



# ISSUES OF DISCRIMINATION AND GENDER-BASED VIOLENCE IN PROPERTY RIGHTS RELATIONS

Informative Brochure

Tirana, 2018

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**Written by:**

Prof. Dr. Aurela Anastasi, Prof. Dr. Arta Mandro, Dr. Elona Saliqaj (notary).

**Edited by:**

Aurela Anastasi, Aurela Bozo

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The welfare of each individual is closely linked to respecting fundamental human rights and freedoms. In this context, the 'right to property' is a fundamental right. The data shows that in practice, this right does not equally apply to both men and women. It also happens that the legislation on property rights relations is not sensitive to gender equality. Thus, spouses, family members and state authorities could infringe those rights. Due to various obstacles and lack of information, even women themselves do not seek these rights. Therefore, raising awareness of women and men regarding their lawful rights remains a challenge for the civil society organizations and independent institutions.

In this booklet we have discussed several property rights of women, mostly under family property, as wives, sisters or mothers. Simultaneously, we give advice so that women, not only prevent discrimination and denial of these rights, but also equally enjoy them without violence.

This publication is primarily designed to inform women about their property rights. We hope that this leaflet will aid the civil society organizations and institutions dealing with issues related to property rights of women.



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## I. ARE PROPERTY RIGHTS EQUAL FOR MEN AND WOMEN?

### 1. What is the 'property right'?

It is the right to freely *use* and *dispose* items and property that belongs to you, within the limits established by law. To *use* the item or property means to use it by you or give it to others for use. The property can be rented to others with the intention to draw income, as well as usufruct. The *disposition* of property means having the right to determine the “fate” of the item / property. So if you're the owner of a property, you are entitled to make various legal actions such as selling it, exchanging it, put it on mortgage, donate it etc.

### 2. How does one acquire property rights?

Property rights are acquired through: donations, inheritance and acquisition of property. The Civil Code provides the ways of acquiring property in more detail. Property rights are also gained through marriage. Thus, if you are married and have chosen the “community property regime”, any property acquired during marriage becomes common property, of you and your spouse. This has nothing to do with whether you work or not, or if you have participated in the signing of the contract or not. In any case, you are co-owner



of that property. (There are exceptions, such as personal assets of each of the spouses, which are explained further in the leaflet).

### 3. What should I do as a woman, in order to avoid discrimination in property rights?

- Never sign a blank sheet;
- Do not rush to sign any document without reading it carefully;
- Ask questions to the person that requires you to sign something and aim to clarify any ambiguity;
- If you are asked in the office of a notary to sign a document, ask for information if you are not clear about the document to be signed;
- Denounce immediately if you signed under duress, threat, fear and deception;
- Do not give up on your property rights, without understanding exactly what the consequences are;
- Ask someone who knows the law and knows more in this field;
- You can call and set a meeting with the lawyers of the Center for Legal Civic Initiatives. The service provided for you in this case is free of charge;
- You can contact the Directorate of Free Legal Assistance at the Ministry of Justice;
- You can contact the Commissioner for Protection against Discrimination to take appropriate actions.



## II. HOW TO OBTAIN PROPERTY THROUGH INHERITANCE?

### 4. How to obtain property through inheritance?

Inheritance has a special role in the woman's property rights status. A woman becomes an owner mainly due to marriage or inheritance from the family of origin, or her husband after his death. You are eligible to acquire property by inheritance, if the original owner has died and you are in the circle of heirs. An inheritance process can be regulated through law or a testament and the rules are defined in the Civil Code. Inheritance through law applies when the testator has not written a testament.



### 5. What rights do I have as a successor?

If you are in the circle of heirs, you benefit rights on the property, same as all other heirs. So, if the testator has died in 1970, the circle of heirs will be determined by the law that was in force in 1970.

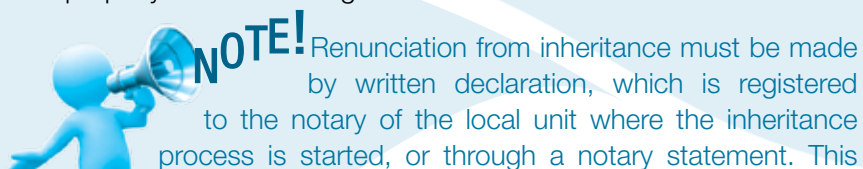
The situation described below has created uncertainty, confusion and discrimination. If the testator, who died in 1970, would benefit from the law 7698 of 15.04.1993 “On Property Restitution and Compensation of Former Owners”, then his heirs, including yourself, are the ones recognized by the law in force during 1970. In practice, there have been cases that male heirs have attempted to exclude their wives from property returned to former owners and received as such by their descendants. They have used various methods, such as hiding the family status certificate, carrying out contracts on behalf of others, etc.



The inheritance process can start only when the testator dies. Practice shows that women are asked by family members to sign an agreement, by which they agree on how to use the rights arising from an inheritance still not started. This agreement is invalid. Thus, even if you sign something like that, it has no binding legal value.

## 6. What is 'renunciation' from inheritance?

It mostly happens that women are asked to renounce from the inheritance of their parents, in favour of their brothers. This is due to the common culture, but can also occur due to fraud, violence or fear caused by the male beneficiaries. Unfortunately, in many cases women are not clear about what it means to renounce from their inheritance, the legal consequences of this waiver, and how to properly exercise this right.



Renunciation from inheritance must be made by written declaration, which is registered to the notary of the local unit where the inheritance process is started, or through a notary statement. This

process can be done through a representative by a special proxy, within three months from the starting of the inheritance process, and if the heir is abroad, not later than six months from it. The renunciation from inheritance is invalid if made before the opening of the inheritance; if made dependent on a condition, term; if made only for a portion of the inherited property, or in favour of only one of the heirs. Renunciation from inheritance extends its effects not only on the current assets of the testator, but also on those that may come in his name in the future; thus you as the legal successor will not have rights over them.



Before you decide to abstain from inheritance, inform yourself first!

Keep in mind that over time, not only the value of the property changes, but also the way of its use, which in the conditions of market economy can bring unexpected benefits. Thus, for example, you are heir to your parents, on the house where your brother currently resides, who is also an heir. If you give up the part of the house you inherit, in order for your brother to use the property, you lose all your rights stemming from it. Therefore, if further, the sole heir decides to demolish the house, in order to build another building, the decision is only his to take. In addition, only he will benefit from the constructed apartments. You cannot claim this right under the law, because you have given up on it.

## 7. Can I leave a will? Who benefits from the will?

- Any adult person over 18 years can determine who will inherit his / her possessions after death. He/she does so through a will. The will is a unilateral act and therefore there is no need to get consent or agree with

other people. Through a testament, you can decide on assets that are under your sole ownership; jointly owned property or property that may come to you in the future. As long as you are alive, you can partly or fully change a testament, or revoke it completely.

## The testament is made in two ways:

- ❑ Testament through the Notary, which means that you go to a notary office and get detailed information on how to compile a testament and its content. Afterwards, it will be deposited there.
- ❑ The testament may be written by you and in this case, it is called a holographic testament. This document should be sealed in an envelope and deposited to the Notary. The testator decides when he will submit the holographic testament to the Notary. Thus, you might have drafted the testament in 2007 and deposit it to the Notary in 2014. The holographic testament will be a single copy and shall be deposited to the Notary. In this case, unlike the testament through the Notary, only the testator knows what is written and even the notary does not know its contents. Both types of wills are recorded in the register of testaments and are opened after the testator's death. Moreover, both of them can be revoked, repealed or amended whenever the testator wishes, as long as he is alive. The holographic testament will be a single copy and therefore, no other copies can be reproduced.

In both cases, the will is filed and stored by the notary, who keeps its contents a secret.



The testament loses its effect if you, while you are still alive, sell or donate the property that is included in it.



**CAREFUL!** When you deposit the testament to the notary office, you should be alone. Do not tell your children about its content, because it can create conflict and hard feelings between them. The contents of the testament will be known to all, when you do not live anymore. Do not sign a testament for the sake of a child or because you were pressured to do so. The testament must be your true will, uninfluenced by anyone.

## 8. Do we have obligations on the property acquired through inheritance?

All heirs respond to obligations on the property, in proportion to their share, up to the value of the inheritance received. Obligations on the property include the obligations of the testator, the expenses of his funeral, and expenses required for maintaining and administering the property until it is passed to the respective heirs..



## III WHAT IS THE ‘MARITAL PROPERTY REGIME’?

### 9. What is the ‘marital property regime’?

Marriage has its consequences of both a material and financial character. There is a set of rules in the Family Code, which were precisely intended for spouses’ property relations. These rules constitute what the Family Code includes in the “marital property regimes”. These provisions answer a series of questions about the uncertainties, which may be associated to property generated before, during or after marriage; property acquired jointly or individually; donated or inherited; movable or immovable, etc. The time of marriage has an impact on the classification of property, whether it is an asset before or after marriage. On the other hand, the property regime, which can be by law or by contract, affects the categorization of assets as personal or shared.

## 10. How many property regimes are there? What is the best procedure for me?

There are two main property regimes: by law and by contract. The difference between them consists in the autonomy of the parties, which have the right to decide on the rules that will “govern” their property issues. The regime regulated in detail by the law is called “community property regime”. The law determines which assets will be shared or remain individual. The second one is the “contract regime”, which case by case, can appear in the form of a contract or separated property for each spouse.

There is no such thing as good or bad property regime. Each of them has its own advantages and risks. However, there is always room to assess how a regime “fits” the best interest of spouses, family and co-existence in a marriage, compared to the other regime.

## 11. If the property is acquired while we are married, but is registered in the name of the spouse, do I have property rights?

Yes. The provisions of the Family Code state that in the community property regime, any property acquired during marriage, by either one spouse or both of them, is part of the legal community. The property of spouses is presumed shared, unless one spouse proves its individual character.



**CAREFUL!** Unless the immovable property earned during marriage is a personal property of the spouse, you must also be registered as the co-owner. However, despite the fact that an item may be acquired during marriage, the contracts feature the husband as the

only buyer and owner, and therefore the property is registered only in his name. Meanwhile, his wife, although a co-owner according to the law, does not appear to be registered. This prevents you from exercising your rights under joint ownership. Moreover, it may happen that in the event of a conflict, you're obliged to perform trials for the recognition of your condominium.

In case you earn a property during marriage, you should seek to register your name along with your spouse's and / or other co-owners. In order to do this, stand personally along with your husband before a notary and sign the transaction together! Do not forget to submit the certificate of your family status. All those who have gained property starting from April 2012, may seek to register it at any time at the local registration office. This right is explicitly guaranteed by law (Article 41 of the Law "On the registration of immovable property").



**NOTE!**

## 12. What are the effects of inheritance over marital property regimes of spouses?

The Family Code (2003) considers the assets acquired through inheritance as personal property. Each testator, including spouses, can dispose through a testament in favour of the legal community, thus the common property of both spouses. In cases of contractual regimes, the Family Code allows spouses to prescribe different rules with respect to the property acquired through inheritance, considering it either individual or shared.



**NOTE!** Inheritance rules have been different at different times. Therefore, the legislation in force at the time of opening the testament will determine whether the acquired property shall be regarded as common or personal property of the spouses.

If a spouse dies, you are his successor. Thus you inherit your





**CAREFUL!** part of the property according to the Civil Code regulations. It should be mentioned that in practice, since the property is registered only in the name of the spouse, the division of property through inheriting starts without deducting the shared part that belongs to the surviving spouse, namely the part that belongs to you because the property was acquired during marriage. Therefore, if the wife or his other heirs ask for the division of inherited property, the notary must make sure to specify the presumption of co ownership, in issuing a certificate of inheritance. For example, he / she can express the following: **“If the testator possessed property acquired during marriage, but registered only on his behalf, the registration of the inherited part will be made by deducting the presumed half of the surviving spouse, in reference to Article 76 of the Civil Code”.**

On the other hand, this should be fairly reflected in certificates of ownership in local registration offices, where the specialist who records the testimony, calculating the part belonging to the heirs, should reflect the presumed part of the wife, emphasizing the part that belongs to the other co-owners.

Apart from the above, the presumed co-owner (wife), may send a petition to the LOIPR regarding the registration of the certificate of inheritance for the respective property, asking **the deduction of the part presumed under ownership of the surviving spouse, in reference to Article 76 of the Civil Code and attach the family certificate, of the time the property was acquired.**

However, registering the wife as a co-owner is hampered by the legal point of view, so it is best for the women to register their name in all of their shared property, while the spouse is still alive.

## 13. I have not worked a single day and I am just taking care of my children. Will it affect the division of property in case of divorce?

Raising children and caring for them and the family is a very important job and enhances the quality of family life. Working this way, you have contributed to the progress and growth of wealth in the marriage. In case of divorce, you will divide with your spouse the property acquired during marriage. With regard to this, it does not matter whether you got paid or not. Your contribution within the family will be considered by the court during the marital property division.

**CAREFUL!** Prejudice such as: 'Only he has worked in our family!', 'It is all his' – leads to discrimination and inequality, making the law unenforceable. Therefore, seek your property rights, thus rewarding the contribution you have made in your family while caring for your children, husband, elderly, etc.



## 14. Is there any property acquired during marriage, which is owned by only one of the spouses?

Yes. The following are considered individual property in the community property regime (since December 2003, when the Family Code entered into force):

- property acquired through inheritance;
- gifted property;
- property of a closely personal nature;
- the work tools necessary for exercising the profession;
- property acquired by personal damage remuneration;

- property acquired from the alienation of personal property;
- Exchanged property, when it is expressly stated in the purchase contract.


15. Our family lives in a house, which is the personal property of my husband, but he wants to sell or donate it. Is he obliged to take my consent as a wife?

Of course! Although the property is personal, if you live in it, your consent is needed for any action that takes place in the house or in its equipment.

## VI. WHAT SHOULD I KNOW ABOUT MY ECONOMIC RIGHTS?

### 16. Do I have the right to take bank loans?

The right to ask for bank loans is equally granted to all citizens. In order to do so, it is necessary to have immovable property registered in your name, as a guarantee for the payment of the liability. Since in many cases it turns out that property is registered in the name of the husband, the wife is usually called as a surety or a co-borrower. Thus, she signs the loan contract or a contract of guarantee for repayment of liability. When signing as a guarantor, the wife has the same responsibilities as the borrower on the loan repayment obligation.



**CAREFUL!** Despite the fact that in the contract you sign as surety, you will be responsible for repaying the obligation, if your husband does not pay for it. So, by signing the contract you have accepted that the bank has the right to interfere with your personal income, your assets, not only those acquired during marriage, but also personal ones. In case your husband fails to pay his monetary obligation as the borrower, then you as a guarantor, are responsible for paying it.

## 17. Do I have the right to open a bank account?

Every person has the right to open a personal bank account and deposit income. Only the person in whose name the account is, has the right to make transactions with it. Seek information on the use of a bank account, when it is registered in both spouses' names.



**NOTE!**

If you sell a property acquired during marriage and want to deposit the income in the bank, it is advisable to open a bank account in the name of both spouses. Together with your husband, ask the bank so both of you can manage this account. You have the right to ask the bank that, if one of the spouses wants to withdraw money from the account, the consent of both spouses is required. This way, you will have the same opportunity as your husband to perform actions with it, including cases where it is not possible for him to do so. In addition, this account management is transparent, makes you feel equal and in any case, informs you about the actions being carried out on your family account.


## 18. What rights do I have on the agricultural land, acquired by the Law no. 7501, dated 19.07.1991 “On the land”?

Immovable property such as farmland, was awarded under the Law no. 7501 “On the Land”, to family members who lived in rural areas, per capita, according to the certificate of registry of the 1<sup>st</sup> of August 1991 (for agricultural assets) and the certificate dated 1<sup>st</sup> of October 1992 (for agricultural farms). Although the land is registered in the name of the head of household, all family members

according to the current certificate benefit ownership on it. If the members alienate the immovable property (sell, donate, divide or share), only members who are in the current family composition (certified by a family certificate) need to sign the agreement. The wife of the head of household receives an equal part with other members of the family. New members can join the family (through marriage, birth, adoption), and others can leave it. In these cases there are no unified legal regulations, which have led to an improper implementation of the Civil Code provisions and discrimination.

## 19. In case of acquiring immovable property through privatization, who is entitled to benefit from this wealth?

Real estate, mainly apartments, was benefited from the application of the law “On privatization of public housing” (Law no. 7652/1992). The sale contract is concluded between the head of household, as a beneficiary of the estate, and the National Housing Authority (former municipal housing companies). According to the law, co-owners of immovable property that benefit from privatization are all the adult members (older than 18 years) of the family certificate dated 1<sup>st</sup> of December 1992.

 **NOTE!** If you have been an adult, registered in your family of origin certificate, you have benefited as co-owner. If this process occurred during the time you were married, and the contract was signed by the father of your husband, you are also a co-owner.

20. What should I do to immovable assets that are not recorded in LOIPR (Local Office of Immovable Property Registration)? Are these equally split between both spouses?

*For immovable assets which are not recorded in the LOIPR, such as property that your husband has received through a preliminary contract, e.g. sale promise contract, undertaking contract, contract for selling an item in the future, etc., you are presumed to be a co-owner in equal parts with your spouse. For instance, if he has signed a contract with the construction company for an apartment (or other property) that is being built, you are presumed to be a co-owner with your spouse. When the sale contract becomes final, you will automatically be registered in the certificate of ownership as a co-owner, in equal parts.*



**NOTE!** You can register preliminary contracts with the construction company in the LOIPR. The latter registers the contract in a special register, called the provisional register. This guarantees you that the construction company does not to enter into a preliminary contract with third parties for the same property.

For immovable properties, which are in the process of legalization, it is appropriate to declare the built object together with your husband. Even though requests to ALUIZNI (The Agency for Legalization, Urbanization and Integration of Informal Areas and Buildings) for declaration of property are made by your spouse, as long as the property was built during marriage, you are both co-owners and must be registered as such. It often happens that this rule is overlooked by the ALUIZNI office, while local registration offices of immovable property register only the head of household,

who has done the declaration. This practice has brought to conflicts between spouses, or between the wife and her in-laws.



**CAREFUL!**

Personally declare the property you want to legalize, along with other co-owners! If you sign a notarial declaration, for presenting it to ALUIZNI, you must be aware of the consequences arising there from. For instance, a statement with the following content: "I declare that X building is made from the sole investment of my brother / son / father, etc. This is my statement that must be submitted to ALUIZNI, in order to proceed with the contract." means that you have waived your rights of ownership. Thus, you give the ownership to the person whom you mentioned as the investor of the property and can no longer claim rights over it. **Do not forget your contribution in housework!**



## V. CAN PROPERTY RIGHTS' DISPUTES LEAD TO DOMESTIC VIOLENCE?

### 21. Property rights and economic violence.

Property in itself constitutes an important aspect of economic relations. Despite it is not the only economic relation in the family, it still is very important. In case these relations are not based on equality and are conducted in favour of one spouse or a family member (e.g., parents of the spouse), they may become a cause for conflict and in the worst case, for domestic violence.

Not respecting property rights may lead to women's economic dependence through marriage and transforming her into a person, whose life depends on the spouse or his parents. It happens that the woman has no rights to dispose family property. Although she may benefit from the legal presumption of joint ownership for the assets acquired during the marriage without being registered in the property registers, she cannot dispose parts of the property equally to her husband, and it is difficult to enforce her will for property alienation or inheritance. This way, property transactions become a cause for heated family debates, which may initially lead to psychological violence and further on, physical violence.

Abuse of property rights in the family itself, discrimination and disrespect of co-owners' equal rights are part of psychological violence. This conclusion is also confirmed by the European Convention "*On the Prevention and Combating Violence against Women and Domestic Violence*" (the Istanbul Convention), which considers economic violence as a form of domestic violence (Article 3, paragraph 6). Law No. 9669, dated 18.12.2006, "*On Measures Against Violence in Family Relations*", defines as Violence any act or

omission of a person against another person, resulting in a violation of physical, moral, psychological, sexual, social, *economic* nature.

The Convention has also emphasized the economic strengthening of victims of domestic violence and charged the State with clear tasks, about taking all measures for strengthening the economic independence of women, victims of violence. In this context, the correction of wrong practices and acts regarding women's property rights is the first step that the Albanian Government should take, in order to reduce the inequality between men and women in this field. Furthermore, the State has the duty to engage in other issues related to women's employment, assessment of their unpaid work etc.

## 22. Which cases of violating women's property rights turn into episodes of violence?

There are several cases faced by the attorneys of the Center for Legal Civic Initiatives. The following scenarios ended up in episodes of violence and further in divorce, or in a request to obtain a Protection Order or Immediate Protection Order:

- Conflicts created due to the failure of the spouse to pay the bank loan. Often, the wife is only a guarantor of the spouse's obligation and has no power to dispute, while the obligation also includes her property and monthly income.
- Conflicts created due to different opinions on the choice of a common apartment. The most serious cases have resulted in the expulsion of the mother from the house by the child's family and leaving her homeless.
- Conflicts created by the legalization of an apartment, constructed without permission, only on behalf of the father. In these cases, the spouse loses every right on the home, for the construction and legalization of which she has contributed.

- Conflicts created between spouses, as well as between them and children, due to the different will to share the wealth that will be inherited after their death. In these cases, mothers who are not registered as co-owners are unable to dispose according to their will.
- Conflicts between siblings' families due to inheritance claims.

The forms of economic violence are different, but all relate to property rights and the inequalities existing between men and women in relation to them. In all cases, the basic feature is the woman's entire economic dependence by her spouse. We also have cases when she is entirely dependent by her father-in-law.

Here is how economic violence is described by the CEDAW Committee in the case of **VK v. Bulgaria**: *"She alleged that her husband "decided on the spending of the family's income and provided [her] with money only for the basic needs of the family. She had no additional money for herself and was not allowed to spend money given to her for other purposes than those strictly specified; nor was she informed about how the rest of her husband's income was spent. As a result, she was economically entirely dependent on her husband".* (see: Javier Truchero)



**NOTE!** Non-respect of property rights equality for women leads to economic abuse in the family. Economic abuse can lead to domestic violence and violence against women. Seek your property rights before the violence occurs.

## VI. WHAT SHOULD I DO TO PREVENT AND RESOLVE CONFLICTS?

### 23. In which cases should I seek a lawyer?

In some cases, property law matters are complicated and require legal knowledge that you do not have. To file a lawsuit, you must act within the legal deadlines and submit it to the appropriate court. In this case, it is advisable to contact a lawyer. The lawyer prepares your claim, represents you in the court and informs you about the procedural deadlines that you must respect. The latter are very important and should not be overlooked because the legal deadline for filing a lawsuit or the deadline for claiming other legal rights, such as the registration of property, the right to appeal to administrative organs or the court etc., may expire.



**NOTE!** If you do not have the financial means to contract a lawyer, you can seek legal aid free of charge. The Law “On Legal Assistance from the State” also applies in these cases. Below you have the right information for this purpose.

## 24. Which actions require the notary service?

You may / should contact the notary offices for legal actions and acts related to: pre-marital contracts, change of marital property regime, property transfers, asset division, creation or transformation of commercial companies for the purpose of circulation of capital and goods, actions related to ensuring the enjoyment of marriage or family affairs, acts relating to the transmission of property from one generation to the next through inheritance, and the like. All citizens can appear at the notary office to request notarial services related to their immovable property.

Some of the services you can ask from the Notary are:

- Legal Consultancy
- Purchase contract;
- Donation contract;
- Immovable property divisions;
- Immovable property exchange contract;
- Issuance of evidence of legal / testamentary inheritance;
- Notarial testament drafting / deposition of holographic testament;
- Loan / Loan contract
- Mortgage / pledge / surety contract
- Contract for changing the marital property regime /  
Draft agreement for divorce / Co-existence agreement /  
Marriage contract
- Creation of limited liability companies / Creation of joint-stock companies; etc.

But before signing any needed contract, you may want to ask for Legal Consultancy at the Notary to clarify the legal actions you are requesting.



## CAREFUL!

Do not let notarial actions lead to discrimination and property rights inequality. Ask for clarification of any ambiguity. Moreover, ask the notary to speak clearly and understandably to you and to explain the consequences of your actions.

### 25. What is the Office of Immovable Property Registration (OIPR)? What services does it provide and what acts are recorded there?

This Office prepares, maintains and administers the immovable property registers, indexes of registration and documentation that prove the right of ownership and other real rights on it. The subject of its activity is the registration of property titles and other real rights (such as rent, use, usufruct, emphyteusis, mortgages, servitude) for immovable property on the basis of legal documents certifying ownership over it.

#### Specifically, the OIPR registers the following:

- Acts issued by administrative bodies (commissions, agencies such as: Agency for Restitution and Compensation of Property, The Agency for Legalization, Urbanization and Integration of Informal Areas and Buildings, etc.);
- Acts issued by judicial bodies;
- Acts issued by public bodies such as Notaries, etc.



## NOTE!

From practice it turns out that there are employees of OIPR, who are reluctant to provide the wife with a property card, although under the law she is presumed to be a co-owner. This is because the spouse is not registered as a co-owner and employees fear any possible conflict. Moreover, they think that this way they

can avoid conflicts with a spouse or other family members, in whose names the property has been registered.

26. What services can the Office of Immovable Property Registration (OIPR) offer to me? Am I eligible to receive services from the Local Office for Registration of Immovable Property [LOIPR] if the properties are registered in the name of the spouse?



**CAREFUL!** For the real estate of the agricultural household, for which the initial registration has not yet been carried out, the right to obtain information on the legal status of ownership is reserved only for the head of the agricultural family. Other members are not given property information.

Such practices contradict Article 68 of Law 33/2012 “On Immovable Property Registration”. This article provides that *the owner or a person who has a legitimate interest, has the right to obtain data and copies of the documents contained in immovable property registers, records, cadastral maps, documents filed with the application for registration and in the documentation maintained and administered by the local immovable property registration offices.*

The Immovable Property Registration Office is the only institution that keeps all the legal and topographic information on real estate in Albania. Any person with a legitimate interest: the owner, co-owner (presumed in the case of a spouse), has a power of attorney or a court decision, is an heir, etc.; has the right to request from the OIPR the information on the legal status of his / her property or provision of ownership documents and various attestations.

In our case we can say that the spouse enters this category as a co-owner, due to the legal presumption of joint ownership of the assets acquired during marriage.



**NOTE!** With this legal basis, the spouse must have a guaranteed right to information, as well as obtaining copies of the documents or data related to the property. Otherwise, employees are in violation of the law, and should therefore be appealed by the applicant.

OIPR has the legal obligation to provide services to citizens for these actions:

- photocopies of ownership documents;
- consultation of the ownership card (legal status of ownership in detail)
- official control of property;
- release of a copy of the map / card;
- issue a negative attestation (in case of refusal of issuance of documents by OIPR);
- preparation of court documents;
- issuance of a certificate of ownership;
- duplicate of a ownership certificate;

## 27. What role does the court play?

A significant part of the disputes that end in court are also cases of gender property disputes. The judges find that women often do not seek certain rights because of the prejudice that they belong to the man.

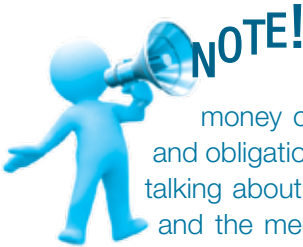




The court is the most important institution for the final settlement of property disputes. Prolonging the length of the trial should not cause you to abandon your rights.

## 28. Can I try to solve property disputes in other ways, without going to court? If so, how?

Yes. You can turn to mediation as one way of outright resolution of the dispute. Mediation is based on the principle of equality of parties, the confidentiality of data, as well as respecting the flexibility, transparency of procedures and the will of the parties in the process.



The mediation agreement must be written, whenever it has in its subject the delivery of money or belongings, or conducting legal transactions and obligations of a contractual or commercial nature. When talking about the form, a simple letter signed by the parties and the mediator can be considered valid, along with the notarial act signed before the notary. In this case, this act is indispensable when the object of the agreement is the transfer of the right of ownership over an immovable item, or the transfer of the right to use it thereof.

## VII. ASK FOR ADVICE AND INFORMATION! CONTACTS.

Contact the **Center for Legal Civic Initiatives**, which provides free legal advice on property issues for women, as follows:

- ❑ Acquisition of ownership and registration of property in OIPR; contracts and their effects on the acquisition or violation of women's property rights.
- ❑ Inheritance as a way of gaining property for women;
- ❑ The right of women to housing. Issues of declaring informal constructions and their effect on women's property rights;
- ❑ Access to credit, bank loans, mortgage and other forms of financial credit;
- ❑ What should we consider when seeking certificates of ownership in the Registration Offices of Immovable Property; the right to appeal.
- ❑ What to consider when we go to the notary about marital property regimes and the consequences of coexistence regarding property.
- ❑ Women in the agricultural family and property rights issues; etc.

**Legal advice provided through:**

- Enter your concerns directly by clicking on: <http://www.qag-al.org/WEB/avokati.htm>
- Or, in our e-mail addresses: [avokatore2@yahoo.com](mailto:avokatore2@yahoo.com); [avokatore@albmail.com](mailto:avokatore@albmail.com)
- Or, call the following telephone numbers: 042259795, 0672754655
- Or visit us in the center at the address: Str. "Vaso Pasha", P.12, Shk. 1, Ap.1 Tirana, Albania.

**Contact the Monitoring Network against gender-based violence.<sup>1</sup>**

By contacting the Helpline for Women 116; 117 and (04) 2233408, the organizations of the Monitoring Network against Gender-Based Violence offer all one-stop-shop services, interacting on the network.

Contact Coordination Office against Domestic Violence or the Office of Legal Assistance at the Ministry of Justice at the following address:

Ministry of Justice, Bulevardi Zog I, Tirana.

E-mail: [ndal.dhunes@drejtesia.gov.al](mailto:ndal.dhunes@drejtesia.gov.al) or [ndihma.juridike@drejtesia.gov.al](mailto:ndihma.juridike@drejtesia.gov.al)

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<sup>1</sup> It is created under the guidance of the Center for Legal Civic Initiatives, within the regional program on violence against women in the Western Balkans and Turkey "Applying the standards, changing mentalities", implemented by UN Women with the European Commission. For more about network activity please visit the web <https://rrjetikunderdhunesgjinore-monitorime.al/>

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