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WOMEN AS PROPERTY (CO)OWNERS IN BOSNIA- HERZEGOVINA CONTEXT

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FOREWORD

The right to housing without discrimination regarding housing rights is recognized in numerous international documents. The General Declaration on Human Rights, adopted and proclaimed at the General Assembly of the United Nations, by resolution no. 217/III from 1948 stipulated in Article 25, Paragraph 1 the right to an adequate standard of living for the health and well-being of oneself and one's family, including food, clothing, housing and more. Other international conventions, such as the Convention on the Elimination of All Forms of Racial Discrimination from 1965, the Convention on the Elimination of Discrimination against Women from 1979 and the Convention on the Rights of the Child from 1990 recognize and protect the housing rights of ethnic minorities and people of different nationalities, origins, races and skin color, without discrimination regarding the housing rights of women and children. Despite the clearly regulated equal access to these rights regulated by all relevant international acts, numerous studies and findings indicate that the reality is different and that women own property to a much lesser extent than men. In a predominantly male society, women are generally discriminated against. Gender bias is deeply rooted and is reflected, among other things, in the lack of equal access and control of women over land and housing stock.

In Bosnia and Herzegovina, as a transition country, this comes to the fore. It is observed that men, as spouses, are generally responsible for solving the housing issue. In this regard, in the majority of cases, men are registered in the land register as owners of real estate, even though the real estate is e.g. acquired in marriage. According to data from 2013, the share of women in the population of B&H is 51.08%, and men 48.92%, while in the land registers, of the total number of owners, 37.8% are women and 62.2% are men.

The research conducted for the purpose of this publication, additionally substantiated by available statistical data and scientific studies, points to the same conclusions and the widespread unfavorable position of women. The results of the research indicate that the largest number of respondents are co-owners of real estate, while only 7.64% of women solved the housing issue on their own. In the context of this research, and based on the analyzed literature, two ways of acquiring (co)ownership of real estate when it comes to women stand out, namely: solving the housing issue in the marriage union and through inheritance. In terms of age, there is a higher percentage of older women who own real estate.

In the scientific analysis, the reasons for the lower percentage of women as participants in the real estate trade are: reasons of an economic nature, reasons of a traditional nature and trends in the real estate market. Reasons of an economic nature are primarily related to the challenges faced by women in the labor market, such as a lower rate of female activity, lower employment rate, lower net income, etc. Reasons of a traditional nature are closely related to patriarchal norms in society, where women renounce their legal inheritance following the norms of customary law. This is especially present in rural areas. Finally, trends in the real estate market are not in favor of changes in this field. There is a trend of rising real estate prices and the role of the market in accumulating wealth. The analysis showed that the position of women on the labor market in the context of trends in the real estate market directly contributes to a deeper gap in the ownership structure to the detriment of women.

With the second analysis, we showed how the legal framework in Bosnia and Herzegovina regulates the completely equal treatment of all persons, that is, the prevention of any type of inequality and discrimination in the area of solving the housing issue. The legal framework is harmonized with the requirements of Bosnia and Herzegovina's accession to the European Union. Nevertheless, practice shows that certain legal solutions can be potentially discriminatory, and it is necessary to make certain adjustments in order to prevent potentially discriminatory practice. When realizing the right of ownership, its acquisition, use and disposal, we are dealing with relationships that are called

Emelya on the principle of dispositiveness and autonomy of will. In relation to the above, the will of the parties is the primary factor that determines the creation, change and termination of any civil law relationship related to real estate. For this reason, it is extremely important that the will is formed on the basis of sufficient information. Awareness and participation of the parties is necessary.

The importance of raising the awareness of all legal practitioners who may be involved in certain processes concerning the realization of real estate rights was pointed out. In this way, it is possible to contribute to the strengthening of the position of women through more effective and efficient application of the existing mechanisms for ensuring equality, that is, the fulfillment of legal criteria, as a prerequisite for membership in the European Union.

Ultimately, the publication in its entirety provides answers to other questions related to strengthening the position of women in the process of solving the housing issue and acquiring rights over real estate, and as such is intended for a wide range of potential users: scientists, representatives of public authorities and decision makers, the media, students and other users, providing them with a reliable source of information on the above-mentioned issue.

Sarajevo, March 2023

Ph.D. Mirza Hebib, editor

GENDER DIFFERENCES IN (CO)OWNERSHIP IN THE REAL ESTATE MARKET

1. Preamble

Gender differences in (co)ownership in the real estate market refer to the difference in ownership structure between men and women. In the real estate market, gender differences are, compared to gender differences in the labor market, less often the subject of analysis. A World Bank study from 2020 cites the long-standing lack of quality data to document the gender gap in developing countries as one of the reasons for the less frequent analysis of the gender gap in (co)ownership between women and men.

In developed countries, in the last 30 years, women have made significant progress and reduced the income and education gap between men and women, and the percentage growth of women property owners is also a manifestation of these trends. However, especially in developing countries, women, although they continuously have a higher level of formal education, face a longer wait for their first job, an income gap and a higher unemployment rate. Therefore, the disadvantageous position of women is widespread and systematic. Generally speaking about gender differences and the gap in the real estate market, developing countries, the World Bank study states that:

- although there are large variations between countries, in almost every country men are more likely to be property owners than women;
- within countries, gender differences are most pronounced in groups that are already in a disadvantageous position;
- countries with more gender egalitarian legal regulations have a higher percentage of women owners of real estate, especially residential real estate.

The analysis of the gender gap in (co)ownership of real estate and the aspiration to reduce the gap is an expression of the basic principle of equal treatment of men and women and the consistent implementation of positive legal gender egalitarian regulations. This issue is indispensable in the economic empowerment of women, which is often highlighted in public discourse.

The aim of the research is to analyze the (co)ownership structure in the real estate market and what factors influence the gender gap in the real estate market. The contribution of research can be viewed through two dimensions. The importance of the first dimension is reflected in the methodological approach, i.e. the research conducted, the primary focus of which was on assessing the ways and circumstances in which women solve the housing issue and presenting the reasons that influence and contribute to the gender gap in (co)ownership structures on the real estate market. The second dimension includes the unification of available statistical data from a number of sources, which are supported by scientific studies, with the aim of presenting the reasons,

primarily those from the labor market domain, that affect the gender gap in (co)ownership structures in the real estate market as objectively and comprehensively as possible. The methods used in the work are: survey method, meta-analysis, content analysis method, dogmatic, axiological and comparative method.

When it comes to the contribution of the research in the first dimension, i.e. in the methodological approach, research was conducted using the survey method in the period from 28.7.2022 to 02.9.2022. year in two ways: online and with the engagement of interviewers in the area of two municipalities in Sarajevo (Centar and Novo Sarajevo). The target group of the research was women, and the sample consists of 602 randomly selected respondents from the territory of FB&H and B&H. All respondents belong to the age group of 18 years and older, and the respondents had clear information about how to use the data collected through the survey.

The conducted survey contained 29 closed-ended survey questions, divided into three parts as follows:

- a. General questions
- b. Work status
- c. Solving the housing issue

Four survey questions were of a general type, fifteen questions from the field of work status, and ten questions about solving the housing issue of the respondents. In order to achieve the defined goal, the research was designed in such a way as to examine the domino effect between economic conditions and the position of women on the labor market and their percentage less participation in the real estate market in the traditional Bosnian society, analyzing the reasons why women are percentage less represented as real estate owners compared to men, taking into account the (co)ownership structure of the respondents.

In order to achieve the defined goals of the research, the largest number of questions in the research concerned work status with the intention of presenting the opportunities and position of women in the labor market, which undoubtedly affects the gender gap in (co)ownership in the real estate market. The focus on the working status of the respondents was necessary, bearing in mind that it is one of the factors that affects gender differences in another market - the real estate market.

In this context, the following research questions were asked:

1. How long does the unemployment of the respondents last from the end of the last stage of formal education to employment?
2. What type of employment contract prevails?
3. How long have the respondents been continuously employed by the same employer?
4. What is the average net income of the respondents?
5. Did the respondents independently solve the housing issue?
6. What percentage of respondents are real estate owners?
7. In what percentage are Questioned co-owners of real estate?
8. At what age did the largest number of respondents solve the housing issue?
9. How did the respondents solve the housing issue?

10. What is the prevailing way of solving the housing issue of the respondents?
11. What are the reasons why the respondents did not solve the housing issue?

2. Gender (inequality) in the real estate market

Although gender is itself a neutral term referring to the sex of a human being, it can also be understood as a set of assumed characteristics and stereotypes attributed to a person based on being female or male. In relation to women's human rights, gender has a rather negative connotation, because the expected social behavior and stereotypical role of women can inhibit the realization of women's rights. Over the years, numerous human rights protection mechanisms have pointed to the effects of gender inequality and discrimination against women in exercising the right to adequate housing. Women and men differ in their housing opportunities, resources or strategies, and these differences are to some extent systematic and persistent. Realizing women as (co)owners also means understanding the complex and indivisible connection between property rights and other economic, social and political rights. However, in addition to the legal aspect, there are also cultural and traditional patterns of behavior that often have a negative impact on the realization of women's rights.

The approach to solving the problem of unequal treatment of women is often based on the economic empowerment of women. In this context, (co)ownership for women, among other things, enables additional economic empowerment and easier access to credit funds, which can serve the purpose of starting their own business, as well as a source of additional financial stability, which has a prominent long-term value, primarily for working inactive population.

There is substantial evidence that women's property rights are associated with greater well-being. Many models of household behavior, such as the cooperative bargaining models proposed by Manser and Brown (1980) and McElroy and Horney (1981), predict that bargaining power within a marriage depends on the "outside options" of the husband and wife, e.g. their expected utility if the union ends. These "outside options" depend, among other factors, on who in the family owns the household assets, as well as the rules and norms that shape the division of property and other family resources after divorce (Lundberg and Pollak 1996; Lundberg et al 1997; Fafchamps and Quisumbing 2005).

In addition to the above, some studies indicate a positive correlation between the empowerment of women as (co)owners of real estate and the reduction of gender-based violence (Moser, 2016 and Amaral 2017). Thus, Amaral (2017) concludes that the amendment of one of the fundamental laws on inheritance in India (Hindu Succession Act), by which women, regardless of marital status, become equal with men during inheritance, has influenced the reduction of the overall rate of violence against women (including suicide).

In general, the advantages of ownership, regardless of the gender dimension, can be seen from the aspect of the investment portfolio in such a way that investments in the real estate market are more common compared to the securities market and are often an indispensable item in accumulating wealth, as indicated by numerous studies. This type of investment is one of the most attractive because of the security features of this type of long-term investment.

As previously pointed out, for the analysis of the gender gap in the real estate market, the position of women in the labor market is of multiple importance. The limited opportunities of women in the real estate market need to be analyzed in the context of the long-term position of women in the labor market. The International Labor Organization, in the report "World Employment and Social Outlook: Trends 2023", points out that women and young people are in a significantly worse position on the labor market, as indicated by inequalities in many countries. Globally, the labor force participation rate for women was 47.4% in 2022, compared to 72.3% for men. A difference of 24.9 percentage points means that for every economically inactive man there are two economically inactive women. Conducted research in Bosnia and Herzegovina on the position of women on the labor market indicates unequal treatment of men and women on the labor market, usually to the detriment of women. Although women, primarily in developed countries, managed to reduce the educational and income gap, they still face worse working conditions as well as unpaid work, i.e. "women's work is characterized by sensitive gender participation in the workplace, women receive lower wages, gender segregated, faced with the feminization of poverty, and at the same time they are expected to fulfill the demands of family life to the full extent". Women's lower employment rates compared to men and their lower incomes - often working part-time when they are employed - have resulted in them being over-concentrated in low-income groups. Stereotypical ideas and expectations about gender-typical behavior also encourage individuals to seek gender-typical jobs, and perpetuate gender discrimination in employment policies by employers. Such circumstances on the labor market complicate the position of women as (co)owners of real estate on the real estate market, primarily through the availability of basic and access to additional funds for financing the purchase of real estate (e.g. a loan). In general, women face significant difficulties in obtaining credit, and some of the reasons for this are: owning less property compared to men and earning less income.

In the context of the (co)ownership structure in the real estate market, it is necessary to take into account the importance of cultural and traditional patterns of behavior that can negatively affect the percentage of women (co)owners of real estate. Traditional, patriarchal, norms dictate that men own real estate. The above is particularly pronounced in matters of inheritance law when the woman is one of the legal heirs of the testator's movable and immovable property. Namely, female heirs often, although the law guarantees equality in inheritance, accept and renounce inheritance in favor of male heirs, "stating that the most common reason why women do not register their property is the established customary law according to which men are the owners of immovable property, and that as a rule, women renounce that right, even though it is their legal right to accept their share of the inheritance". The results of the World Bank research state the same conclusion, namely that women are less often the owners of land compared to apartments/houses, as well as a lower probability that a gender egalitarian legal framework in predominantly rural areas, where unfavorable social norms for women are applied, can cause a change in ownership structure on the market.

3. Ownership structure and current trends in the real estate market in Bosnia and Herzegovina

In the domain of gender differences and ownership structure in B&H, the legal order in B&H guarantees the right of ownership for all holders of that right, equality of women and men in inheritance, and equal legal treatment of common-law and married unions when it comes to

ownership relations. Bearing in mind the aforementioned findings regarding the gender gap from the World Bank study, B&H's legal system contains, declaratively, gender egalitarian legal regulations. The analysis of the legal framework, specifically the provisions of family, inheritance, real and land registry law at the entity level, leads to the conclusion that the provisions are not per se discriminatory nor do they treat men and women differently. For a detailed analysis of the property relations of married and non-marital partners in real estate and the issue of gender equality, see Powlakić, M. and Mezetović-Medić, S. (2018).

However, the situation in practice indicates that "in a large number of cases, the property is registered only in the name of one spouse, and as a rule, the husband", that is, "as a rule, women are not registered as owners of real estate belonging to the marital property". In general, "according to the population census data from 2013, the share of women in the population in B&H is 51.08%, and men 48.92%, while in the land register, of the total number of owners, 37.8% are women, and 62 "2% of men".

The gender gap in FB&H is expressed in a higher percentage when it comes to the land and house markets than it is the case with the housing market (see more: Table 3), which, taking into account the way urban and rural areas are built, leads to the conclusion of a lower representation of women as property owner in rural areas. Professor Softić-Kadenić points to the same conclusion in her analysis of the position of women as real estate owners in Bosnia and Herzegovina.

Appreciating the macroeconomic situation in B&H, specifically the unemployment rate, the amount of the average net salary, the position of the passive population in B&H, and especially gender differences in the labor market, the real estate market takes on special importance from the aspect of long-term financial stability. In 2019, before the COVID-19 pandemic, the real estate market in Bosnia and Herzegovina was in the phase of expansion, which, from a macro perspective, deviates from the overall situation in the economy of Bosnia and Herzegovina. The key characteristics of the market in the pre-pandemic period were: growth in the number of sales contracts, growth in real estate prices, growth in loans and the presence of non-proprietary demand. The report of the Central Bank of B&H from 2021, after the easing of pandemic measures and the recovery of economic activities, states that the pandemic crisis in certain segments affected the dynamics of the market (e.g. the dynamics of the construction of new apartments), but the market did not suffer major disruptions, and this is supported by the fact that this market first stabilized. Bearing in mind the trends in the real estate market, especially those viewed through the prism of the gender gap in the labor market, which is the subject of a more detailed analysis below, it is not unreasonable to expect negative implications for the gender gap in the ownership structure of the real estate market to the detriment of women.

4. Analysis of reserach results

4.1. Structure of respondents

Analyzing the structure of the respondents by age, level of education, household structure, and marital and work status of the respondents, the research results are as follows:

- in terms of age, the largest number of respondents, 46.84%, are 40-50 years old, 14.28% of respondents are 20-30 years old, 24.58% are 30-40 years old, and 12.95% are older of 50 years,

while the smallest number of female respondents belongs to the age group of 18-20 years, 1.32%.

- when it comes to the level of education, the largest number of respondents have completed high school, 47.17%, and 37.54% have completed the first cycle of studies.

- in the domain of household structure, 52.82% of respondents live with their partner and children.

- the marital status of the largest number of respondents is married, 68.10%, and the work status is employed, 71.42%.

- in terms of work status, the largest number of respondents, 430 or 71.42%, are employed, and 14.61% are self-employed. The majority of respondents have a fixed-term employment contract, 36.21%. However, there is no statistically significant difference between the number of respondents with a concluded employment contract for an indefinite period of time and for a fixed period of time. As a percentage, 32.22% of the respondents have concluded an employment contract for an indefinite period of time.

The structure of the respondents is presented in more detail in table 1.

Variables		Number of respondents	Percentage
Age	18-20 years	8	1,32%
	20-30 years	86	14,28%
	30-40 years	148	24,58%
	40-50 years	282	46,84%
	over 50 years	78	12,95%
Education level	Primary school	8	1,32%
	Secondary school	284	47,17%
	bachelor or baccalaureat	226	37,54%
	master	76	12,62%
	ph.d.	8	1,32%
Structure of household	Living alone	46	7,64%
	Living with partner	118	19,6%
	Living with partner and children	318	52,82%
	Living with children	44	7,3%
	Living with parents	36	5,98%
	Living with parents and syblings	28	4,65%
	Living with room-mate	10	1,66%
	Other	2	0,33%
Martal status	single	114	18,93%
	married	410	68,10%
	divorced	36	5,98%
	illegitimate	36	5,98%
	widow	6	0,99%
Working status	employed	430	71,42%
	self-employed	88	14,61%
	unemployed	36	5,98%
	student	40	6,64%
	other	8	1,32%

Table 1. Structure of respondents by age, level of education, household structure, marital and work status

In order to analyze gender differences and the market as comprehensively as possible, from the aspect of providing financial resources, three questions were addressed to the banking sector, more specifically 13 banks in the FB&H, namely:

1. In the past three years, how many women were the sole applicant for a housing loan?
2. How many women were among the applicants for a housing loan in the past three years?
3. How many women have appeared in the role of guarantor in the past three years?

However, one of the 13 banks submitted answers to the survey questions.

4.2. Analysis of questionnaire data

4.2.1. Working status

As indicated in chapter 2, the percentage of women as (co)owners of real estate depends on a number of elements, of which the position of women on the labor market is an indispensable element. Questions from the domain of work status, in addition to the current work status, related to the speed of finding employment on the labor market after completing formal education, then to the types of work contracts (for a fixed period or for an indefinite period in accordance with Article 22 of the Labor Law of the FB&H) including the possibility of performing occasional and temporary jobs (work contract), as well as data on the continuity of the employment relationship with the same employer, on the employment of the respondents in the type of jobs for which they have completed formal education, realized net income and opportunities at the workplace.

The latest available publication on the labor force of B&H, Labor Force Survey 2019, of the Agency for Statistics of B&H, in the basic characteristics of the population according to activity and gender, indicates that the activity rate of women is lower, the employment rate is lower, and the unemployment rate is higher among women in the group of working age population. . According to data from 2020, the gender gap in employment is 25 p.p., which more specifically means that the employment rate in the 20-64 age group is 40% for women and 65% for men.

The position of women on the labor market is the focus of the European Commission with similar, or the same, findings. "In 2021, 67.7% of women were employed, while the employment of men was 78.5%." In other words, there is still a gender gap in employment of 10.8 p.p., which has only slightly decreased in the last 10 years. care is stereotypically assumed by women. By comparing data from the EU with data from B&H regarding the gender gap in employment by 15 p.p. is a bigger gap in B&H than in the EU.

	Total			Man			Woman		
	Total								
	2017	2018	2019	2017	2018	2019	2017	2018	2019
	Rate %								
Activity rate	42,6	42,1	42,1	53,3	53,2	51,7	32,4	31,4	32,9
Employment rate	33,9	34,3	35,5	43,2	44,1	44,6	24,9	25,0	26,7
Unemployment rate	20,5	18,4	15,7	18,9	17,2	13,6	23,1	20,3	18,8

Table 2. Basic characteristics of the population according to activity and gender, B&H

Therefore, the position of women on the labor market confirms that "despite the changing circumstances on the labor market - women in general are still strongly influenced by ideologies or discourses that determine their, and men's, roles in the household and at work, and which continue to influence social regulation ".

When it comes to the structure of unemployed persons according to the highest level of education completed in 2020, statistical data indicate that a greater number of unemployed women have completed college, university, master's and doctorate degrees.

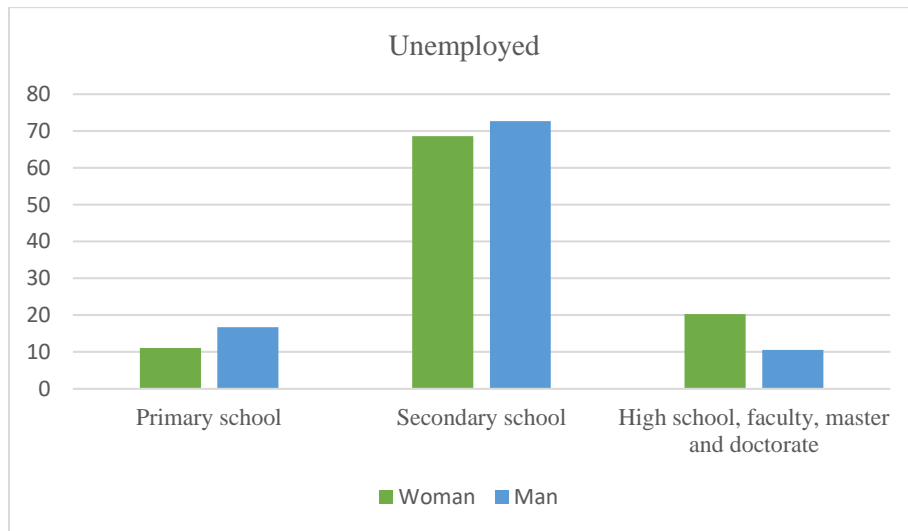
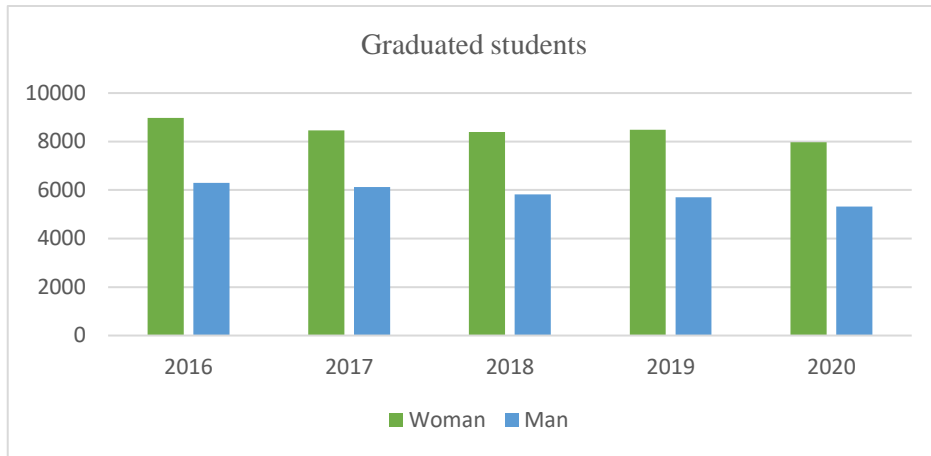
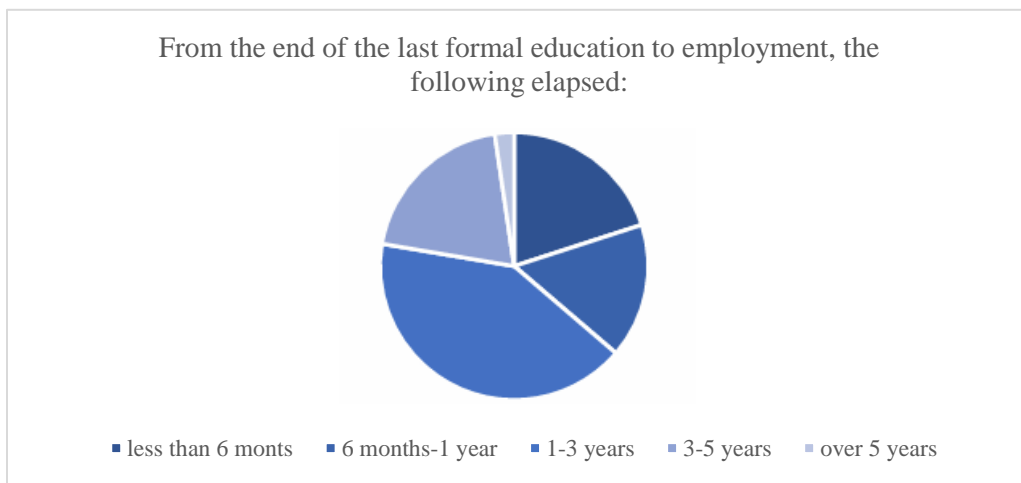


Chart 1. Structure of the unemployed by highest completed vocational training in 2020 in percentage

Comparing the EU and Bosnia and Herzegovina context, the conclusion is unique. In the European context, as well as in Bosnia and Herzegovina, more women graduate from higher education. Academician, Adila Pašalić Kreso, in her work Education of the population in B&H, "based on the study and processing of statistical indicators obtained after the published results of the population census of B&H", states that "women in B&H until secondary and higher education significantly lag behind men, and then they the difference decreases so that at faculties and universities the percentage of women would be 3-4 percent higher than men". From 2016 to 2020, a higher number of women graduated from universities in B&H than men.



Graph 2. Number of graduated students

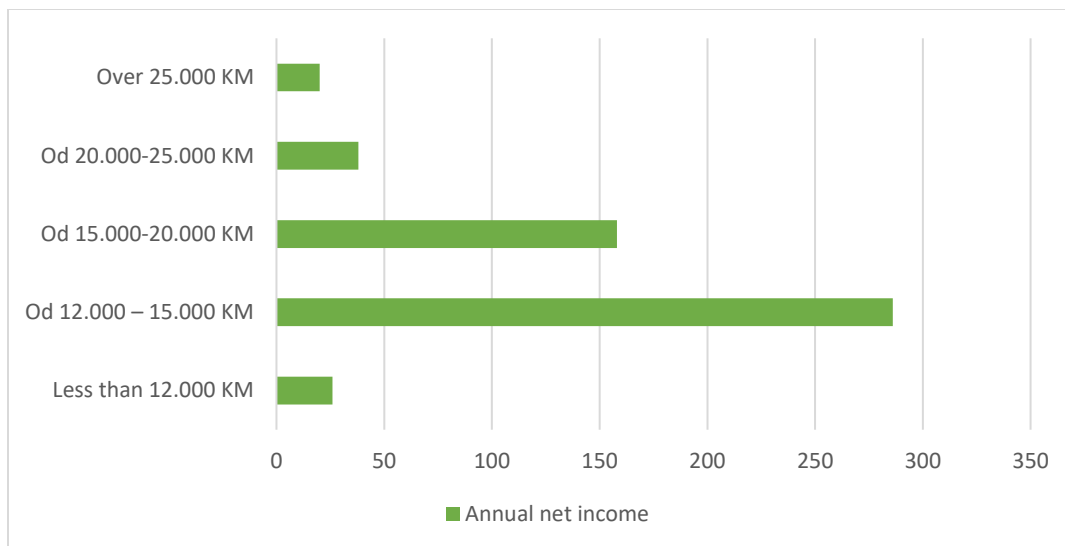


Graph 3. Unemployment time

Since the formal completion of the last stage of education in search of employment, of the number of employed and self-employed respondents, 178 of them, i.e. 41.39% have been looking for a job for 1-3 years. Comparing the data collected and the data of the B&H Statistics Agency, the results are consistent. The structure of the unemployed according to the duration of unemployment in 2020 indicates that, with the exception of two cases (duration of unemployment less than 6 months and 120 months and more), women are unemployed longer than men.

The level of realized income has a significant influence in solving the housing issue. The gender pay gap has a domino effect on the real estate market. Research conducted by Zillow, for the USA, indicates that women would have 18% more share in the housing market if they earned the same as men. The research points out that the gender gap in salaries is slowly decreasing, which does not go unnoticed, that is, it has an effect on the housing market. The consequences of the wage gap are not only related to the reduction of the share in the housing market, but also to the quality of real estate owned by women.

One of the survey questions concerned the achieved net income on an annual basis. Most of the respondents, 47.50%, earn a net income on an annual level in the range of 12,000-15,000 KM, which is an average of 1200-1250 KM per month, and 26.24% earn an income in the range of 15,000-20,000 KM, that is, monthly from 1250-1666 KM.

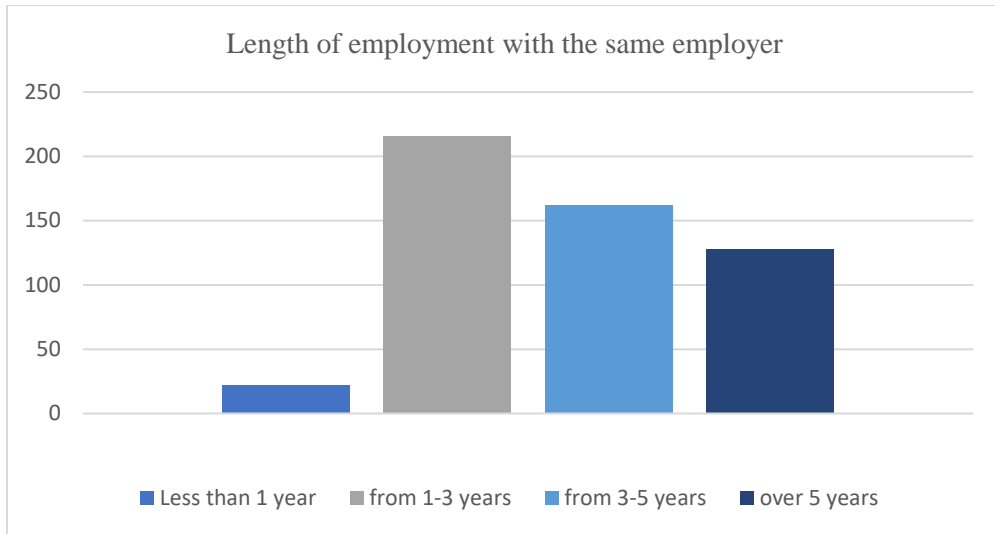


Graph 4. Annual net income

Salary data published on the plata.ba portal confirm the data collected in the research. The Plata.ba portal is part of the Paylab.com online tool for collecting salary data. Based on the data available on the portal, the average salary for men is BAM 1,444 and for women BAM 1,248. "Generally, in Bosnia and Herzegovina, men earn 15.7% more than women." Analyzing the level of income and the frequently concluded type of employment contract - for a fixed period, the conclusion is that female respondents have difficulty accessing additional sources of financing such as loans.

In addition to the level of income, and in the context of access to additional sources of financing, it is important to take into account the percentage of the gray economy in the GDP of B&H and the analysis of international organizations on the participation of women in the informal sector. It is estimated that the share of the gray economy is 29.88% of GDP, and according to IMF data, the share is 35.4%. A 2017 study written by employees of the FB&H Tax Administration identified the labor market as one of the zones of activity in the gray economy. OECD data indicate that the percentage of women employed in the informal economy is higher than the percentage of men in 28 of the 39 countries for which data are available.

Regarding the continuity of employment with one employer, and bearing in mind that women more often have breaks in the employment relationship due to "maternity leave or caring for elderly and sick family members, the inability to rejoin the labor market due to older age due to changes in the market", the majority of respondents are in employment with the same employer for 1-3 years, a percentage of 35.88%, which, bearing in mind the age structure of the respondents, is a shorter than expected continuity of work with the same employer.



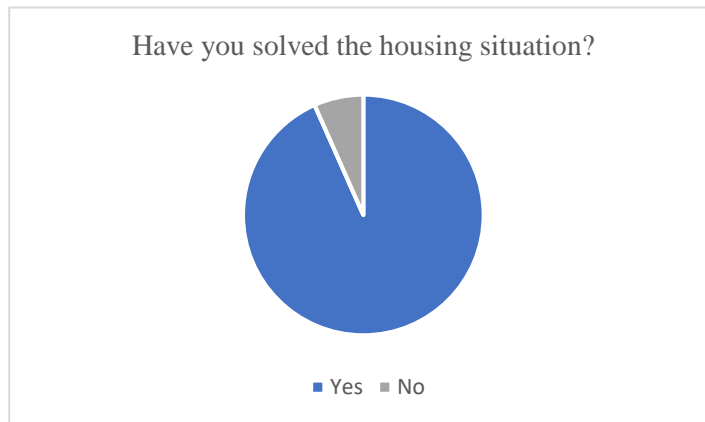
Graph 5. Length of employment with the same employer

4.2.2. Solving housing situation

Questions about solving the housing issue aimed to determine the following:

- Have the respondents solved the housing issue through ownership/co-ownership?
- The way in which the respondents solved the housing issue?
- Type of property ownership (owner or co-owner)
- Examining attitudes about who are the key participants in empowering women as real estate owners
- Reasons why the housing issue has not been resolved
- About the role of notaries in the process of registering women as real estate owners

a. Have the respondents solved their housing issue?

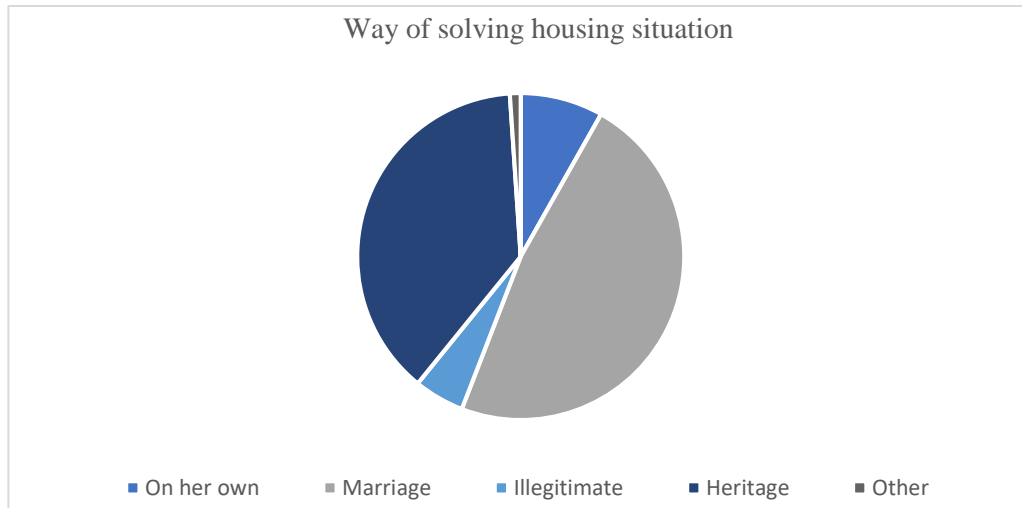


Graph 6. Solved housing situation

Most of the respondents have solved their housing issue. Namely, 562 respondents pointed out that they solved the housing issue, while 40 respondents did not. A percentage of 99% of respondents who answered the question about family structure that they live with their partner and children answered that they have solved the housing issue. Of the 47.50% of respondents who earn an annual income of 12,000-15,000 KM, most of them answered that they have solved the housing issue. Bearing in mind the age structure of the respondents and the results of earlier research, there is a higher percentage of older women who own real estate.

b. The way in which the respondents solved the housing issue

When it comes to the way of solving the housing issue, the majority of respondents solved the housing issue in a married union, 44.51%, and 35.54% have solved the housing issue through inheritance. A percentage of 7.64% of respondents, or 46 of them, solved the housing issue on their own.



Graph 7. Way of solving housing situation

The data that the largest number of respondents solved the housing issue in a married union is in accordance with the results of a study from 2011, which indicated that a higher percentage of married partners buy real estate for housing, because they strive for greater stability, and at the same time their incomes have increased. At the same time, it is more likely that the housing issue will be resolved if it concerns households with children.

Regarding the means of providing financial resources to solve the housing issue, in addition to inheritance, 34.88% of respondents solved the housing issue through a mortgage loan. As in part of the work 4.1. indicated, the research included the banking sector in FB&H. The data submitted by one of the 13 banks indicate that:

1. Out of the total number of housing loans in the past 3 years, in 257 cases, i.e. 44% are women as the main debtor. Of that number, 141 of them are independent holders, i.e. borrowers on the basis of housing loans (secured by mortgages)

2. Out of the total number of housing loans approved with a co-borrower, 110 women were co-borrowers, i.e. one of the participants for a housing loan or 49%. Of that number, the relationship of a male debtor and a female co-debtor appears in 81% of cases, while the relationship of a female debtor and a female co-debtor occurs in only 8% of cases.
3. There are no approved loans in the past 3 years in which the woman is the guarantor.

c. Type of property ownership (owner or co-owner)

When it comes to the type of property ownership, most of the respondents are not the only real estate owners, more specifically 68.43% of the respondents are not the only real estate owners. Most of the respondents are co-owners of real estate, percentage 56.81%.



Graph 8. Type of ownership

The results of the research indicate that the co-ownership structure is the most common way of solving the housing issue, which does not differ in comparison with other countries. The 2021 Whitepaper Women and property: State of play states that in Australia and New Zealand, male-female co-ownership is the most common ownership structure, but the rate of female property owners and co-owners is still lower than that of men.

The conclusion is the same when it comes to FB&H. The report on the state of the real estate market in FB&H for 2021 prepared by the Federal Administration for Geodetic and Property Legal Affairs indicates that women, compared to men, in a significantly smaller percentage, especially when the type of real estate is land and houses, appear alone in traffic or as traffic participants. In more cases, but still less than men, they are alone in the real estate transaction or participants in the transaction if the object of purchase is an apartment.

Buying real estates

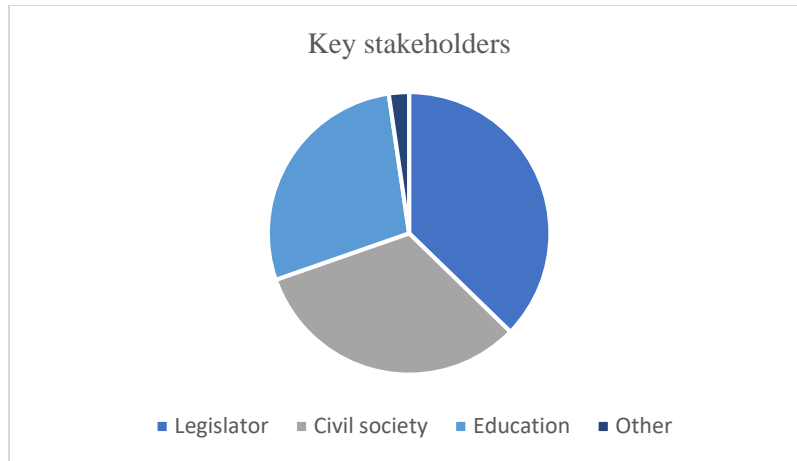
Market	Year	Men		Women	
		Alone in transaction	Participants in transaction	Alone in transaction	Participants in transaction
Land	2018	4.289	613	811	316
	2019	6.248	1.081	1.245	439
	2020	7.094	1.319	1.716	611
	2021	11.069	2.078	2.609	1.030
			78%		22%
House	2018	707	111	226	83
	2019	1.239	233	386	154
	2020	1.211	207	436	168
	2021	1.846	352	606	276
			71%		29%
Appartment	2018	1.104	248	839	256
	2019	1.797	461	1.343	495
	2020	1.513	407	1.141	411
	2021	2.402	692	1.862	689
			55%		45%

Table 3. Overview of the real estate market in the Federation of Bosnia and Herzegovina from the point of view of gender representation

The smaller share of women owners, or co-owners, of real estate is also a consequence of traditional conditions in Bosnian society, especially in rural areas. In the Gender Action Plan of B&H for the period 2018-2022. "the fact that men are much more often than women the owners of land, housing units, business premises, or movable property, and these inequalities are even more pronounced in rural areas." Traditional norms dictate that men are the ones who are considered the owners of real estate. Such norms and traditional patterns of behavior have a negative impact on the achievement of women as (co)owners of real estate.

d. Examining attitudes about who is the key stakeholder in empowering women as real estate owners

Speaking about the participants who can raise the level of awareness and empower women as (co)owners of real estate, the interviewees believe that the key participants are the legislator, civil society and education. In addition to the aforementioned participants, the survey results indicated that the respondents believe that the role of the notary in the real estate transfer process is significant. The service of a notary, as a public service, implies that the notary acts neutrally towards the parties and teaches them about the legal consequences of their statements and legal affairs. It previously indicates that the notary has the duty to familiarize the parties with the regime of marital and non-marital assets from the FB&H Family Law in cases such as e.g. purchase and sale of real estate, gift of real estate, etc.



Graph 9. Key stakeholders in empowering women as property owners

e. Reasons why the housing issue has not been resolved

Respondents, percentage 11.62%, who have not resolved the housing issue as owners or co-owners, chose the following answers as reasons:

- I expect to solve the housing issue through inheritance
- High real estate prices
- I do not meet the criteria for approving a housing loan
- Inability to access funding due to unemployment
- I expect the marital/common-law partner to have the housing issue resolved
- I don't want to solve the housing issue by borrowing from the bank with a housing loan
- I do not consider it important to have the housing issue resolved

Taking into account the percentage of respondents who answered the survey question and chose the reasons ranked by the number of answers, they are not statistically significant. However, they are presented considering that trends in the real estate market, such as high prices and a continuous increase in the share of housing loans in the total credit indebtedness of the population, are not negligible in the context and goal of this research.

5. Conclusion

A detailed analysis of the survey data, which is additionally argued with available statistical data and scientific studies, indicates the similarity of the problems, the sameness of the conclusions and the widespread unfavorable position of women. The results of the research indicate that the largest number of respondents are co-owners of real estate, while only 7.64% of women solved the housing issue on their own. In the context of this research, and based on the analyzed and used literature, two ways of acquiring (co)ownership of real estate when it comes to women stand out, namely: solving the housing issue in the marriage union and through inheritance. Most of the respondents solved the housing issue in the marriage union, followed by the settlement of the housing issue through inheritance. In terms of age, there is a higher percentage of older women who own real estate.

The reasons for the gender gap in the real estate market, i.e. the lower percentage of women as participants in the real estate market, can be summarized in three groups of reasons based on available data from the labor market, from the gender action plan and current trends and development of the real estate market:

- a. Reasons of an economic nature
- b. Reasons of a traditional nature
- c. Trends in the real estate market

a. Reasons of an economic nature

Reasons of an economic nature should be linked to the challenges faced by women in the labor market. Reasons from this group can be considered one of the key, if not the key, barriers due to which a higher percentage of women do not own real estate. In the analysis of the ownership structure in the real estate market, the position of women in the labor market has the most significant role, and it is possible to talk about a kind of vicious circle of (dis)opportunities that women face. The analysis of the responses from the work status segment confirmed earlier premises about the position of women on the labor market, namely:

- Lower activity rate of women, lower employment rate and higher rate of unemployed women in the group of working age population
- The gender employment gap is still present and amounts to 25 p.p.
- Women wait longer for employment than men
- Women's net income is lower than men's

The amount of net income that the respondents earn on a monthly or annual basis and the type of employment contract, 36.21% of the respondents have a fixed-term employment contract, are complicating circumstances for access to additional sources of financing such as loans. Opportunities in the labor market have a domino effect on the real estate market, affecting the number and ability of women to participate independently or as co-owners in a greater percentage of real estate transactions.

b. Reasons of a traditional nature

Due to entrenched patriarchal norms in society, women renounce their legal inheritance following the norms of common law according to which men are the owners of real estate. Such an attitude, about the male owner of real estate, is especially present in rural areas, which is statistically confirmed, bearing in mind the structure of urban and rural areas, e.g. greater importance and percentage of land in rural areas than in urban areas, the number of women independent participants and one of the participants in the land and house market from 2018-2021. year (table 3).

c. Trends on real estates market

The third group of reasons, for which the collected data are not statistically relevant, but not completely negligible, concerns the current trends in the real estate market. First of all, about the trend of real estate price growth, the importance and stability of the real estate market, and the role

of the market in accumulating wealth. For the mentioned trends, it would be unskillful, at first, to conclude that regardless of the gender dimension, they affect the possibility of solving the housing issue. However, the analyzed position of women on the labor market in the context of trends in the real estate market may cause a deepening of the gender gap in the ownership structure to the detriment of women.

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LEGAL STRENGTHENING OF THE POSITION OF WOMEN AS PROPERTY OWNERS AS A STEP IN THE PROCESS OF ACCESSION TO THE EUROPEAN UNION

1. Preamble

Bosnia and Herzegovina's accession to the European Union is considered to be beneficial in many ways, and the advantages are the improvement of the general standard of living, improvement of freedom of movement, strengthening of democracy, and stability and security. In order for all the mentioned qualities to be fully implemented, it is necessary that they apply equally to all citizens. Related to this is the principle of equality, which is one of the foundations of Union law, and implies a completely equal treatment of all citizens of the Union, regardless of any criteria that could be the basis for making differences. Bearing in mind the position of Bosnia and Herzegovina on its path to membership in the European Union, and the obligation to harmonize legislation, the principle of equality is unavoidable. At the same time, in addition to primary and secondary legislation, i.e. taking over the entire legal acquis of the European Union, it is necessary to ensure commitment to the goals of the European Union, among which gender mainstreaming, i.e. fertility strategy, plays an important role. The aforementioned strategy represents the obligation of the European Union to take into account the dimension of gender and gender equality in all its activities and at all levels. Therefore, the enlargement represents a challenge to preserve commitment to European principles, because each member state should not only harmonize its legislation with the legislation of the European Union, but also take over European values and strategies, and apply them effectively in practice.

The legal system of Bosnia and Herzegovina guarantees gender equality and prohibits any form of discrimination. However, in spite of this, certain discriminatory effects occur in practice, which have already been the subject of analysis in professional legal literature. The aim of this paper is to emphasize the importance and development of gender equality in the law of the European Union (2), then to explain the position of Bosnia and Herzegovina in the context of the process of accession to the European Union (3), to present the principle of equality in the legal order in Bosnia and Herzegovina (4), to give an overview application of the principle of equality in the context of women's ownership of real estate in practice (5), and to give concluding considerations in the direction of strengthening the position of women as real estate owners (6). Normative-dogmatic, comparative, sociological and empirical methods will be used to achieve these goals. The normative-dogmatic method will be used when interpreting the relevant provisions of the regulations of the European Union and Bosnia and Herzegovina, while the comparative method will be used to point out the similarities and differences between Bosnia and Herzegovina's positive legal regulations regarding discrimination and the requirements of European law. Applying the sociological method will analyze the application of regulations related to women's ownership rights to real estate in practice, while the empirical method will enable drawing conclusions about important factors related to the practical experience of women's ownership rights to real estate.

2. Gender equality in the European Union

One of the basic values on which the European Union is founded is the principle of equality or the principle of equality. We find confirmation of this in the Treaty on the European Economic Community from 1957, which contained the obligation to apply the principle of equal pay for women and men for equal work. Although this Agreement was a means of economic networking and improvement of the position on the market of the founding countries at the time, awareness of the importance of economic empowerment of women as participants in processes that should support economic flows was still sufficiently developed. The aforementioned principle thus became binding already in the sixties of the twentieth century for the first member states of the then European Community, today's European Union. It was a provision that regulated gender discrimination, i.e. the prohibition of it in such a way that it provided for the principle of gender equality, equal treatment and equal opportunities for women and men. Specifically, it was about the then Article 119 of the Treaty on the European Economic Community, that is, today's Article 157 of the Treaty on the Functioning of the European Union.

Gender equality was first mentioned as such in the Treaty establishing the European Union from 1992 (the so-called Maastricht Treaty), where in Article 2 it was underlined that gender equality must be promoted with the aim of promoting employment, improving life and work, appropriate social protection, dialogue between management and labor, development of human resources with the aim of permanent high employment and suppression of exclusion from the labor market.

Amendments to the founding treaties that followed over time only added to the already existing principle of equality. The Treaty of Amsterdam from 1997 specifically emphasized equality between men and women in the labor market and treatment, and in this sense, it includes the obligation to establish the so-called affirmative measures to ensure equal participation in the labor market. The 2001 Treaty of Nice also supports equal treatment of men and women in the labor market. The Treaty of Lisbon, signed in 2007 and entered into force in 2009, additionally confirms the European Union's commitment to the principle of equality and introduces an entire section dedicated to the prohibition of discrimination, reminding that the European Union is based on the values of respect for human rights, freedom, democracy, the rule of law and gender equality. At the same time, it is important to mention the Charter of Fundamental Rights of the European Union, which was signed in 2000 and also entered into force in 2009, together with the Treaty of Lisbon. The Charter expressly regulates equality in Articles 20, 21 and 23. In its Article 23, it provides for the prohibition of any discrimination based on sex, race, color, ethnic or social affiliation, genetic characteristics, language, religion or belief, political or other opinion, belonging to a national minority, property, birth, disability, age or sexual orientation.

In addition to primary legislation, i.e. founding treaties, the protection and promotion of women's rights and gender equality is guaranteed and further elaborated through secondary legislation, i.e. various decrees, directives, decisions, recommendations and opinions issued by the bodies of the European Union. Particularly relevant in the field of prohibition of discrimination based on gender are: Directive on equal pay for men and women (75/117 / EEC), Directive on equality between men and women in employment (76/207/EEC, amended and supplemented by Directive 2002/73/EC , repealed by the Reorganization Directive 2006/54/EC), Directive on the equality of men and women in statutory social security programs (79/7/EEC) (86/378 / EEC, amended by Directive 96/97/EC, repealed by the Directive on reorganization 2006/54/EC), Directive on equal treatment of self-employed men and women engaged in activities, including agriculture (86/613/EEC, repealed by Directive 2010/41/EU), Directive on the pregnancy of workers

(92/85/EEC), the Parental Leave Directive (96/34/EEC, repealed by Directive 2010/18/EU), the Directive on equal treatment of men and women in the access and supply of goods (2004/113/EC) and the above-mentioned so-called Reorganization Directive (2006 /54/EC).

In addition to primary and secondary law, it is important to highlight the various political acts and strategic documents of the Union that aim to promote and protect equality. In particular, this segment highlights the Conclusions of the Council of the European Union for the period from 2011 to 2020, which reaffirm the EU's commitment to eliminating gender gaps in employment, education and social protection, promoting a better balance between work and private life for women and men, and fight against all forms of violence against women. The European Commission is also active in this segment, and the document Strategic Action for Gender Equality for 2016-2019 stands out among its more recent activities. of the European Commission, which lists five priorities that the EU will focus on for this period, both in EU countries and in countries that are in the accession and pre-accession phases. Those priorities included: increasing the number of women participating in the labor market and equal economic independence of women and men; reduction of the difference in salaries, incomes and pensions between the sexes and the fight against women's poverty; promoting the equality of women and men in decision-making; suppression of gender-based violence and protection and support for victims; and advancing gender equality and women's rights around the world. Then, on March 5, 2020, the European Commission presented its new, currently current, Strategy for Gender Equality in Europe for the period from 2020 to 2025, entitled Striving for a Union of Equality. This strategy sets out key actions for a five-year period and commits to ensure the inclusion of an equality perspective in all areas of European Union policy. The implementation of this strategy will be based on a dual approach of targeted measures to achieve gender equality, combined with enhanced gender mainstreaming, which will be enhanced by the systematic inclusion of a gender perspective in all phases of policy making in all internal and external areas of European Union policy. An additional boost to the development of gender equality was given by the adoption of the Gender Action Plan III: Towards a world of gender equality. On that occasion, the president of the European Commission, Ursula von der Leyen, emphasized the following: "Gender equality is a basic principle of the European Union, but it is not yet a reality. In business, politics and society as a whole, we can only reach our full potential if we use all our talent and diversity. Using only half of the population, half of the ideas or half of the energy is not good enough." All the above-mentioned activities are accompanied by increased financial support for the development of gender-aware policy, so in the multi-year financial framework of the European Union for the period 2021 - 2027, the largest amount of funds is foreseen so far which should be aimed at improving the application of the principle of equality.

In addition to primary and secondary legislation, and political and strategic documents, the European Union acts through bodies and agencies aimed at promoting gender equality. A particularly important place is occupied by the European Institute for Gender Equality (EIGE), whose task is to strengthen the promotion of equality and to provide support for gender mainstreaming in all policies of the European Union by providing technical support to EU institutions by conducting research and collecting data necessary for the adoption of better, gender-aware policies. by European institutions and member states.

Therefore, it is obvious that there is a strong legal framework, which is certainly a prerequisite for achieving gender equality, and that it is accompanied by significant political and strategic activities of the Union. However, it would be wrong if we interpreted this fact alone as a sufficient order

and guarantee of the existence of gender equality legitimacy in practice. Candidate countries that meet the conditions for joining the European Union must have a stable and democratic government, functional institutions, and a comprehensively applicable principle of the rule of law, which includes gender equality. However, it is extremely important to analyze this issue from the aspect of application. Precisely because it may seem as if there is no discrimination, because all the regulations are in order and equality is implied, it is important that the mentioned issues do not pass under the radar, and that they are the subject of attention and relevant analyses, and so that the current regulations could really be adequately implemented in practice.

3. The position of Bosnia and Herzegovina in the context of the European Union accession process

Bosnia and Herzegovina signed the Stabilization and Association Agreement between the European Communities and their member states, on the one hand, and Bosnia and Herzegovina, on the other hand, more specifically, Article 70 of this Agreement, which contains the so-called "harmonization clause", assumed the obligation to gradually harmonize its existing and future legislation with the *acquis* of the European Union covered by the Agreement, as well as the proper application and implementation of the harmonized legislation until the end of the transitional period of six years from the date of entry into force of the Stabilization and Association Agreement (SAA). The SAA entered into force on June 1, 2015, and the deadline for fulfilling the obligation was June 1, 2021. However, by signing it in 2008, Bosnia and Herzegovina was obliged to take over the *acquis*.

Depending on the subject of regulation, constitutional and legal competences, one European legal act can be adopted into one or more domestic regulations. Regardless of which type of regulations the acquisition is carried out, the requirement of compliance with the legal act of the European Union must be respected, and this further means that the acquisition of the *acquis* should be carried out in a coordinated and harmonized manner. Harmonization of the legal system of Bosnia and Herzegovina with the legal *acquis* of the European Union implies not only the harmonization of provisions but also their effective implementation. The obligation to harmonize legislation is a legal criterion that derives from the Copenhagen criteria and, in addition to political and economic criteria, is a condition for membership in the European Union. It is important to note that when meeting the legal criteria, not only the conformity of national law with the European one is evaluated, but also the administrative and institutional capacity for the effective application of the harmonized law, which is a segment that is often more difficult to fulfill than just taking over the *acquis*.

Member states have an obligation to transpose directives, and candidate and potential candidate states have an obligation to harmonize their legislation with the body of Union law. If the member states do not implement the directives, the obligation to interpret the national law in accordance with the non-implemented directive applies.

All of the above is additionally confirmed by the fact that the European Council approved the status of a candidate country for Bosnia and Herzegovina on December 15, 2022, based on the conclusions of the General Affairs Council of the European Union from December 13 and the recommendations of the European Commission from October 2022. It follows that there is no alternative to fully incorporating the principle of equality into all segments of positive law in Bosnia and Herzegovina.

4. The principle of equality in the positive law of Bosnia and Herzegovina

Bearing in mind all of the above, it is clear that gender equality is an undeniable priority and the basis of the functioning of the European Union. Accordingly, an inseparable and unavoidable part of the legal *acquis* that candidate countries are obliged to adopt into their domestic legislation. Therefore, the obligation to take over, i.e. to harmonize the existing regulations with the principle of equality exists for Bosnia and Herzegovina and its legal system.

In Bosnia and Herzegovina, there is a public legal framework that should ensure the prevention of discrimination. The basis of this framework is the Constitution of Bosnia and Herzegovina, which in its section II entitled "Human rights and fundamental freedoms" guarantees fundamental rights. Within this section, Article 3 contains the Catalog of Fundamental Rights and Freedoms. One of the fundamental rights is the right to property listed in Article II 3. (k). This provision guarantees that all persons on the territory of Bosnia and Herzegovina enjoy the right to property. In the B&H Constitution, this right is only stated without further elaboration and there are no further provisions on property rights. As international documents, including the European Convention on Human Rights, are directly applicable in the legal system of Bosnia and Herzegovina, the right to property acquires additional importance, especially due to the application of Article 1 of Additional Protocol no. 1 with the European Convention on Human Rights, which guarantees the protection of property. The aforementioned provision guarantees peaceful possession of one's own property and other property rights acquired by law. A person's property can be confiscated only in the public interest and under the conditions stipulated by law and general principles of international law. The mentioned article is directly applied in B&H (see II.1). The Constitutional Court follows the practice of the European Court of Human Rights regarding the question of what can be considered property and what could be under protection (the Court says that the term property has an "autonomous meaning that is independent of formal classification in domestic law", and includes a wide range of ownership interests that represent economic value, more than national legal concepts), and regarding the question of when confiscation is justified.

In addition to the B&H Constitution, gender discrimination is prohibited by the Law on Gender Equality and the Law on Prohibition of Discrimination. The Law on Gender Equality is the most important mechanism for progress towards gender equality in Bosnia and Herzegovina. It is based on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which advocates gender equality in the private and public sphere and prohibits discrimination based on gender or sexual orientation. The goal of this law is to promote and protect essential gender equality and guarantee equal opportunities to all citizens, both in public and private life, and to prevent direct and indirect discrimination based on gender. The Law on Gender Equality particularly emphasizes some spheres of private or public life in which women have traditionally been at a disadvantage compared to men: education, economy, work, employment, social and health care, sports, culture, public life and the media. The law prohibits discrimination based on gender and sexual orientation and provides a definition of different forms of gender-based discrimination, a definition of direct and indirect discrimination, harassment and sexual harassment. We consider it particularly important for this research to point out that the Law on Gender Equality prohibits discrimination in access to all types of resources, which emphasizes the importance of equal opportunities for economic exploitation of available resources equally for both sexes, and real estate is certainly one of the most valuable resources.

Regarding regulations from the private law field, for the context of women as real estate owners, we find regulations on real rights and regulations on inheritance to be the most relevant. The laws

on real rights do not contain any regulation that could be considered discriminatory or a regulation that treats men and women differently. These regulations expressly state that every natural and legal person can have ownership rights over movable and immovable things, as well as that every property is equal regardless of who owns it. The conditions for acquiring, using and disposing of property are set in a completely general way in relation to the holder, with the gender of the holder not being highlighted. The regulations governing inheritance relations also do not contain direct discrimination. After determining the composition of the property left behind by the deceased person, his/her heirs are named based on the will, if the deceased made the same during his/her lifetime, or based on the legal order of inheritance. It is extremely possible for married or common-law partners to enter into an inheritance contract, in which case the property will be distributed primarily on the basis of the said contract, with possible additions in case of a will, i.e. according to the rules of legal inheritance. In any case, no difference is foreseen with regard to the gender of the heir, so married and extramarital partners, regardless of whether in the specific case it is a surviving male or female (extramarital) partner, will inherit only on the basis of that attribute. Also, no distinction is made between the testator's male and female children, in terms of the right to inherit or the size of their inheritance, nor between the gender of the parents, if they appear as heirs.

5. Application of the principle of equality in practice - how equal are women really as real estate owners?

As stated above, and discussed in detail and several times in professional legal literature, discrimination does not exist according to the letter of the applicable regulations in Bosnia and Herzegovina. Nevertheless, despite adequate constitutional and legal solutions and identified subjects of protection, the application still looks different and it is possible that certain problems and discriminatory effects may occur in practice. Namely, although according to all relevant laws in Bosnia and Herzegovina, women and men are equal, there are still cases where property is registered only in the name of a male co-owner, i.e. husband, partner or brother, who actually owns only one co-ownership share. Women are much less often registered as owners of property that represents an important source of economic power, e.g. apartments, business premises, land, etc. Therefore, there is a clear need to bridge the gap between legal regulations (*de iure*) and practice (*de facto*) in order to strengthen women's property rights.

The above is supported by the results of the latest research Economic prism of housing - female perspective conducted by the Center for Support to Organizations (CENSOR). Namely, 73% of respondents are not the sole owners of real estate, that is, only 27% of respondents have real estate in individual ownership, and are registered as sole owners. At the same time, only 8.2% of respondents who own real estate solved the housing issue on their own, which indicates that women are practically almost impossible to have independent access to real estate as a resource. 86% of them, on the other hand, solved the housing issue through inheritance or marriage. As a result of the fact that the origin of property originates for the most part from inheritance law or family law relations, and the ownership arrangement is based on real legal regulations, i.e. the regime of co-ownership (in the Federation of B&H and Brčko District) and joint ownership (in the Republic of Srpska), it is necessary to ensure that in these relations women's rights are treated the same as men's rights, i.e. women are supported and adequately informed so that they can really exercise their rights.

Public notaries or notaries play a particularly important role in that segment. Thanks to the character of their function, which is primarily public, and the obligation to take care of the protection of all parties, their work contributes to the preservation of the rights of all involved, and consequently to the long-term establishment and functioning of the rule of law. The role of notaries in Bosnia and Herzegovina is regulated by the laws on notaries in the entities and Brčko District, which have been in force since 2007/2008. years. Notaries have significantly contributed to greater legal certainty, especially in the domain of legal affairs with real estate, and have freed up the capacities of public authorities by taking over the authority to certify signatures and photocopies. Notarial processing and the role of the notary as an impartial witness whose task is to equally protect the interests of both parties and prevent the introduction of unclear or illegal provisions in the official document, contributes to reducing the number of legal disputes in legal areas for which notaries are competent. As for greater gender equality in legal affairs concerning immovable property, the contribution of notaries lies in the fact that they advise the parties on land ownership rights, the effects and consequences of certain legal actions and non-performance thereof, and in the case of co-ownership or joint ownership, they also consult the other spouse without regardless of whether he is registered as the owner or not. The trust enjoyed by notaries is also confirmed by the opinions of real estate owners, of whom as many as 95% believe that the role of notaries in real estate transactions is important, and 93% expressly stated that they trust notaries.

However, despite the positive experiences that individuals have, as well as the benefits for the legal system in general, the role of the notary has been significantly undermined by the ruling of the Constitutional Court of FB&H in case U-22/169 dated 5/15/2019. The judgment was passed on the occasion of a request for the constitutionality of the provisions of a number of laws, including the Law on Real Rights of the FB&H, the Law on Land Registers and others, which for certain legal transactions provide for the notarial processing of the document as a *forma ad solemnitatem*, i.e. a form that is indispensable for specific legal business, because in case of non-compliance with the requirements of the form, such legal business will be null and void. In its verdict, the Constitutional Court concluded that the vast majority of contested provisions are not in accordance with the Constitution, and ordered the legislator to harmonize the provisions that were declared unconstitutional with the FB&H Constitution within a period that cannot exceed six months from the date of publication of the decision in the Official Gazette of the Federation B&H. The ordered changes to the law have not been implemented until the moment of writing this text, so on the one hand there are unconstitutional provisions and valid legal texts that still contain those provisions, although it is clear that the judgments of the Constitutional Court of FB&H should be respected, while on the other hand there is an impossibility of implementation contracts that would be drawn up by persons who are not notaries, i.e. practical impossibility independent application of the judgment in practice by individual subjects of law. All of this brings everyone involved into a situation of legal uncertainty and unpredictability, and unfortunately ignores the achieved positive effects and a higher level of legal protection of individuals and legal security in the Federation of B&H in general. All the more important is the role of individuals, i.e. raising their awareness of the right to property, its acquisition, the importance of registration and similar issues, the ignorance or ignoring of which affects women the most.

6. Conclusion

Not a single regulation in the positive law of Bosnia and Herzegovina contains a provision that would be discriminatory in itself in the sense that it expressly leaves room for different treatment of women and men. On the contrary, the public and private legal frameworks are set in such a way

that they enable and encourage completely equal treatment of all persons, that is, the prevention of any type of inequality and discrimination. Thus, it could be said that it is in accordance with the requirements set by the path of adapting the domestic legal system to the legal acquis of the European Union. Despite this, practice shows that certain legal solutions can be potentially discriminatory. Therefore, it is necessary to make appropriate legal changes, but also to adapt the practice.

However, bearing in mind the results of the research and the importance that the interviewees attach to the influence of civil society and education in the process of strengthening the position of women as real estate owners, it is necessary to constantly, continuously and systematically work on general awareness raising about the importance of realizing the right of ownership of real estate for the benefit of women, their non-renouncing due to traditional reasons, and the free will that women enjoy as participants in legal traffic equally as men. At the same time, it is important to note that this work should be aimed equally at women, so that they are aware of their rights and encouraged to exercise them, as well as at men, so that they are aware of equal positions with women, and consequently do not prevent and encourage the application of rights and access to economic resources equally for both sexes. The legal framework is a necessary assumption, but it is obvious that it is not sufficient. In addition, fertility policy inevitably includes increasing the knowledge of all actors involved. When realizing the right of ownership, its acquisition, use and disposal, we are dealing with relationships based on the principle of dispositiveness and autonomy of will. Therefore, the will of the parties is the primary factor that determines the creation, change and termination of any civil law relationship. Therefore, the will can be expressed freely, but it is extremely important that it is formed on the basis of sufficient information. Awareness and participation of the parties is necessary. Furthermore, in addition to the holders or potential holders of rights, it is important to work strategically to raise the awareness of all legal practitioners who may be involved in certain processes concerning the realization of rights to real estate. In this way, it is possible to contribute to the effective and efficient application of the existing mechanisms for ensuring equality, that is, to the fulfillment of the legal criteria, as one of the prerequisites for membership in the European Union.

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