952 | 41227 | 69 | 31 |
| Veles | 38641 | 17672 | 56313 | 69 | 31 |
| Resen | 20558 | 9306 | 29864 | 69 | 31 |
| Kavadarci | 32762 | 13333 | 46095 | 71 | 29 |
| Prilep | 69994 | 28587 | 98581 | 71 | 29 |
| Probishtip | 15455 | 6208 | 21663 | 71 | 29 |
| Kriva Palanka | 39839 | 15766 | 55605 | 72 | 28 |
| Kochani | 36480 | 14283 | 50763 | 72 | 28 |
| Demirhisar | 10732 | 3888 | 14620 | 73 | 27 |
| Delchevo | 30551 | 10873 | 41424 | 74 | 26 |
| Negotino | 14680 | 5225 | 19905 | 74 | 26 |
| Kumanovo | 98002 | 34061 | 132063 | 74 | 26 |
| Kratovo | 18654 | 6386 | 25040 | 75 | 26 |
| Strumica | 67969 | 24155 | 92124 | 74 | 26 |
| Sveti Nikole | 24020 | 8363 | 32383 | 74 | 26 |
| Vinica | 18061 | 6073 | 24134 | 75 | 25 |
| Radovish | 26698 | 8629 | 35327 | 76 | 24 |
| Valandovo | 8633 | 2654 | 11287 | 76 | 24 |

| Cadastre Unit | Property Records (Men) | Property Records (Women) | Total Property Records | Percentage of Property Records (Men) | Percentage of Property Records (Women) |
|------------------------|------------------------|--------------------------|------------------------|--------------------------------------|--|
| Makedonski Brod | 13105 | 3812 | 16917 | 77 | 23 |
| Struga | 48411 | 12658 | 61069 | 79 | 21 |
| Krushevo | 10429 | 2688 | 13117 | 80 | 20 |
| Kichevo | 50893 | 12943 | 63836 | 80 | 20 |
| Tetovo | 125140 | 25430 | 150570 | 83 | 17 |
| Gostivar | 64851 | 13098 | 77949 | 83 | 17 |
| Debar | 17369 | 3135 | 20504 | 85 | 15 |
| Total | 1515004 | 619009 | 2134013 | 71 | 29 |

The data obtained from the Cadastre, lacks segregation by property type, encompassing records for property rights of both land and objects (such as houses, buildings, or apartments). This is unfortunate since gender disparities could be different for land and object ownership.

Despite being older, the 2016 edition of the Gender Equality Index for Municipalities offers more detailed insights derived from Cadastre data at the level of Local Self-Government Units (LSGU), indicating a similar trend.

The 2016 edition of the Gender Equality Index for Municipalities sheds light on property ownership disparities, drawing data from the Cadastre at the level of Local Self-Government Units (LSGU). Overall, women hold ownership or co-ownership rights in 31% of object records and 23% of land records, indicating a higher disparity in land ownership. However, a closer examination of LSGUs reveals even more pronounced gender gaps in certain areas. For instance, in Karposh, women hold ownership or co-ownership rights in 42% of object records, while in Zelino, this figure drops to a mere 4%. Similarly, in Centar, women hold ownership or co-ownership rights in 40% of land records, contrasting sharply with Bogovinje, where the figure stands at only 8%.

Table 2. Gender distribution of land and object ownership across Lsgu as of 2016.

| LSGU | Object Records (Women) | Object Records (Men) | Land Records (Women) | Land Records (Men) | Share of Object Records (Women) | Share of Land Records (Women) |
|--------------------------|-------------------------------|-----------------------------|-----------------------------|---------------------------|--|--------------------------------------|
| Centar | 39250 | 60332 | 7201 | 10730 | 39 | 40 |
| Karposh | 33936 | 47123 | 7885 | 13496 | 42 | 37 |
| Aerodrom | 36995 | 54489 | 6973 | 12216 | 40 | 36 |
| Chair | 36974 | 66448 | 6738 | 11934 | 36 | 36 |
| Kisela Voda | 60564 | 95398 | 12955 | 23619 | 39 | 35 |
| Gradsko | 731 | 2708 | 3906 | 7345 | 21 | 35 |
| Grad Skopje | 263205 | 470799 | 76218 | 171711 | 36 | 31 |
| Ĵorche Petrov | 19332 | 40478 | 9260 | 21643 | 32 | 30 |
| Bitola | 36899 | 71493 | 21474 | 52859 | 34 | 29 |
| Petrovec | 2168 | 7287 | 5325 | 13205 | 23 | 29 |
| Ohrid | 22678 | 41186 | 20118 | 50000 | 36 | 29 |
| Sopishte | 2420 | 6152 | 7558 | 18803 | 28 | 29 |
| Shuto Orizari | 4118 | 16498 | 2159 | 5445 | 20 | 28 |
| Chucher - sandevo | 1974 | 6150 | 10579 | 27184 | 24 | 28 |
| Veles | 15818 | 36854 | 9760 | 25216 | 30 | 28 |
| Karbinci | 509 | 1745 | 2247 | 5842 | 23 | 28 |
| Butel | 16214 | 45436 | 8659 | 22603 | 26 | 28 |
| Bogdanci | 2345 | 6222 | 4818 | 12583 | 27 | 28 |
| Dojran | 2353 | 4495 | 1984 | 5317 | 34 | 27 |
| Gazi Baba | 15111 | 39633 | 11373 | 30548 | 28 | 27 |
| Gevgelija | 9214 | 21638 | 8480 | 22778 | 30 | 27 |

| LSGU | Object Records (Women) | Object Records (Men) | Land Records (Women) | Land Records (Men) | Share of Object Records (Women) | Share of Land Records (Women) |
|-----------------------------|------------------------|----------------------|----------------------|--------------------|---------------------------------|-------------------------------|
| Prilep | 21543 | 57674 | 21267 | 57132 | 27 | 27 |
| Resen | 4826 | 13816 | 13724 | 36876 | 26 | 27 |
| Shtip | 18211 | 38714 | 10559 | 28717 | 32 | 27 |
| Mavrovo and Rostushe | 1745 | 5123 | 3617 | 10152 | 25 | 26 |
| Debarca | 330 | 1646 | 12522 | 35862 | 17 | 26 |
| Novaci | 375 | 1936 | 6490 | 18595 | 16 | 26 |
| Ilinden | 2266 | 9012 | 4597 | 13257 | 20 | 26 |
| Zelenikovo | 639 | 1696 | 1567 | 4654 | 27 | 25 |
| Kavadarci | 9977 | 30743 | 12443 | 37737 | 25 | 25 |
| Berovo | 6347 | 17301 | 20005 | 60987 | 27 | 25 |
| Kriva Palanka | 10431 | 27908 | 53972 | 164698 | 27 | 25 |
| Chashka | 1690 | 5600 | 7287 | 23052 | 23 | 24 |
| Kumanovo | 24094 | 63878 | 32749 | 103923 | 27 | 24 |
| Zrnovci | 654 | 2379 | 2700 | 8786 | 22 | 24 |
| Kochani | 10431 | 28550 | 14250 | 46525 | 27 | 23 |
| Rosoman | 697 | 3366 | 3098 | 10157 | 17 | 23 |
| Pehchevo | 3409 | 9943 | 7480 | 24589 | 26 | 23 |
| Sveti Nikole | 4691 | 18914 | 11934 | 39448 | 20 | 23 |
| Dolneni | 360 | 3307 | 11663 | 38649 | 10 | 23 |
| Negotino | 4818 | 15773 | 5242 | 17615 | 23 | 23 |
| Radovish | 5143 | 18263 | 12425 | 42260 | 22 | 23 |
| Krivogashtani | 1169 | 5521 | 5895 | 20203 | 17 | 23 |
| Delchevo | 6318 | 19524 | 28727 | 98848 | 24 | 23 |
| Makedonski Brod | 2735 | 10534 | 12154 | 42518 | 21 | 22 |

| LSGU | Object Records (Women) | Object Records (Men) | Land Records (Women) | Land Records (Men) | Share of Object Records (Women) | Share of Land Records (Women) |
|----------------------------|-------------------------------|-----------------------------|-----------------------------|---------------------------|--|--------------------------------------|
| Strumica | 14761 | 35340 | 10961 | 38387 | 29 | 22 |
| Probishtip | 6371 | 22328 | 16299 | 57828 | 22 | 22 |
| Kratovo | 6025 | 21838 | 34265 | 123791 | 22 | 22 |
| Demir Hisar | 1294 | 5813 | 10504 | 38729 | 18 | 21 |
| Lozovo | 542 | 2107 | 2061 | 7795 | 20 | 21 |
| Vinica | 5215 | 17695 | 15247 | 57932 | 23 | 21 |
| Rankovce | 3336 | 12028 | 16389 | 62354 | 22 | 21 |
| Demir Kapija | 1134 | 4348 | 1983 | 7965 | 21 | 20 |
| Kichevo | 9334 | 37456 | 26542 | 106964 | 20 | 20 |
| Valandovo | 2353 | 8026 | 4486 | 18391 | 23 | 20 |
| STARO Nagorichane | 2490 | 9571 | 18677 | 76600 | 21 | 20 |
| Tearce | 546 | 4358 | 4907 | 21032 | 11 | 19 |
| Novo Selo | 1839 | 8659 | 6983 | 30028 | 18 | 19 |
| Makedonska Kamenica | 2023 | 9563 | 11899 | 53453 | 17 | 18 |
| Brvenica | 510 | 4217 | 2665 | 12063 | 11 | 18 |
| Jegunovce | 362 | 1950 | 3544 | 16102 | 16 | 18 |
| Struga | 12740 | 36416 | 15253 | 70126 | 26 | 18 |
| Tetovo | 12577 | 47067 | 6406 | 29513 | 21 | 18 |
| Krushevo | 3470 | 9885 | 4415 | 20661 | 26 | 18 |
| Bosilovo | 1298 | 6664 | 5242 | 24622 | 16 | 18 |
| Vasilevo | 872 | 4721 | 4111 | 19650 | 16 | 17 |
| Mogila | 941 | 5474 | 5437 | 26048 | 15 | 17 |
| Vevchani | 315 | 1568 | 597 | 2897 | 17 | 17 |

| LSGU | Object Records (Women) | Object Records (Men) | Land Records (Women) | Land Records (Men) | Share of Object Records (Women) | Share of Land Records (Women) |
|-----------------------------|------------------------|----------------------|----------------------|--------------------|---------------------------------|-------------------------------|
| Cheshinovo-Obleshevo | 991 | 4712 | 6197 | 30984 | 17 | 17 |
| Studenichani | 1031 | 3890 | 2706 | 14147 | 21 | 16 |
| Konche | 391 | 3412 | 4043 | 21257 | 10 | 16 |
| Centar Zupa | 406 | 4012 | 2811 | 15441 | 9 | 15 |
| Debar | 2510 | 15043 | 2980 | 17076 | 14 | 15 |
| Plasnica | 300 | 2895 | 1299 | 8134 | 9 | 14 |
| Saraj | 711 | 4964 | 3015 | 19477 | 13 | 13 |
| Gostivar | 6489 | 35061 | 5616 | 37931 | 16 | 13 |
| Arachinovo | 83 | 799 | 369 | 2625 | 9 | 12 |
| Lipkovo | 124 | 2614 | 2435 | 20028 | 5 | 11 |
| Vrapchishte | 387 | 5648 | 1548 | 14197 | 6 | 10 |
| Zelino | 142 | 3256 | 1751 | 18669 | 4 | 9 |
| Bogovinje | 458 | 7132 | 1294 | 15341 | 6 | 8 |
| Total | 870078 | 1964215 | 826974 | 2708555 | 31 | 23 |

Insights from civil courts

To assess the proportion of men and women giving declarations of disinheritance or statements assigning inheritance to a specific heir, freedom of information requests (FOI) were submitted to 26 courts of first instance⁷³ in the Republic of North Macedonia. This data collection approach was chosen because, according to the law and as explained above, once probate proceedings are concluded, notaries return the case files to the courts, which then archive them. Collecting this data directly from all notaries individually would have been a complex and challenging task, given the existence of 197 notaries public in the country⁷⁴.

In our FOI requests, we requested data on the number of declarations of disinheritance and statements assigning inheritance to a specific heir for the preceding three years (from 2021 to 2023). We requested the data to be disaggregated by year and by the sex of the heir providing the declaration or statement. Responses were received from 22 courts⁷⁵, but only seven provided gender-disaggregated data. Generally, apart from these seven courts, others directed us to seek information from the notaries acting as court trustees in probate proceedings. They further explained that information regarding (dis)inheritance declarations and statements and the sex or gender of the heirs is not logged in the Automated Court Case Management Information System (ACCMIS), making automatic extraction impossible. In most responses, courts clarified that due to the substantial number of probate cases archived in the past three years, they lack human resources to manually sift through files and extract the requested information.

We would have to shut down the whole court for a month to be able to respond to your request. – Male court clerk⁷⁶

Some courts also considered that they are not under legal obligation to provide the data, explaining that since this information is not logged into the ACCMIS system, they would essentially be “creating new information” by manually sifting through each case. This stance was based on their interpretation of the Law on Free Access to Public Information, specifically the definition of “public information”⁷⁷. However, according to this law, public information encompasses not only data created by institutions but also information held by them. In the

73 There are 27 courts of first instance in the country, including two in the city of Skopje – a basic civil court and a basic criminal court. The remaining 25 courts have jurisdiction over both civil and criminal cases. FOI requests were sent to 26 of these courts, excluding the criminal court in Skopje, which does not handle probate proceedings.

74 <https://www.nkrm.org.mk/index.php/pages/imenik-na-notari>

75 We did not receive answers to our FOI requests from the basic courts in Kavadarci, Ohrid, Prilep and Kichevo.

76 A court clerk in a phone conversation with Reactor’s researcher, January 2024.

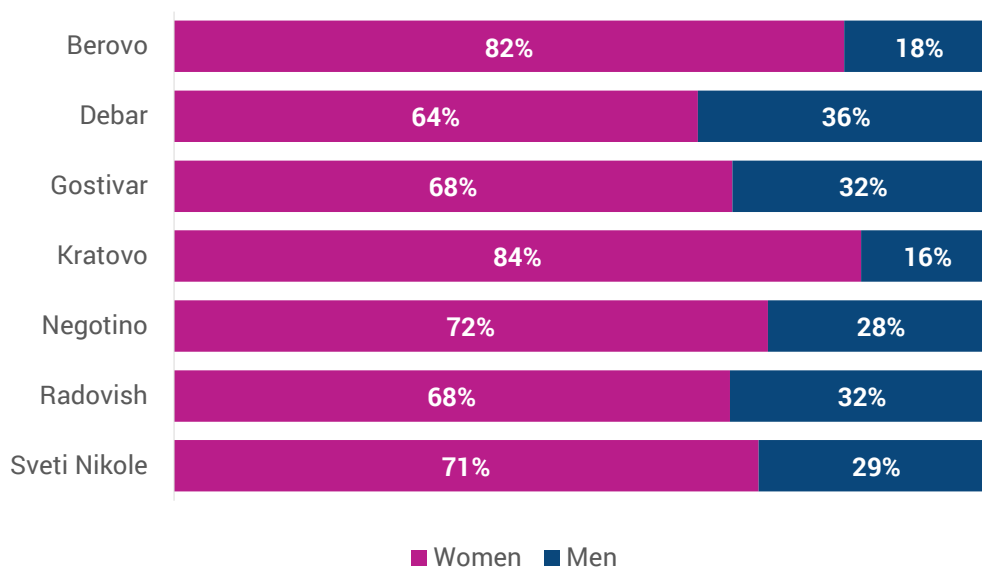
77 Law on Free Access to Public Information. Official Gazette of the Republic of North Macedonia 101/19. Article 3.

context of probate proceedings, as case files are archived in the basic civil courts, these courts are arguably holders of the requested data. This aligns with the answers from courts that did provide information in response to our FOI requests.

The seven courts that did provide disaggregated data were primarily in smaller towns (Negotino, Kratovo, Berovo, Radovish, Sveti Nikole, Gostivar and Debar). These courts made efforts to manually count the declarations and statements in each individual case file.

Although not statistically representative, the data provided from these few smaller courts highlights a noteworthy pattern, with women representing a significant proportion, ranging from 64% to 84% of the individuals that gave declarations of disinheritance within the jurisdictions of seven out of 26 courts. While intriguing, these findings are limited in scope and additional research is necessary to gain a more comprehensive understanding of potential gender disparities and the specific factors influencing decisions around inheritance.

Declarations of disinheritance 2021-2023



The disaggregated data provided by the seven courts on statements assigning inheritance to a specific heir indicates that such statements are relatively rare, making it challenging to provide a comprehensive analysis on any gender disparities in this particular aspect.

What do the notaries public say?

Joint Property Transactions

In the expert consultations with notaries, the main topic of discussion was the role of gender in real estate transactions and inheritance. One of the most striking findings was the disparity in property ownership between married couples. Even though as explained in the legal analysis, the property acquired during a marriage or during an extramarital relationship constitutes joint ownership⁷⁸, during real estate transactions, the ownership of joint property was often recorded in the husband's name, regardless of whether they were selling or buying.

In cases of selling joint property, both spouses must sign an agreement to transfer ownership to the buyer. If only one of the spouses is registered as the sole owner in the public records, the written consent of the other spouse is required if the property was purchased during the marriage. The timeline of the purchase is determined through a request for various documents (title deed, marriage certificate, etc.). However, if the buyer is purchasing real estate individually, the property is automatically registered in their name. In these situations, even though notaries should practise due diligence, they are not required to request proof of the buyer's marital status. This practice of men being stated as sole owners of the property seemed to be connected to a prevailing mentality that still perceives the man as the primary breadwinner and the main contributor to the family's finances. This traditional view of gender roles may influence the way property is handled within the marriage, with the husband's name being prioritised on official documents.

When it comes to property ownership, it's usually the man's name that's on the papers. Sure, there are women and couples who share ownership, but most of the time, it's the men who are listed as the owners. If the property was bought during a marriage, we need the wife's written consent to sell it. We figure out when it was bought by asking for documents, and we collect evidence for inheritance cases. Oh, and buyers are also mostly men! I'd say about 7 or 8 out of 10 times, it's a man who's buying. – Female notary, 40

On the other hand, an unlikely trend was observed in the interviews when it came to the ownership of property among couples in extramarital union. While male sellers were more common, this could be attributed to the fact that men

⁷⁸ For more information see Chapter 3.4. of this analysis

generally own more properties in general⁷⁹. However, when these couples were buying property, it was more common to see joint ownership recorded in both the male and female partners' names. According to notaries, in cases of selling property while in an extramarital union, there are no predetermined steps in place to confirm separate or joint ownership of the sold property. If the other partner wants to assert their rights to the property, they need to go through the court to do so.

When comparing the property ownership trends between married couples and couples in extramarital union, several factors could come into play. In the case of married couples, the traditional view of the husband being the primary breadwinner and decision-maker regarding property may influence the tendency for the property to be recorded in his name. On the other hand, couples in an extramarital union could have a more progressive and egalitarian understanding of partnership in general⁸⁰. Therefore, they may view their relationship as more equal and may be more inclined to record the property in both partners' names, reflecting a more modern and equitable understanding of property rights. Additionally, unmarried couples may have a greater need for legal protection, which could motivate them to formalise their joint ownership. Further research is needed to explore the underlying reasons for the disparity in property ownership trends between married couples and partners in extramarital unions.

The complexities surrounding the sale of property in cases of divorce were explored as well. One of the consulted notaries described this situation as specific, with no clear guidelines on the appropriate course of action. When a divorce has been finalised for an extended period, it is generally assumed that the property has been divided. Another notary mentioned that they typically inquire about the legal basis for the acquisition of the property being sold. This involves comparing the situation to determine when the property was acquired and when the party entered a marriage union. However, the notary also stated a common misconception that the divorce process automatically results in the division of property, which is not the case according to existing legislation (divorce and division of property are two distinct legal processes).

Another notary emphasised the legal requirements for selling property post-divorce. A verdict, birth certificate, and evidence of the termination of the marriage are claimed to be necessary to be provided by the selling spouse. Additionally, one notary public shared that in such cases they ask the seller to provide a

⁷⁹ For more information see Chapter 1/Table 1 of this analysis

⁸⁰ Marin Clarkberg, Ross M. Stolzenberg, Linda J. Waite, Attitudes, Values, and Entrance into Cohabital versus Marital Unions, *Social Forces*, Volume 74, Issue 2, December 1995, Pages 609–632, <https://doi.org/10.1093/sf/74.2.609>

statement under moral, material, and criminal responsibility which confirms that no court proceedings are ongoing. This was highlighted as crucial as notaries cannot know if proceedings are underway without this statement.

In cases of divorce, I am seeking additional documentation for property sales. I request a verdict, a birth certificate to determine if there is a note indicating the end of the marriage, and a statement under full moral, material, and criminal responsibility confirming that there is no ongoing court procedure for the property being sold. Without this statement, I cannot ascertain if a court proceeding is underway, and I lack insight into cases currently before the court. – Female notary, 50

Inheritance

The interviews revealed a notable pattern regarding declarations of disinheritance. While women were the primary actors in these cases, men also made such declarations, especially when the inheritance was intended for the surviving parent. This finding suggests that men may be more inclined to relinquish their inheritance when it is to benefit a surviving parent than to benefit a sibling, regardless of the gender, while women are equally likely to do it when it benefits a sibling as well as a parent. The consulted notaries have clarified that the renunciation of inheritance signifies that the heir will not receive any portion of the inheritance, and as explained in more detail in the legal analysis, they emphasise that once the declaration of renunciation of inheritance is made, it cannot be altered in the future. However, despite notaries typically informing the involved parties of their rights and the consequences of these declarations of disinheritance, it is commonly perceived as a family matter. As a result, parties often address the matter at home and then either come to the notary themselves or through their legal representative with a decision already made.

Based on my experience, these declarations are more frequently made by women. I think it's the traditional mindset. Women know their rights; they know that by law, they are entitled to an inheritance. But they simply feel like it doesn't belong to them. I do and I hope that all other notaries educate them about their rights and the consequences of renouncing them. – Female notary, 50

As explained in the section of this analysis dedicated to the FOI requests from civil courts, statements assigning inheritance to a specific heir were relatively rare. Additionally, they were also perceived as gender neutral in terms of the gender of the individual who was more likely to give such statement. However, it was observed by the consulted experts that these statements were somewhat

more often made in favour of men than women. This indicates that while the act of assigning inheritance is not inherently gendered, there may be underlying societal or cultural factors that influence the distribution of inheritance in favour of men. Moreover, they argue that assigning inheritance to a specific heir, in most cases incurs inheritance tax⁸¹. Consequently, individuals seek ways to circumvent tax payments by issuing collective disinheritance statements, which, in practice, result in a particular person acquiring the property rights. Further research is needed to explore these dynamics and understand the broader implications for gender equality in inheritance practices.

Data collection

Similar to the judiciary, electronic records are now the primary method of record-keeping among the notaries public as well, with physical books being largely phased out, except for one book of signatures. However, these electronic records do not include the gender of the individuals included in the ownership processes; only their first and last names are recorded. Additionally, inheritance declarations, whether positive or negative, are only documented in the proceeding minutes. This means that from the electronic records, it is not possible to determine which heir has made which statement.

Gender equality

The perception of gender equality among notaries varies depending on their personal and professional backgrounds. Some define it solely as equality of rights between men and women. However, others, who are more attuned to the issues, define it as equality between the sexes in all aspects, including rights, obligations, and opportunities. They also emphasise the need for greater representation of women in all spheres of life and the opportunity for professional advancement.

Women are formally and legally equal to men, but a woman should make twice as much effort to succeed and stand out in the profession. The starting point may be the same, but women have much more obstacles along the way. – Female notary, 50

Surprisingly, only around half of the notaries that were part of the consultations were aware of the aforementioned Guidelines on strengthening gender equality in notarial practices in South-East Europe. However, among those who were

⁸¹ According to property tax legislation in North Macedonia, only heirs from the first succession line (spouse and descendants) do not pay inheritance tax.

familiar with it, the majority were female notaries who claimed to actively incorporate its principles into their practice.

Some of the female notaries consulted in our study expressed a belief that while the legal framework is adequate, there is a pressing need to enhance social awareness. They argue that men and women are perceived differently, and it is crucial to raise awareness and adapt the application of laws to the varying mentalities across the country. They assert that while parties are aware of their rights and are educated by notaries and lawyers, women often make decisions influenced by tradition and unwritten rules.

Conversely, their male colleague expressed a different perspective. He believes that currently, there is little room for improvement in the system. While he acknowledges that there may have been instances in the past where gender differences were more pronounced, he contends that he has not recently observed significant gender disparities in his work.

It is crucial to highlight that the Chamber of Notaries does not currently offer any training programs focused on gender equality in notarial work. This lack of organised training suggests that insufficient attention is being paid to these critical issues within the profession. Some of the female notaries consulted, stressed the need for increased communication and the sharing of best practices. They emphasise the importance of open discussions about gender equality, acknowledging that while legislation is in place, practical support is essential for genuine progress.

CONCLUSIONS

The gender gap in property ownership is deeply rooted in historical gender norms and stereotypes that have persisted over time. These norms have been perpetuated through various societal channels, including literature, media, and cultural practices. They have led to systematic exclusion of women from property ownership, based on the belief that women lack the financial knowledge to manage such assets. As a result, women are often discouraged from investing in property and financial independence, thus further exacerbating the gender gap.

Income disparities and workforce participation also contribute to the gender gap, as women often face unequal opportunities and compensation in the workforce, making it difficult for them to achieve financial stability necessary for property ownership.

Moreover, social expectations and perceptions of financial literacy play a significant role in perpetuating this gap. Stereotypes that dictate traditional gender roles often lead women to prioritise family over career, while assumptions about men's financial literacy further put them in a position of power and discourage women from asserting their rights or making informed decisions about property ownership.

Studies also highlight the significant impact of women's property rights on their well-being and agency, i.e. showing that a more equal asset distribution or women's property ownership leads to increased participation in household decision-making by women, indicating greater agency.

The intersection of gender and economic disparities poses significant challenges for women's property ownership in North Macedonia. Lower employment rates, high economic inactivity, and lower pay impede women's ability to amass the financial resources needed for property acquisition. The overrepresentation of women among unpaid family workers exacerbates financial dependence, limiting their decision-making agency in property matters. Collectively, these factors hinder women's entry into the property market, affecting their long-term economic security and independence. This economic disenfranchisement of women perpetuates an ongoing cycle of gender-based disparities in asset ownership.

The legal analysis of property ownership and inheritance laws in North Macedonia reveals a complex reality. Despite constitutional guarantees of

equality, the observed gender disparity in property ownership, where women own only a fraction of property in the country, implies a gap between legal provisions and practical implementation. While the legal framework is non-discriminatory in principle, challenges in its implementation persist, hindering women's access to and control over property.

In both marital and extramarital unions, mutual agreement is required for significant decisions related to managing and using joint property. Concerns arise regarding the division of joint property, especially considering the substantial gender gaps in employment and labour force participation. The analysis also uncovers a certain level of legal ambiguity in the Law on Ownership and other Real Rights allowing joint ownership to be registered solely under the name of one spouse (or partner). While the law protects the unregistered spouse or partner, challenges may arise in proving joint ownership in practice. There are also concerning scenarios where the registered owner could sell or encumber the joint property without their partner's consent, particularly in extramarital unions. Exercising due diligence in notarial practices is crucial to prevent such situations, and further research is needed to determine if this exception is routinely applied as standard practice.

Regarding the right to inheritance, the Law on Inheritance reinforces the constitutionally guaranteed principle of equality, providing equal inheritance rights to all citizens under the same conditions. However, it is concerning that this law does not protect the inheritance rights of the surviving partner in an extramarital union. While children from such partnerships are protected, the partner of the deceased is not.

Despite the lack of official gender-disaggregated ownership data, the Cadastre's administrative records offer valuable insights into property distribution between men and women in North Macedonia. The 2023 national-level data reveals a significant gender gap, with men holding 71% of property records compared to women's 29%, a trend consistent across regions. Despite limitations, such as the absence of ownership distinctions and property type segregation in the data, these findings underscore a persistent gender disparity in property ownership.

Freedom of Information requests were sent to 26 courts, as notaries return case files to courts after probate proceedings. Only seven courts provided sex-disaggregated data, while others directed researchers to notaries, citing lack of data in the Automated Court Case Management Information System (ACCMIS) and insufficient human resources. The seven courts that provided data were primarily in smaller towns, where women represented a significant proportion (64-84%) of individuals making declarations of disinheritance. However, the

data on statements assigning inheritance was limited, making it challenging to analyse gender disparities comprehensively.

The consultations with notaries revealed a gender disparity in property ownership, particularly in the case of married couples. Although the law states that property acquired during marriage constitutes joint ownership, joint property was often recorded only in the husband's name during transactions. When selling joint property, even though both spouses must sign an agreement, notaries are not required to verify the buyer's marital status. Interestingly, in extramarital unions, joint ownership was more common, reflecting a more equitable understanding of property rights. In cases of divorce, there are no clear guidelines for notaries selling property, and notaries typically inquire about the legal basis for property acquisition and the marital status of the seller. It's a common misconception that divorce automatically results in property division, and specific legal requirements must be met for selling property post-divorce.

A gendered pattern in declarations of disinheritance was revealed, with women making such declarations more often. However, it was stated that men also made declarations of disinheritance, particularly when the inheritance was intended for a surviving parent. This suggests that men might be more likely to relinquish their inheritance for a parent than a sibling, while women are equally likely to do so for both. Statements assigning inheritance to a specific heir were rare and perceived as gender-neutral, but somewhat more often made in favour of men. This suggests societal or cultural factors may influence inheritance distribution. Additionally, assigning inheritance often incurs inheritance tax, leading individuals to seek ways to circumvent tax payments, which can result in a specific person acquiring property rights.

Determining if there is a notable gender gap in the act of disinheritance and in the designation of an heir is challenging given the current state of collected data. Even though electronic records have replaced physical books for record-keeping among notaries, they lack gender information and do not specify which heir has made which statement in inheritance declarations.

The perception of gender equality among notaries varies, with some defining it as equality of rights between men and women, and others emphasising equality in all aspects, including rights, obligations, and opportunities. The Chamber of Notaries does not currently offer any training programs focused on gender equality in notarial work, suggesting that insufficient attention is being paid to these critical issues within the profession.

RECOMMENDATIONS:

- 1. Challenge the Gender Stereotypes through Education and Awareness Raising:** This can be done through educational initiatives aimed at schools, workplaces, and communities. Moreover, gender stereotypes can be challenged by fostering partnerships with media platforms and cultural influencers to promote positive depictions of women as property owners and decision-makers.
- 2. Close the employment gaps** by challenging the societal norms and expectations, redistribution of the unpaid home labour, and improving accessibility to different forms of organised childcare. **Close the wage gaps** by implementing the EU Pay Transparency Directive that covers pay transparency and pay equity and ensuring that all workers receive equal pay for equal work. This will help bridge the gap in economic power and agency, enabling women to have greater purchasing power and ownership opportunities.
- 3. Provide financial education and empower** marginalised women by introducing financial literacy programs, focusing on property investment and management and providing resources and support for women to access loans and financial services for property acquisition.
- 4. Amend the Law on Ownership and other Real Rights** and other relevant legislation, such as the Law on Real Estate Cadastre, to ensure **compulsory joint ownership registration under** the names of both spouses or partners. The law should continue to protect unregistered joint owners, but the provision should be treated as the exception of the rule for joint ownership registration.
- 5. Amend all relevant legislation establishing clear procedures for registration in public records of unregistered joint owners.**
- 6. Amend all relevant legislation (including the Law on Obligations and the Notary Law) to ensure due diligence and protection of unregistered joint owners in real estate transactions.**
- 7. Raise awareness** regarding the provisions for joint ownership registration and **consider financial incentives** such as no fees joint registration in public records.
- 8. Invest in further research** on issues related to renouncing inheritance and assess attitudes related to the role of tradition in inheritance practices. This should be done on a nationally representative sample, with a booster sample of financially challenged women and women living in poverty.
- 9. Adopt evidence-based policies on tackling discriminatory inheritance practices.**

10. Advocate for the **collection and publication of gender-disaggregated data** on property ownership, including separate data for objects and land.
11. **Update the ACCMIS and the electronic records of notaries to include gender information** for individuals making declarations of disinheritance and provide training for staff on the importance of collecting and maintaining gender-disaggregated data.
12. **Develop training programs for notaries** focused on gender equality in notarial work. Collaborate with the Chamber of Notaries to incorporate gender equality into their professional development programs.