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Strengthening the status of the spouse and partner in Albania's agricultural businesses

Policy paper



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Abbreviations

CAP	Common Agricultural Policy
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
FAO	Food and Agriculture Organization of the United Nations
GRB	gender-responsive budgeting
GREAT	Gender, Rural Equality and Tourism Project
INSTAT	Institute of Statistics
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women

Abstract

In Albania, despite many positive policy and legal developments towards gender equality, the ownership and management of agricultural businesses remain heavily male-dominated. Only eight percent of women own land, which places women in an economically dependent position and makes them more vulnerable to shocks and crises (Convention on the Elimination of All Forms of Discrimination against Women, 2016).

This policy paper examines the experiences of three European Union countries – Belgium, France and Spain – to showcase good practices for enhancing the role and status of spouses and partners in agricultural businesses. In line with Directive 2010/41/EU, these countries have amended their legislation to formally recognize the economic contributions of spouses and partners in farming operations. Through these reforms, the spouse or partner of an agricultural business owner or manager is granted legal status that entitles them to decision-making rights over the agricultural business and social protection benefits.

As Albania moves towards accession to the European Union and continues its commitment to gender equality, it can benefit from these examples to strengthen women's rights in agriculture and advance their economic empowerment. The good practices can be useful for other countries that are seeking solutions for improving the status of women and men in agricultural businesses.

1. Introduction

The economic empowerment of women and gender equality in agricultural business¹ management is important to ensure the sustainability of agricultural products and food systems that thrive and develop on respectful ecological and social relations. Various forms of gender-based privilege and discriminatory power structures hinder the full self-realization of all individuals within agricultural production, prohibit their equal decision-making on different farm-related issues, and undermine the inclusion of diverse human voices in daily farm operating practices (FAO, 2023). In this regard, the *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security* (FAO, 2022a) acknowledge gender differences, support State parties to ensure gender equality in access to land, promote equal tenure rights regardless of individuals' marital status, and adopt an integrated approach to the administration of natural resources.

In line with the 2030 Agenda for Sustainable Development, previous regional initiatives implemented by the Food and Agriculture Organization of the United Nations (FAO), the German Agency for International Cooperation (GIZ) and the World Bank supported the Western Balkan countries (including Albania) to strengthen gender equality in access to land, and its ownership and control (FAO and GIZ, 2020). This led to the improvement of the domestic legislation in land registration and notary practices. Currently, the "Gender, Rural Equality and Tourism" (GREAT) project is a three-year initiative funded by the Ministry of Foreign Affairs and International Development of the Italian Republic and implemented by FAO and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) that is seeking to empower rural women in two rural areas in Albania through their involvement in agribusiness incubators to ensure sustainable production processes that recognize their roles and potential as farmers, processors and managers, while fostering a cycle of women's inclusion.

This policy paper has been prepared within the framework of the GREAT project and explores the legal possibilities for strengthening the status of spouses and partners in Albania's agricultural businesses. It examines measures taken by some European countries to empower spouses and partners involved in family farming, such as Spain, Belgium and France. These measures include their formal recognition as co-managers of the family enterprise and extending social protection benefits to them. It also incorporates an analysis of the Albanian state of play, based on primary and secondary data. Primary data were collected during four capacity-building activities organized with 49 representatives

¹ Agricultural business is any type of economic activity that is related with the agricultural land. In this context, agricultural farm is part of the agricultural business.

(28 women and 21 men) from the Ministry of Agriculture and Rural Development and public agricultural extension service in December 2022 and 2023 through guided group discussions. Secondary data were collected through national statistics mostly prepared by the Albanian Institute of Statistics (INSTAT) and a desk review of the existing legal framework in Albania. The paper provides key recommendations for tailoring elements of those approaches to the Albanian context through legal reform.

1.1 Country context

Agriculture represents a significant sector of Albania's economy, generating the main source of income for the majority of rural households and satisfying 30 percent of the national demand for food and feed (Namara *et al.*, 2022). It accounts for about one-fifth of the country's gross domestic product and is dominated by small and family farms (FAO, 2020), which provide 33.9 percent of the total employment (INSTAT, 2023). Women are highly involved in the agriculture sector and national statistics show that, in 2022, 40.1 percent of women were employed in agriculture versus 28.7 percent of men (*ibid.*).

Meanwhile, recent data show that in 2021, the share of women owned/managed businesses in agriculture, forestry and fishing was only 10.81 percent compared with 89.19 percent of men owned/managed ones (INSTAT, 2022b). However, a detailed socioeconomic and demographic profile of these women does not exist in national statistics. Research shows that rural women in Albania have low incentives to run/manage their own enterprise for several reasons including lack of child care services, perceived discriminatory practices, poor infrastructure, limited access to information and advanced technologies, and persistence of the gender division of roles (Cinque *at al.*, 2022). This points to women's higher likelihood of having access to ownership and control of family farms upon the death of their husbands. Yet, a vast and ever-growing body of literature emphasizes the benefits of women's tenure security on family resilience, food security and natural resource management (Fletschner, Deo and Mhoja, 2022).

Agriculture is one of the sectors with the largest share of the informal workforce (ILO, 2020), with women's participation in informal employment being high, and dominating the unpaid family workers category (RCC, 2023). The agriculture sector employs more than 54 percent of all economically active women, 87 percent of whom work as informal or family workers (FAO, 2016). The lack of formal recognition for women's economic activities in rural regions contributes significantly to the minimal presence of women-owned enterprises in this sector (RCC, 2023).

Gender pay gaps in the agriculture sector fluctuated during the period 2017 to 2019, from 7.7 percent to 7.1 percent, followed by a decrease in 2020 and an increase again in 2022 to

7.6 percent (INSTAT, 2018, 2020, 2022a, 2023). The significant contributions of rural women in the agriculture sector and agrifood systems indicate that they are important providers for households and community well-being. However, they are not benefiting from it because they mostly work in unfavourable conditions that constrain their productivity.

They are exposed to various barriers including limited access to resources, tenure insecurity, climate-related weather shocks, gender-based discriminatory practices, and stereotypes.

Being systematically pushed to lower value nodes, rural women's multiple burdens become more severe in the context of high youth migratory flows and ageing of the rural labour force because they do not have sufficient intrahousehold resources to share care-related responsibilities for their children, and sick and older family members (Brooks and Meçe, 2022).

Moreover, intrahousehold disparities in the gender division of tasks heavily maintain and trigger women's work-intensive activities, prohibiting them from taking up better paid off-farm activities or other well-paid positions in the sector. Limited rural-urban, gender-disaggregated statistics available in Albania show that rural women spend 4.28 hours in unpaid domestic work (laundry, cooking, cleaning) compared with urban women who spend 3.21 hours. The time that rural men spend in unpaid domestic work is very low compared with that spent by rural women (INSTAT, 2011). On the other hand, men take on activities that involve control over agriculture assets and mobility. For these reasons, men are more likely to control family farm income and decision-making.

In its 2023 recommendations for Albania, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee raised its concerns about the limited access of rural women to economic and social benefits in Albania, and the barriers they face to achieving full participation in economic life. Thus, it has recommended the State party "to strengthen efforts to reduce poverty among women with a particular focus on rural women, promote their access to low-interest loans without collateral and participation in entrepreneurial initiatives and ensure that women have equal access to land ownership, markets and financial credit" (CEDAW, 2023, p. 11).

2. Overview of co-management in agricultural businesses

Global evidence suggests that internalized and culturally-bound social norms in family farms create power imbalances with knock-on effects on the division of labour. These limit the choices available to rural women and affect their ability to access existing services and benefits (FAO, 2023). In addition, under these gender norms, the husband tends to have sole decision-making powers over the agricultural business.

Traditionally, a wife or partner would move into the home owned by her husband or partner and would take on a supporting role within his business. This active participation in the life of the farm would often be provided in the form of unpaid labour, which left the spouse in a situation of economic dependence and without any legal or social protections. Yet this type of work also contributes to the value of the farm and serves as a basis for the allocation of subsidies and rural development aids. However, without clear management rights, the spouse or partner has no decision-making power over the use of these funds or the agricultural business and does not have access to social protection rights (FAO, 2023).

Gender stereotypes place women in a supporting role within the family farm. Without a legally recognized professional status, women who provide unpaid work on a farm owned by their husband or partner cannot benefit from the legal protections and benefits associated with formal employment.

Reforms in Europe have strengthened women's rights within agricultural businesses, granting them better protections and increased decision-making powers over the business. The Common Agricultural Policy (CAP) continues to support gender equality in rural areas through the new CAP Strategic Plans (2023–2027), and especially its Objective 8² that promotes employment, growth, representation in decision-making processes, participation in farming businesses, social inclusion and local development (Article 8). The European Union requires its Member States to eliminate sex-based discrimination in employment, and countries have taken legislative steps to strengthen the status of the spouse and partner engaged in family farming, giving them the opportunity to be recognized as co-manager of the family business and providing them with access to social protection.

Directive 2010/41/EU of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, sets out

² Jobs, growth and equality in rural areas.

guidelines for Member States to strengthen the rights of all self-employed workers, including agricultural workers and their spouses and partners (Article 2). It tackles direct and indirect discrimination, the latter being a situation “where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary” (Article 3(b)). Importantly, the directive also encourages Member States to adopt temporary special measures to ensure full equality in practice between men and women in working life, such as those aimed at promoting entrepreneurship initiatives among women (Article 5). Under the directive, Member States must take all necessary measures to ensure that spouses and life partners can benefit from a social protection in accordance with national law (Article 7).

This directive has provided impetus for the adoption of legal protections in European Union countries. These reforms have given spouses and partners protections outside of the matrimonial regime, which allow them to

Co-management allows the spouse or partner to take administrative decisions over the family farm, even if they are not the registered owner of the farm.

operate as part of a business relationship with professional responsibilities as opposed to a matrimonial relationship without any legal recognition. In general, these reforms have the following characteristics:

- They recognize the contribution of the spouse or partner to the value of the agricultural holding.
- They apply to both married couples and cohabitating partners and create a legal regime that comes on top of the existing regimes for the management of matrimonial assets and successions.
- They provide management rights to the spouse or partner who does not have ownership of the farm or business.
- They grant the spouse or partner co-management rights which allow them to take decisions over the agricultural holding jointly.
- They require the spouse’s or partner’s consent prior to the sale or mortgage of the agricultural holding.
- They provide access to social protection rights to spouses and partners which they previously did not have due to their lack of legal status.

3. Good practices from selected European Union countries on farm co-management

The following section showcases the approaches taken by three European Union countries to formally recognize the contribution of the spouse or partner of the farm's manager to the agricultural business. While research is limited on the impact of such measures on women's empowerment, these are positive developments that strengthen the position of the spouse or partner. The recognition of women's co-management rights gives equal access to social insurance and other support measures, which are important contributors to women's economic empowerment.

3.1 Spain

In Spain, Law 35/2011 of 4 October 2011 on the shared ownership of agricultural holdings aims to promote the achievement of substantive equality between men and women in rural areas through the legal and economic recognition of their participation in the agricultural activity. It follows Organic Law 3/2007 of 22 March 2007 which requires the Ministry of Agriculture to roll out the joint titling of agricultural holdings for couples who run family farms (Article 30(1)). It stems from the recognition that despite the profound transformation of Spanish society in relation to gender equality, rural areas have evolved more slowly, with a lack of economic, professional and social recognition of women's work. In family farms, although women carry out agricultural tasks alongside their husbands, 70 percent of farms are registered in the husband's or male partner's sole name. This is partly due to the persistence of gender stereotypes that place women in a supporting role. Their contribution is seen as supplementing the main income, not a professional activity. The introduction of legal provisions on shared ownership is intended to remedy this situation by granting the spouse or partner equality of rights in the management of the agricultural holding. This includes a right to administer the business, as well as access to social protection and education and training.

The shared ownership of agricultural holdings provides equal rights to the couple to administer the holding (Article 4(1)) and entitles them to 50 percent each of the yields generated by the business (Article 5(1)). This status is provided on an opt-in basis and shared ownership rights must be registered and a certificate issued with the names of both spouses or partners (Article 6(4)). The shared ownership is terminated upon annulment, separation or dissolution of the marriage, breakup of the cohabitation, or through an

agreement between the couple (Article 8). This status gives an automatic right to social security, and subsidies, direct aid and rural development aid are allocated in equal halves to both members of the couple (Article 11). The implementation of this new regime is supported by awareness-raising campaigns, improved coordination between the relevant public institutions and rural women's associations, the capacity development of the staff responsible for implementing the law, and the simplification of the paperwork required to sign up at the registry of joint titling (FAO, 2018).

The initial assessment conducted in 2015 about the impact of the Shared Ownership Law showed only a slight increase in the total number of joint farm ownership registrations, for which there are several reasons, including insufficient information about it, complicated bureaucratic procedures, and inadequate promotion of the law by regional governments. Following this, the Spanish authorities increased awareness-raising actions, and since 2021 have supported shared-ownership farms with direct specific payments and programmes (OECD, 2023).

3.2 France

In France, the legal framework has evolved progressively since the 1980s to grant the spouse more rights within agricultural businesses. Law No. 85-1372 of 23 December 1985 abolished the concept of the head of the household and established the principle of co-management of assets. Subsequently, Law No. 99-574 of 10 July 1999 established a regime that the spouse can opt in to, to acquire the status of "collaborator" (*collaborateur*) to the farm. This entitles the spouse to a pension as well as to social benefits in the event of occupational hazards, to a disability pension in the event of partial or total incapacity, and to a deferred salary claim in the event of the death of the spouse and divorce. In 2006, this regime was extended to cohabitating partners with the adoption of Law No. 2006-11 of 5 January 2006. Article L. 321-5 of the Rural and Maritime Fisheries Code establishes an obligation for the spouse or partner to opt for one of the following statuses: collaborator to agricultural business manager, employee of the agricultural holding, or head of the agricultural business. If the spouse or partner contributes to the work of the agricultural holding without officially declaring it, the spouse or partner is deemed to have work as an employee. As of 2022, collaborating partners can only keep this status for a maximum of five years. After that, they must transition to either employee or head of the agricultural business.

The spouse or partner who opts for the status of head of the farm or agricultural business may do so as an official partner (*associé*) if they choose to form a company with a legal personality, or co-manager (*coexploitant*). The coexploitant enables both members of the couple to administer the business.

3.3 Belgium

In Belgium's region of Wallonia, a decree was issued in 2014 relating to the Agricultural Code of Wallonia with provisions on the identification of assisting spouses (*conjointes aidants*) in agriculture. It defines the term "conjoint aidant" as the person affiliated to a social insurance fund for self-employed workers, who is self-employed as an assisting spouse and who carries out an agricultural activity on the same farm as his spouse or legal cohabiting partner (Article D3). This status confers management rights to the spouse or partner who carries out agricultural tasks within the farm (Article D91).

Under Article D92, the Agricultural Aid Division of the Directorate General for Agriculture of the Ministry of the Wallonia Region identifies and reaches out to assisting spouses and partners seeking their consent to being registered as such. They are free to refuse the registration should they wish to. The identification and registration of the assisting spouses and partners entitles them to manage the farm as joint holders (Article D91). They also become joint holders of the quotas and rights allocated by the Agricultural Aid Division.

4. Introducing co-management in Albania

4.1 Review of the legal framework in Albania

Albania has demonstrated its commitment to strengthening the property rights of spouses and has the enabling policy and legal foundations to further expand the breadth of legal protections afforded to the spouse and

partner of the agricultural holder. The Albanian Constitution, Law No. 8417,

21 October 1998, as amended, guarantees equality for everyone before the law.

According to Article 18 of the Constitution, “All are equal before law and no one should be discriminated ...”.

As a candidate for accession to the European Union, Albania has the opportunity to take legislative measures that will support the achievement of gender equality in

Nevertheless, the improvement of the land-related legal framework for the acquisition of ownership to the agricultural land and gender equality materialization in rural areas is not thorough. Shortcomings of the land rights governance institutions in resolving gender-related issues exist, and there is a lack of unification of administrative and judicial practices that deal with them (FAO and UN Women, forthcoming; Zhllima *et al.*, 2022).

Alignment with the European Union’s rules and standards: Albania was granted European Union candidate status in June 2014, and as such, is in the process of aligning its policy and legal frameworks with the European Union's rule and standards, including in relation to gender equality. Albania has ratified all core human rights instruments that prohibit discrimination based on sex, including CEDAW in 1994. CEDAW requires States Parties to eliminate discrimination in the law and to take proactive steps to achieve gender equality of practice (Articles 1 and 4). These obligations apply to all spheres of public and private life, including in relation to work and employment in the agriculture sector. The European Commission country report of 2022 assesses legislative amendments as ensuring joint registration of marital property; however, it highlights data which show that men possess and administer property to a much greater extent than women, and women still lack basic information on their property rights. While the government has demonstrated its commitment to achieving gender equality in agriculture with the adoption of several legal instruments, wives and partners working on family farms continue to be economically dependent on their husbands and partners. The introduction of co-management rights would further strengthen women’s property rights and build on the achievements of several progressive legal instruments, including Law No. 9970/2008, 24 July 2008, “On Gender Equality”, and Law No. 68/2017, 27 April 2017, “On Local Self-Government Finances” that

introduced the concept of gender-responsive budgeting in local self-governance. In addition, Article 28 of Law No. 139/2015, 17 December 2015, “On Local Self-Governance” emphasizes the respect of balanced gender access to financial grants aimed at supporting small- and medium-sized business activities.

An enabling national strategy for gender equality – Albania’s National Strategy for Gender Equality 2021–2030 – commits the government to increasing women’s, young women’s and girls’ access to financial services and productive resources through legal reform. These reforms should guarantee their enjoyment of ownership rights, including ownership of agricultural land (Specific Objective I.2). Progress is monitored through several indicators that track the percentage of women, young women and girls who enjoy ownership, access and control over agricultural land (Indicator I.2.b).

In addition, the Strategy for Agriculture, Rural Development and Fisheries of Albania 2021–2027 and its Action Plan declares compatibility with the European Union’s Action Plan on Gender Equality and Women’s Empowerment in External Action 2021–2025 (GAP III; European Commission, 2020) in relation to the empowerment of women and girls, including in the green transition and digital transformation. Even though the strategy considers that the legal framework reflects gender equality, gender-sensitive measures in support of women are not included, such as incorporating criteria that reflect gender equality objectives in the adopted instructions on direct financial benefits for rural activities (measures 7, 22), as well the collection of gender-sensitive statistical data in agriculture and rural development (measures 25, 26). Thus, the legal analysis indicates that there are legal and administrative shortcomings in the strategy in relation to gender equality.

An important tool that Albania has been implementing for several years and that is now being used more systematically at various levels of governance is gender-responsive budgeting (GRB). The strategy continues to support the use of GRB, particularly at the local level (Strategic Goal 4). The Law No. 68/2017, 27 April 2017, “On Local Self-Government Finances” has created opportunities for the effective inclusion of GRB at all stages of the local financial management cycle, and it is mandatory for local governance units to address issues of gender equality in at least one of the programme policy objectives through gender products and indicators. Over the period 2019 to 2021, 33 out of 74 programmes were gender responsive, representing 6.3 percent of total budgetary expenses (CEDAW, 2021). Gender-responsive budgeting could be used to set aside resources for the implementation of co-management activities.

Law No. 9817, 22 October 2017, “On agriculture and rural development”: According to this law, agricultural and rural policies should increase income and well-being for the rural population by improving working and living conditions, as well as creating equal opportunities for men and women (Article 3(b)). While the law itself does not contain any

specific measures to strengthen the rights of women engaged in family farming, it does provide the foundations for the adoption of measures to that purpose. Disregarding the principle embraced in the law, gender-sensitive criteria are generally missing in the respective instructions on the criteria, procedures and method of administration of the Agriculture and Rural Development Program Fund, adopted by the ministries responsible for agriculture and rural development and on finance and economy in Albania.

However, one positive example in this regard is that of Instruction No. 3/1 dated 15 April 2019, “On the Criteria, Procedures and Method of Administration of the Agriculture and Rural Development Program Fund”.³ It provided that women applicants receive dedicated points in cases of applications for funds for specific measures, such as for:

- The purchase of machinery and equipment for the production of olive oil (measure 8 of the Instruction).
- Support for the construction or reconstruction of facilities for rural tourism activities from 6 to 10 rooms (measure 9 of the Instruction) that could not be supported by the IPARD II Programme as well.
- Support for investments in agritourism against the business plan for subjects that cannot be supported by the IPARD II Programme (measure 10 of the Instruction).

Gender-sensitive criteria cannot be found in the Ministry of Agriculture and Rural Development and the Ministry of Finance and Economy Instructions adopted for the same purpose in other years. Similarly, current Instruction No. 5, dated 3 March 2023, “On the Criteria, Procedures and Method of Administration of the Agriculture and Rural Development Program Fund” does not include priority criteria for women applicants.

The Civil Code, 29 July 1994, regulates co-ownership in the agricultural family as a special type of co-ownership. The agricultural family is an institution regulated in the Civil Code (Articles 222–230), while co-ownership between spouses is referred to in the Family Code. Nevertheless, no disposition of the Family Code regulates agricultural family co-ownership between spouses. Considering such an omission, agricultural family co-ownership falls under the default property regime for married couples (Articles 73–107). Every trade activity created during the marriage falls under the joint marital estate (Article 74/ç, Family Code), while if the trade activity belonged to only one of the spouses prior to the marriage but is managed by both spouses during the marriage, the community property portion of the estate includes only the revenues and added value.

Additionally, the dispositions of the Civil Code stipulate that the agricultural family is represented by the head of the family, which is usually its eldest man.

³ Amended by Instruction No. 5 dated 27 June 2019 and Instruction No. 7 dated 8 July 2019.

It also provides that to be a member of the agricultural family, and benefit from the agricultural land, one needs not only to be part of the family legally but also to contribute to that family. This brings up several concerns in cases where women are married, and their name is deregistered from their maiden family to register as part of the husband's family. Similarly, the inheritance rights of women, especially regarding agricultural property, are not clear in such a legal regime. The Civil Code dispositions have impacted on gender equality in practice, favouring the men of the family (Center for Legal and Civil Initiatives and UN Women, 2023).

Law No. 7501, 19 July 1991, "On land" appears gender neutral because legally, all rights stemming from this law are enjoyed by both genders equally. The state of co-ownership created does not favour or privilege, legally, apparently, any co-owner. Each co-owner has the right to vote for the sale of the land and to request a division and payment for the sale of their part of the land; the right to transfer the ownership of agricultural land "in accordance with the legal requirements for the transfer of immovable property ..." and with the consent of all members (Article 5); and the right of inheritance to the heirs "regardless of their membership in the agricultural economy" (Article 25). Ownership and land division documents are issued in the name of the head of the family (no gender in law) as the legal representative of the farming family. As a member of the agricultural family, the woman benefits from, based on the number of people in the agricultural family she belonged to, a certain amount of agricultural land. However, the implementation of this law in practice was challenged by the customary practice that prioritized male-line land heritage. A study conducted in 2018 in the northern part of Albania found that the law was just a symbol, because land partition took place according to the "customary law". This, certainly, affected the rights of women in rural areas (Olldashi and Saliaj, 2018).

Law No. 8337, 30 April 1998, "On assignment of ownership to agricultural, forest, meadow and pasture lands" regulates that agricultural families, in cases of ownership transfer of agricultural land, are required to submit to the Immovable Property Registration Office (IPRO) their current civil registry certificates (at the moment of the property transfer), as well as a joint declaration of the agricultural family. However, this law presents two main issues: a) it does not specify the meaning of "property transfer" – whether it considers the current moment when the property is about to be transferred, or the date when the property has been transferred in favour of other members, thus the date when the land was distributed based on the Law No. 7501; and b) the law treats equally the members of the agricultural family with the members of the family in the civil registry certificate. Yet, they are two different concepts. The head of the agricultural family represents the family, and its members should be included in the property document administered by the local government and updated regularly. Considering the common practice that married women are transferred to the civil registry of the husbands, and that particular traditions are still

prevalent, such legal stipulations are not necessarily in the favour of women (UN Women, 2016).

Law No. 111/2018, 6 March 2019, “On the Cadastre” regulates the real estate registration system in Albania. It regulates co-ownership situations between spouses (Articles 44–45) and aims to bring a qualitative change in practice in the protection of women’s property rights. This law makes it mandatory to register property acquired during marriage under the regime of community of property, in the names of both spouses (Article 45), even though it does not address the agricultural land property registration specifically.

4.2 Recent legislative efforts to strengthen gender equality in matrimonial property rights

Albania has made considerable efforts in recent years to strengthen the property rights of married women. Shortly after the adoption of Law No. 111/2018, 6 March 2019, “On the Cadastre”, the Agency of State Cadastre adopted Order No. 1150, 3 June 2019, “On the Procedure for Correcting Immovable Property Files for Properties Owned by Spouses”. This order sets forth the procedure for correcting the data in the registry of immovable property when a property jointly owned by the spouses was registered in the name of one of the spouses only, in violation of the provision of the Family Code (FAO, 2022b). While these reforms provide additional protections to the rights of women married under the regime of community of property and who acquire a property during marriage, they continue to leave out a majority of women who become agricultural labourers through marriage and provide unpaid labour to the family’s agricultural business without any legally recognized decision-making power.

4.3 Practical challenges and gaps

Research conducted in Albania shows that customary practices (that favour men in landownership and inheritance) prevail in rural areas, coexisting with a modern state that undertakes several reforms and policies to guarantee gender equality nationwide. As such, there is a gap between de jure rights of landownership and inheritance and de facto ones in the context of persistent patriarchal structures and informal institutions that guide community norms, especially in mountainous and remote rural areas. Intersectionality issues exacerbate gender inequality when combined with poverty and patriarchy (Zhillima *et al.*, 2022). The persistence of social norms that consider property ownership inheritance through the male line only hinders the financial independence of women, negatively affecting their property ownership rights and their agricultural business initiatives (RCC, 2023).

Moreover, group discussions with agricultural extensionists pointed out that rural women work in their family farms as unpaid family workers. Lack of monetary compensation of their direct engagement in farm activities by the men-owned agricultural businesses makes them benefit as other non-contributory household members. Their position in the daily agricultural business operations is based on the gender division of roles, and the high level of internalization of customary law on landownership and inheritance among rural women systematically discourages them to claim their rights. Even though its influence differs from area to area (depending on the area's proximity to the city and other urban centres), in general, women are aware that they do not inherit anything from their father's family. On the other hand, women lack knowledge or do not trust networks, and lack the courage or are reluctant to claim their land rights in the case of a divorce or a family conflict with the husband's family.⁴

Furthermore, group discussions highlighted the sensitivity and complexity of landownership issues in the context of remote rural areas where inhabitants have low legal literacy, and lawyers or community mediators miss opportunities to provide relevant explanations or raise their awareness on this matter. The "power" of shame, and the pressure of "patriarchal family hierarchy" and "community prejudice" (in the case of customary law violation) are interlinked with lengthy and expensive court procedures. As some of the group participants stated, women and girls are very often warned to cut their ties with their family of origin if they claim their land. Especially in hilly and mountainous rural areas, with small land per capita, it was not beneficial for women to claim land rights for small plots vis-à-vis high court fees.

The group discussions also raised the concern of agricultural business management in the case of informal unions where the woman does not appear in the family certificate of her partner. Even though their cohabitation is based on the consent of both families, the position of the woman is very fragile because she contributes to the agricultural business of the partner's family without claiming her rights. Besides this, she cannot apply for any small loan to develop a small-sized agricultural business because she is not included in the land document of the family of her partner.⁵

⁴ Group discussions took place in December 2022.

⁵ Group discussions took place in December 2023.

5. Recommendations for future steps

To strengthen the rights of spouses and partners within family farms, the following steps are recommended for the Government of Albania, for FAO, UN Women and development partners, and for civil society organizations, to bring the national legal framework in line with international and European Union best practices on gender equality in landownership and management.

For the Government of Albania:

- Amend Law No. 9817, 22 October 2007, “On agriculture and rural development” or draft an implementing regulation granting specific protections to the spouse who carries out agricultural tasks in the agricultural business, including by providing co-management rights for the spouse.
- Amend Law No. 9817, 22 October 2007, “On agriculture and rural development” or draft an implementing regulation granting specific protections to the spouse who carries out agricultural tasks in the agricultural business including by providing social protection.
- Amend the Civil Code to harmonize the provisions on agricultural co-ownership and marital property. In particular, the management rights of the spouses married under the default regime of community property should be clearly protected in agricultural family co-ownership.
- Amend Law No. 8337, 30 April 1998, “On assignment of ownership to agricultural, forest, meadow and pasture lands” to provide for legal safeguards against potential gender discrimination in cases of agricultural land transfers.
- In the process of corresponding legislative and policy reforms, ensure an inclusive participatory process.
- Introduce sublegal and administrative measures to reflect the gender equality objectives of the national Strategy for Agriculture, Rural Development and Fisheries 2021–2027 in the adopted instructions’ direct financial benefits for agriculture and rural development.

- Introduce the new legal status for spouses as a default legal regime – with the possibility not to participate (opt-out) – to allow as many spouses to benefit from it as possible. This will also minimize any pressure on the wife not to pursue this opportunity.
- Include innovative incentives in the national Strategy for Agriculture, Rural Development and Fisheries 2021–2027 and undertake mainstreaming efforts for the registration of co-managed farms in the Unique Identification Number to Persons of Taxation (UINPT).
- Ensure that the written consent of the spouse is required prior to any major transaction (sale or mortgage) involving the agricultural holding. The consent of the spouse to the sale of immovable matrimonial property is required under Article 90 of the Family Code and this requirement to provide consent should be extended to the agricultural holding.
- Albania should submit its report on Sustainable Development Indicator 5.a.2 on gender equality in landownership and control. This indicator tracks the legal measures taken by countries to strengthen women’s rights to land. The submission of the report would provide a solid baseline for the adoption of additional legal protections, including the introduction of co-management rights for the spouse.
- Recognize consensual unions and grant management rights to the partner who carries out agricultural tasks on the family farm. Unmarried partners are at a heightened risk of losing their livelihoods in the event of a breakdown of a union. Currently, Albania’s legal framework does not provide any legal recognition or protections to unmarried partners, unlike some of its neighbours such as Montenegro, North Macedonia, Kosovo⁶ and Serbia. The Family Code should be amended to extend the rights of married couples to legally recognized consensual unions, and these protections should be included in any amendment granting co-management rights in agricultural holdings.
- Carry out awareness-raising campaigns to change the entrenched cultural practices and norms that are discriminatory to women’s and girls’ access to and ownership of land.

For the United Nations and development partners:

- Support the implementation of the Voluntary Guidelines on the Responsible Governance of Land, Fisheries and Forest Tenure (VGGT).

⁶ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

- Foster advocacy for institutional coordination and capacity development activities for administrative staff.
- Pilot gender-transformative approaches in Albania addressing women's strategic and practical needs, and persistent discriminatory norms, and encourage women to claim their rights.

For FAO:

- Support the Government of Albania, line ministries and other national institutions to monitor and report on Sustainable Development Goal 5.a.2.

For UN Women:

- Advocate to respective institutions and line ministries for the improvement of the status of rural women in farm management in Albania.

For civil society organizations:

- Actively engage in advocacy efforts and policy actions to support the adoption of the above-mentioned legislative proposals, including the Civil Code, the Family Code and sublegal acts related to Law No. 20/2020, among others.
- Actively participate and engage in awareness-raising activities and community outreach about the benefits of joint registration of land.
- Continue to regularly and consistently monitor the enforcement of legislation.

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