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GENDER-BASED DISCRIMINATION AND LABOUR IN SERBIA



Implemented by:



Gender Alliance for Development Center
Qendra Aleanca Gjimore për Zhvillim



KVINNA KVINNA

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Authors: Nevena Dičić Kostić, Andrea Čolak & Sofija Vrbaški

Editor: Sofija Vrbaški

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ACRONYMS AND ABBREVIATIONS

Advisory Committee, the	Advisory Committee on the Framework Convention for the Protection of National Minorities
Agency, the	Republic Agency for Peaceful Settlement of Labour Disputes
CC	Criminal Code
Commissioner, the	The Commissioner for the Protection of Equality
CSO	Civil society organisation
ECtHR	European Court of Human Rights
EU	European Union
GBD	Gender-based discrimination
ILO	International Labour Organisation
Initiative A 11	A 11 - Initiative for Economic and Social Rights
Kvinna till Kvinna	The Kvinna till Kvinna Foundation
LGBTQIA+	Lesbian, gay, bisexual, trans, queer, intersex, asexual, and all other related identities and expressions
LGE	Law on Gender Equality
LI	Labour Inspectorate
LPD	Law on the Prohibition of Discrimination
Ombudsperson	Protector of Citizens of the Republic of Serbia
OSCE	Organisation for Security and Co-operation in Europe
PWD	Persons with different abilities
UN	United Nations

EXECUTIVE SUMMARY

This report examines gender-based discrimination and labour, as part of a regional initiative to address such discrimination in six Western Balkan countries, supported by the European Union (EU) and co-funded by the Swedish International Development Cooperation Agency. The research aimed to provide information about shortcomings in the relevant legal framework; the prevalence and nature of gender-based discrimination related to labour; the extent to which people have filed claims; and how institutions have treated such cases. The research sought to inform actions of The Kvinna till Kvinna Foundation and its partner organisations, among others. The first edition was conducted in 2018 (published in 2019) and replicated in 2021 (published in 2022). The methodology was also replicated, involving mixed methods, including a desk review, online survey and interviews, but with some additional focus on the COVID-19 pandemic and its impacts on the subject matter.

The legal and policy framework related to gender-based discrimination and labour in Serbia seems rather comprehensive. The Constitution contains broad protections, and several specific laws deal with gender-based discrimination in relation to labour. Nevertheless, there are a number of laws that require amendments in order to be harmonised with EU standards. The Labour Law requires several amendments to harmonise it with EU directives and to further gender equality. Amendments are also required to ensure that Serbian legislation is harmonised with the EU Work-Life Balance Directive, namely in protections for parental leave and women's maternity leave rights. As stated in the first edition of this publication, a lack of relevant case law makes assessing implementation difficult. Even so, justice institutions can draw on the functioning of the EU legal order to facilitate their understanding of Serbian law.

The COVID-19 pandemic contributed to many facets of labour, and questions regarding the pandemic were added to the original survey to analyse the pandemic's effect on labour rights and whether there was a difference between women's and men's experiences. The survey itself had fewer respondents than the first edition. Even still, responses collected indicated most women and men survey respondents seemed aware that gender-based discrimination is illegal. Data collected did not indicate, however, a positive trend in awareness increasing since 2018, though it did indicate that every tenth respondent did not know where to report gender-based discrimination in labour. As in the first edition, knowledge on where to report gender-based discrimination has remained low, likely contributing to lower reporting rates overall. Other factors include workers' concerns over anonymity, fear of job loss, bureaucratic procedures, difficulties documenting cases and, for some, distrust in institutions.

The institutions responsible for addressing gender-based discrimination in labour continue to lack data about its prevalence. Data collected and analysed for this second edition, as in the first edition, shows that gender-based discrimination exists, particularly in hiring, promotion, maternity leave and sexual harassment at work. Survey findings suggest that such gender-based discrimination particularly affects women working in the private sector.

Low reporting rates continue to pose a challenge for addressing gender-based discrimination in labour. Courts still have little judicial practice, and few judges seemed knowledgeable regarding the relevant legal framework.

While labour inspectors tended to know about the Labour Law, they had few discrimination-related cases and did not seem to consider treating gender-based discrimination a priority; some reports existed of inspectors' inappropriate treatment of cases. While Ombudsperson Institution representatives seemed very knowledgeable about the relevant legal framework, they too had few cases. Labour unions seek to represent workers' rights, but some union representatives have limited knowledge about gender-based discrimination. This coupled with workers' minimal knowledge about unions or trust in them

likely has limited their support of workers in addressing gender-based discrimination. Civil society representatives working in this field tended to know the relevant legal framework, but they have assisted few cases directly.

Sexual harassment in the workplace continues to be a serious problem in this edition as in the first, with an overwhelming overrepresentation of women victims/survivors. This edition showed that, despite fewer survey responses and even fewer men respondents, the majority of those who have experienced sexual harassment in labour were women. Since the first edition was published, the issue has not been adequately addressed at an institutional level and no positive trends in mitigation have been reported. Gender continues to be a determining factor in promotion selections, as every tenth woman responded to have not received a promotion due to her gender, compared to only one man respondent who had reported the same.

Literature about work-related gender-based discrimination among persons with different abilities, minority ethnic groups and persons with various gender identities and sexual orientations remains limited in Serbia. This publication sought to collect research studies, published between this and the first edition, on these different grounds of discrimination in relation to labour to serve, among other things, as a reference and Literature Review. The report concludes with recommendations targeted to reach relevant actor.

INTRODUCTION

This report examines gender-based discrimination, defined as discrimination that affects a person because of her or his gender. It is discrimination that occurs on the basis of one's gender and because one is a woman, man, or other gender expression or identity.³ Although gender-based discrimination can affect women and men, as evidence in this report suggests, it tends to affect women more than men. Therefore, the report focuses on gender-based discrimination affecting women. The terms 'discrimination against women' and 'discrimination against men' clarify who gender-based discrimination has affected.

This research seeks to inform future advocacy and outreach towards decreasing the prevalence of gender-based discrimination in labour. The Kvinna till Kvinna Foundation (hereafter "Kvinna till Kvinna") in Serbia conducted this research in close cooperation with women's rights civil society organisations (CSOs) from five other Western Balkan countries, as part of their joint Action titled "Furthering Women's Labour Rights", which seeks to address gender-based discrimination in labour, supported by the European Union (EU) and co-funded by the Swedish International Development Cooperation Agency. This research is a second edition, following the research conducted by the Kvinna till Kvinna Foundation in 2018, published in 2019, of the same name.

Box 1. Socialised Gender Roles and Discrimination

Gender-based discrimination as a social phenomenon is rooted in deeply seated socially and culturally constructed stereotypes and prejudices that relate to gender. The term "stereotype" usually refers to "beliefs about the traits, attributes, and characteristics ascribed to various social groups".¹ "Prejudice", on the other hand, is marked by the emotion that arises when interacting with people of distinct social groups and is a biased evaluation of a group based on actual or perceived characteristics.² Stereotypes and prejudices influence how society attributes certain gender-specific roles to women and men. Due to stereotypes and prejudices, men and women are not only perceived as biologically different, but society expects women and men to have different social roles in various aspects of life. In addition to affecting the roles that women and men tend to have within the household, stereotypes and prejudices also affect other aspects of life, such as the fields of study that women and men tend to choose in tertiary education, which often determine their occupations later in life.

Aims

This research aimed to explore gender-based discrimination in labour in Serbia. More specifically, it aimed to answer the following research questions:

- To what extent is the legal framework complete and in accordance with relevant EU directives and adequate protections? Where are the remaining gaps?

¹ Colella, A.J. & Kind, E.B., *The Oxford Handbook of Workplace Discrimination*, New York, 2018.

² *Ibid.*

³ This research does not define gender as a binary (woman or man) but rather, other gender expressions and identities that fall outside of the binary are recognised in an effort to broaden inclusivity and include traditionally marginalised voices and experiences.

- How many work-related gender-based discrimination cases have been reported to different types of institutions in 2018-2020? How does this relate to the cases reported between 2008-2017, in the first edition?
- For what reasons have few discrimination cases been reported and/or filed? Related, to what extent are people aware of various forms of discrimination and how to report them, and how has this awareness changed over time?
- How have relevant institutions treated discrimination cases to date, and how has this changed over time, if at all?

Methodology

In order to answer the aforementioned research questions, and to compare changes between the first edition of this report and this second edition, Kvinna till Kvinna conducted research from February to July 2021 using the same methodology towards comparability. The research involved mixed research methods. First, particularly in response to the first research question, a Legal Overview examined and assessed current anti-discrimination legislation in place in Serbia, including shortcomings in aligning national legislation with the European Union (EU) gender *acquis communautaire*. It involved examining international laws, treaties, and conventions, the Constitution of the Republic of Serbia, Serbia's relevant national laws and secondary laws. The Legal Overview also served to identify the relevant institutions, their roles and responsibilities.

Second, existing literature on discrimination, published between 2019 and 2021, was reviewed. Third, existing gender-disaggregated data related to discrimination cases was requested and collected from several institutions that have a legal responsibility related to addressing discrimination. Fourth, using variation sampling, 31 representatives from responsible institutions, unions, businesses, CSOs, and survivors of gender-based discrimination in labour were interviewed using a semi-structured interview guide (see Annex 1) to measure their knowledge of, awareness on, and experience with gender-based discrimination in labour. In-depth interviews with survivors of labour-related gender-based discrimination and survey respondents who volunteered to be interviewed were also conducted to gain more insight into their experiences.

Fifth, an anonymous online survey in two languages (Serbian and English) was launched using LimeSurvey with the aim of collecting input from diverse women and men regarding their knowledge of discrimination legislation, attitudes, personal experiences with discrimination, whether such cases were reported, and the reasons as to why they did not report discrimination. The survey was promoted broadly, also targeting under-represented groups, including through email mailing lists, CSO networks, social media platforms and Facebook boosting. In total, 1,380 people clicked on the questionnaire and 484 completed at least 90% of the survey (91% women and 9% men). In comparison, for the baseline research report three years prior, 1,089 people clicked on the questionnaire and 541 completed at least 90% (86% women and 14% men). As with the first edition, all respondents were ages 15 to 64 years old, as legally allowed to work in accordance with Eurostat guidelines. As the number of responses to each question differed, the findings indicate the number of responses ("N") to each question.

A notable research limitation is the fact that this survey is not representative of the entire population because it involved convenience sampling; people selected to complete the survey or not. Undertaking random sampling was not possible given the significant resources that would be required and the general situation amid COVID-19. Therefore, although the findings are interesting and illustrative, they are not necessarily representative of the population. Readers should consider this when reading. Also, considering the non-representativeness of the sample, the small sample size, and the homogeneous nature of

respondents, it was difficult to analyse statistical relationships, such as between responses and gender, age, location, or ethnicity. Relationships with gender (differences between women and men in the sample) are tested with Chi-squared (2X2), or contingency coefficient in instances when the other variable has more than two categories. Any statements about survey findings with the term "significant" suggest statistical testing with a confidence level $\alpha = 0.05$. Yet, considering the limitations of convenience sampling, these findings are suggestive, but neither conclusive nor generalisable.

Both quantitative and qualitative data was analysed in reference to the research questions by a three-member research team. The research therefore involved triangulation of researchers, methods, and data sources, towards enhancing validity. Participant checks, predominantly in the form of peer reviewing, also sought to enhance the validity of the findings. For further information about the methodology, please see Annex 1. This research report is limited to the scope and timeframe of the data collection and report-writing periods and therefore encompasses limitations (for a full list of limitations, see Annex 1).

LEGAL OVERVIEW

This section provides a brief overview of the legal framework in relation to gender-based discrimination and labour in Serbia. It seeks to answer the research question: "To what extent is the legal framework complete and in accordance with relevant EU directives and adequate protections"? The Legal Overview presents current anti-discrimination legislation, including applicable international laws, treaties, and conventions, as well as the Constitution and laws concerning labour rights and gender equality. It provides an overview of discrimination concepts, mechanisms in place to address or mitigate discrimination, methods for reporting discrimination, and relevant institutions' responsibilities for addressing gender-based discrimination in relation to labour.

Relevant International Agreements and Instruments

Serbia has signed and ratified almost all relevant international treaties of the United Nations (UN) and the Council of Europe related to anti-discrimination and gender equality, including the:

- Universal Declaration of Human Rights; with European Convention on Human Rights, including Protocol 12;
- International Covenant on Civil and Political Rights, including the Optional Protocol on Individual Complaints Mechanisms;
- International Covenant on Economic, Social and Cultural Rights;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination against Women, including the Optional Protocol related to individual complaints and investigation procedures;
- Convention on the Rights of the Child, including the Optional Protocol on the sale of children, child prostitution and child pornography;
- Convention on the Rights of Persons with Disabilities and the Optional Protocol on individual complaints procedure;
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (also referred to as the Istanbul Convention);
- Revised European Social Charter;
- International Labour Organisation (ILO) C100 – Equal Remuneration Convention;
- ILO C111 – Discrimination (Employment and Occupation) Convention;
- ILO C156 – Workers with Family Responsibilities Convention; and
- ILO C183 – Maternity Protection Convention.

Constitution of the Republic of Serbia

The 2006 Constitution⁴ proclaims gender equality as one of the paramount constitutional principles and imposes an obligation on the State to develop equal opportunities policy.⁵ The Constitution further guarantees the direct applicability of international human

⁴ Constitution of the Republic of Serbia (Official Gazette of the RS no. 98/2006).

⁵ Article 15 of the Constitution (Official Gazette of the RS no. 98/2006).

rights treaties and the interpretation of provisions on human and minority rights in line with international standards and case-law of international institutions.⁶

Equality before the law and the prohibition of discrimination are stipulated as some of the fundamental principles in the realisation of human rights. Both direct and indirect discrimination are prohibited. The Constitution lists protected grounds, including sex (Article 21). The prohibition of discrimination, however, contains an open-ended clause, meaning that discrimination on any ground is forbidden, including grounds not explicitly mentioned such as gender, gender identity, or sexual orientation. Affirmative measures aimed at achieving full equality of those individuals or groups who are in a substantially unequal position are permissible.

The Constitutional Court has reiterated on several occasions in its jurisprudence that the prohibition of discrimination is not a self-standing right, but a principle in realisation of other human and minority rights contained in the Constitution.⁷ In the sphere of labour, those rights include the right to work (Article 60), the prohibition of forced labour and economic exploitation of persons in disadvantaged positions (Article 26), and special protection of the family, mother, single parent, and child (Article 66).

The right to work guarantees availability of jobs for everyone on equal footing, and implies, *inter alia*, the right to dignified, safe, and healthy working conditions, fair remuneration, and legal protection. No one can denounce these rights. Women, young people, and persons with different abilities (PWD) enjoy special protection at work and special work conditions within Article 60.

In the context of collective rights of national minorities, the Constitution guarantees equality in employment and proportional representation in public offices and public services.⁸

Labour Law

The Labour Law regulates rights and obligations arising from employment relationships and guarantees a minimum level of protection for employees' basic rights. It regulates issues related to working conditions and pay, such as the minimum working age, the prohibition of discrimination, maximum working hours, daily rest periods, and minimum annual leave.

The Labour Law prohibits both direct and indirect discrimination against persons seeking employment and employees with respect to their sex, origin, language, race, colour of skin, age, pregnancy, health status or ability, nationality, religion, marital status, familial commitments, sexual orientation, political or other belief, social background, financial status, membership in political organisations, labour unions, or any other personal quality.⁹ Discrimination is prohibited in relation to:¹⁰

1. Employment conditions and choice of candidates for performing a specific job;
2. Conditions of work and all the rights deriving from employment;
3. Education, vocational training and specialisation;
4. Job promotion; and
5. Termination of the employment contract.

Article 21 of Labour Law prohibits harassment and sexual harassment. Harassment is defined as any unbecoming conduct "aiming at or amounting to the violation of dignity of a person

⁶ Article 18 paragraph 2 of the Constitution (Official Gazette of the RS no. 98/2006).

⁷ The Constitutional Court Decision number Uš 2753/2016 from 10 September 2018.

⁸ Article 77 of the Constitution (Official Gazette of the RS no. 98/2006).

⁹ See Article 18 of the Labour Law (Official Gazette of the RS no. 4/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - decision of the CC and 113/2017).

¹⁰ See Article 20 of the Labour Law (Official Gazette of the RS no. 4/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 - decision of the CC and 113/2017).

seeking employment, as well as of an employed person, and which causes fear or creates a hostile, degrading or offensive environment". Sexual harassment is defined as "any verbal, non-verbal or physical behaviour aiming at or amounting to the violation of dignity of a person seeking employment, as well as of an employed person in the sphere of sexual life, and which causes fear or creates a hostile, degrading or offensive environment". Neither 2014 nor 2017 amendments to the Labour Law included gender identity as a personal characteristic in connection with the prohibition of discrimination.¹¹

Within the Labour Law, and through reinforcement of discrimination rights under the Anti-Discrimination Act, an employee has the right to:

- 1) File a complaint with the Commissioner for the Protection of Equality, whose task is to prevent all forms, types and cases of discrimination, monitor the implementation of anti-discrimination legislation, provide recommendations of measures to public authorities, and improve fulfilment and protection of equality.
- 2) File a claim with the competent court.

According to the Labour Law and the Law on the Prohibition of Discrimination in Serbia, an employee can file complaints immediately after they perceive they have been discriminated against, without fulfilling an internal procedure. The Labour Law provides for the shift of the burden of proof from the complainant to the defendant if there is a likelihood that discrimination took place, including in cases of harassment (Article 23).

The Employment Contract

According to the Labour Law, a written employment agreement must be concluded with each employee. The agreement may be concluded for a definite or an indefinite period of time; an agreement with an undetermined period of validity (Article 31) is considered indefinite. Article 37 stipulates that employees may be engaged under an open-ended contract or a fixed-term contract for a maximum of twenty-four months, with or without interruptions.

Employment under a fixed-term contract can last a maximum of 24 months, regardless of the number of signed contracts or possible changes of job descriptions within that period. In cases of an interruption between two engagements lasting less than 30 days, the interruption itself is calculated within the 24-month period. Labour relations established for a definite term shall be transformed into labour relations for an indefinite term if the employee continues working five days after the expiry of the term for which the labour relation has been established (Article 37). During the contract period, employees hired on this basis have the same rights and obligations as employees engaged under open-ended contracts, which includes the employer's right to dismissal.

Article 20 prohibits any discrimination in relation to dismissal. Article 187 states that an employer cannot dismiss a fixed-term employee during pregnancy, maternity leave, absence for childcare, or special care of the child. In such cases, a fixed-term contract which expires during the leave period is automatically extended until the expiration of the leave. Although under the Labour Law, an employment relationship for a fixed-term and open-ended contract are equally acceptable, the wording of the norms indicates that the fixed-term contract should be an exemption in extraordinary and precisely defined circumstances (Article 37) such as "seasonal jobs, project-based work, increased volume of work that will last for a definite term".

¹¹ ERA - LGBTI Equal Rights Association for Western Balkans and Turkey, et al., *Written Contribution on the Position of LGBTI Persons to the 3rd Cycle of the Universal Periodic Review of Republic of Serbia*, 2020, at: <https://www.ohchr.org/Documents/HRBodies/UPR/NGOsMidTermReports/ERA-3rd-Serbia.pdf>.

In practice, fixed term agreements are not an exception, and contribute to uncertainty and vulnerability in the labour market.¹² After the two-year period, many employers engage employees outside of the employment relationship with a Contract for Temporary and Occasional Jobs (Article 197) and Contract for the Supply of Services (Article 199).¹³ This type of engagement is completely flexible, and these workers do not have the same statutory rights as regular employees.

Protection of Motherhood, Maternity, Paternity, Parental Leave and Leave for Nursing a Child

Protection of motherhood, pregnant women, and family is regulated by the Labour Law and the Law on Financial Assistance of Families with Children.

The Labour Law defines maternity leave, the leave of absence for tending to a child, and leave of absence for special care of a child. Maternity leave includes pregnancy leave, which starts between 45 and 28 days before the due date and lasts for three months after the birth. Leave for tending to a child starts on the expiry of pregnancy leave (Article 94). Pregnancy leave and leave for tending to a child jointly last for a total of one year for the first and second children, and two years for the third and fourth children.

Paternity leave is neither explicitly nor comprehensively regulated by the law, however fathers can use pregnancy leave only under very restricted circumstances: in case the mother deserts the child, dies, or is prevented from caring for the child due to other justified reasons (serving a prison sentence, being severely ill, etc.). The father's entitlement in these circumstances is not dependent on the mother's employment status (Article 94). After that, the father can use leave for tending to a child in the same way as the mother; the one-year period to "nurse a child" is transferable to the father and may be exercised under no specific restrictions (Article 94.6) and under the same conditions.

If the mother meets the conditions for going on maternity leave with a new child and has not yet fully exercised the right to leave from work for special care of the previous child (up until the fifth year of the child's life), the child's father has the right to use special childcare for the previous child.¹⁴ This means that under special circumstances, the mother can go on maternity leave at the same time

Regarding work-life balance, Serbia has taken moderate steps towards harmonising its legislation with EU standards. One of the main shortcomings of Serbia's Action Plan for Chapter 19 - Social Policy and Employment¹⁵ is that it does not provide for harmonising laws and regulations with the new EU Directive on work-life balance of parents and carers adopted in 2019.¹⁶ For example, this EU Directive introduces the right of a worker who is a parent of a child up to eight years of age to special working conditions due to childcare, which include the possibility of adjusting the organization of work, inter alia, through remote work, part-time work, and flexible work.¹⁷

During maternity leave workers are compensated in full by the government depending on the wage that they are earning at the time of the leave and the number of consecutive

¹² Sekulovic, I., Bradas, S. & Vuckovic, N., *Crveni alarm za radna prava (2020: Red Alarm for labour Rights)*, Foundation Centre for Democracy, 2020, at: <http://www.centaronline.org/userfiles/files/publikacije/fcd-2020-crveni-alarm-za-radna-prava.pdf>.

¹³ *Ibid.*

¹⁴ See Article 12 of Law on Financial Support for Families with Children (Official Gazette of the RS no. 86/201913/2017, 50/2018).

¹⁵ Action Plan for Chapter 19 - Social Policy and Employment, Ministry of Labour, Employment, Veteran and Social Affairs, at: <https://www.minrzs.gov.rs/sr/dokumenti/ostalo/sektor-za-medjunarodnu-saradnju-evropske-integracije-i-projekte/akcioni-plan-za-poglavlje-19-socijalna-politika-i-zaposljavanje>.

¹⁶ Directive (EU) 2019/1158

¹⁷ Sekulovic, I., *Kako uspostaviti ravnotežu između poslovnog i privatnog života u eri rada na daljinu*, Foundation Centre for Democracy, 2020, at: <http://www.centaronline.org/sr/dogadjaji/12179/kako-uspostaviti-ravnotezu-izmedju-poslovnog-i-privatnog-zivota-u-eri-rada-na-daljinu>.

months worked. As regulated by the Law on Financial Support for Families with Children,¹⁸ women need to have worked 18 consecutive months to be entitled to the full amount of maternity compensation.¹⁹

Maternity leave contributes to their pension calculation. In instances when a child is in need of special care, upon expiry of the maternity leave, one of the parents is entitled to be absent from work or to work half working hours until the child is five years old, at the compensation of the employer. Upon returning from parental leave, an employee continues working under the terms and conditions applicable before maternity leave was taken, unless there have been changes introduced through an annex to the employment contract. It remains unclear in the Law whether the annex must be pre-existing in the contract, or whether it can be introduced unilaterally during leave.

The EU Work-life Balance Directive has laid down minimum requirements to “improve families” access to family leave and flexible work arrangements, and ultimately “contribute to an increase in women’s employment and families’ economic stability”.²⁰ Importantly, when it comes to legal measures, EU Member States have the right to set higher standards than those set in the Directive. This is significant for Serbia, since it prescribes a very generous paid maternity leave of 12 months for the first and second child, and 24 months for the third and fourth child. Also, the Serbian Labour Law already recognises the possibility of paternity leave, both for the needs of care and for the exceptional circumstances prescribed by law. Therefore, harmonisation with EU legislation, whether it happens at the pre-accession stage or after becoming a member, will not reduce the benefits aimed at supporting childbirth, but will primarily refer to compulsory paternity leave, carers, as well as part-time work.²¹

As same-sex marriage is still not legal in Serbia rights of same sex parents are not foreseen in Serbian legislation.²² Although the Serbian Constitution guarantees a single parent special protection in accordance with the Law,²³ single parenthood is not a precisely defined category in the domestic legal system. Some regulations contain provisions that regulate the rights or issues of importance for a single parent, but there is no single legal definition of this term, which in practice means a different understanding of who can be considered a single parent. Labour Law and the Law on Financial Support for Families with Children provides for special protection for single parents.

Law on Agency Employment

The Labour Law only recognises the contractual relationship between employee and employer. Engaging and assigning an employee through an agency was unregulated until March 2020 when the Law on Agency Employment²⁴ came into force. According to the Law, agency employees are guaranteed equal salaries and other working conditions (working hours, absences, vacations, safety and health at work and so on) applicable to employees directly employed by the employer. The Law contains certain restrictions aiming to prevent any abuse of this type of employment. One of the restrictions is that fixed-term employee assignment contracts can only be used to engage a maximum of 10% of the total number of

¹⁸ (Official Gazette of the Republic of Serbia, No. 113/2017 and 50/2018).

¹⁹ Discussed further below in “Law on Financial Support for Families with Children”.

²⁰ European Commission, *Employment, Social Affairs & Inclusion: EU Work-life Balance Directive Enters into Force*, 2019, at: <https://ec.europa.eu/social/main.jsp?catId=89&furtherNews=yes&newsId=9438&langId=en>.

²¹ European Policy Centre, *Parenting in Serbia: What will happen when we become a part of the EU*, 2020, at: https://cep.org.rs/en/blogs/parenting-in-serbia-what-will-happen-when-we-become-part-of-the-eu/#_ftn3.

²² Expert Opinion on the Draft Law on Same-Sex Unions of Serbia, Council of Europe, Directorate General for Democracy, Anti-discrimination Department, 21 May 2021, at: <https://rm.coe.int/opinion-same-sex-unions-serbia/1680a2b5b3>.

²³ Article 66 paragraph 1.

²⁴ Official Gazette of the RS no. 86/2019.

employees employed directly by the beneficiary employer at the time of conclusion of the contract (Article 14). This restriction does not apply to employees assigned to the beneficiary employer who have indefinite employment contracts with the agency. In practice, employers can employ 100% of workers through agencies, potentially deepening labour insecurity through transferring the responsibility of employee rights to the still insufficiently controlled employment agency sector.

Law on the Prohibition of Discrimination

The Law on the Prohibition of Discrimination²⁵ (LPD) is an umbrella anti-discrimination legislation adopted in 2009. The law provides a wide scope of protection in both the private and public spheres and on an extensive list of protected grounds including, *inter alia*, sex, gender, gender identity, sex characteristics and sexual orientation. Further, the LPD does not limit protection to an exhaustive list of personal characteristics but bans discrimination based on any other, real or presumed, personal characteristic. The LPD establishes an independent non-judicial protection mechanism through the institution of the Commissioner for the Protection of Equality (the Commissioner).

It also allows for specific, civil judicial protection against discrimination²⁶ and proscribes various manifestations of discrimination in different sectors as misdemeanour offences punishable by fines.²⁷ Following critiques from domestic and international institutions that the existing LPD is not fully aligned with the EU *acquis*²⁸ and that certain concepts needed to be defined in more detail, the National Assembly adopted amendments to the Law allowing for better transposition of relevant EU Directives, introduction of new legal definitions and institutions, and further strengthening of protection mechanisms.²⁹ The amendments to the LPD came into force on 1 June 2021.³⁰

Given that the 2009 version of the LPD failed to explicitly regulate these forms of discrimination, but rather put a ban on discriminatory harassment in general, sex-based and gender-based harassment have now been clearly prohibited by the latest changes to the LPD (Article 12) as a specific type of discrimination. With regards to improving monitoring mechanisms of cases of discrimination, the amendments introduced two new articles (40a and 40b) related to data collection.

All courts have a duty to keep records of all final decisions concerning discrimination in civil, misdemeanour, and criminal proceedings, disaggregated by protected ground, area of discrimination, type of judicial decision, articles of the LPD that were invoked, and other relevant elements (Article 40b). The regulation on judicial data collection (Article 27) should be enacted by the Minister of Justice within six months from the date the amendments came into force, therefore by December 1, 2021. The Commissioner is responsible for maintaining a database of discrimination cases, including its own case-law and judicial case law on

²⁵ Law on the Prohibition of Discrimination (Official Gazette of RS No. 22/2009 and No. 51/2021).

²⁶ Articles 41 – 46 of the LPD.

²⁷ Articles 50 – 60 of the LPD.

²⁸ The LPD was mostly in line with the EU *acquis*, though the European Commission identified several shortcomings requiring legislative action. Namely, these included amendments in relation to the scope of exceptions from the principle of equal treatment; the definition of indirect discrimination; and the inclusion of provisions on reasonable accommodation. Krstić, I., *Country report. Non-discrimination – Transposition and implementation at national level of Council Directives 2000/43 and 2000/78 – Serbia*, European Commission, 2020, p. 6.

²⁹ Draft Law on the Amendments to the Law on the Prohibition of Discrimination, National Assembly of the Republic of Serbia, April 2021, pp. 25-28, at:

http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2021/742-21.pdf.

³⁰ Law on the Amendments to the Law on the Prohibition of Discrimination (Official Gazette of RS No. 52/2021 dated 24 May 2021., came into force on 1 June 2021).

discrimination (Article 40a), which competent courts are required to submit to the Commissioner by the end of March each year for the previous year.³¹

A novelty introduced with the latest amendments to the LPD is a requirement to the state body, when preparing a new regulation or a new policy document concerning the socioeconomic rights of vulnerable groups, to conduct an impact assessment study of the proposed regulation or policy vis-à-vis the equality principle.³² The rationale for such a legal obligation is to estimate and prevent potential discriminative effect of the law or government policy prior to its adoption.

Discrimination in the Sphere of Labour

The LPD bans discrimination in the sphere of labour, particularly in relation to access to employment, free choice of occupation, promotion, professional training, professional rehabilitation, equal pay for work of equal value, fair working conditions, paid vacation, membership in a labour union, and protection from unemployment.³³

The personal scope of the LPD is broad. The Law protects not only persons who are formally employed or contracted under a service agreement, volunteering, or attending traineeship programmes, but every person who is involved in any type of labour,³⁴ formal or informal. Therefore, the LPD provides much broader protection than the Serbian Labour Law, which bans discrimination only in relation to persons who have concluded an employment agreement.

The latest amendments to the LPD introduced a precise definition of an employer as any domestic or foreign, individual and legal entity that is either public or private or any person within the public body that acts as an employer on behalf of the State or local administration.³⁵ Furthermore, these legal amendments imposed explicit obligation on the employer to implement adequate and reasonable affirmative measures aimed at enabling participation at work, professional development and promotion of employees who are facing inequality in the workplace, in particular PWDs, members of national minorities, elderly, persons of different sexual orientation, gender identity, etc.³⁶

Given that the initial text of the LPD listed only sex-based discrimination as a specific case of discrimination that may appear in various fields, including economic and professional life, the recent amendments to the LPD (Article 20) expanded the protection to incorporate discrimination based on gender and gender identity, but also pregnancy, maternity leave, and parental leave, as a specific case of discrimination.

The LPD establishes fines for misdemeanour offences concerning labour discrimination and with the latest amendments these fines have been significantly increased (some fines are even five times higher) ranging from the equivalent of 425 to 4,255 EUR for legal entities and entrepreneurs, or 170 to 850 EUR for responsible persons in companies or public institution and individuals.³⁷

Discrimination Based on Sexual Orientation

The LPD was the first legislation in Serbia that explicitly prohibited discrimination based on sexual orientation. Article 21, however, has been criticised for containing a restrictive formulation that does not provide holistic protection. Article 21 of the LPD forbids

³¹ Article 40b paragraph 1 point 2 LPD.

³² Article 14 paragraph 4 of the LPD.

³³ Article 16 paragraph 1 of the LPD.

³⁴ Article 16 paragraph 2 of the LPD.

³⁵ Article 2 paragraph 1 point 5 of the LPD.

³⁶ Article 14 paragraph 3 of the LPD.

³⁷ Articles 51, 55, 56 of the LPD.

discriminatory treatment based on *declared* sexual orientation only, and thus does not explicitly expand protection to include cases of *presumed* sexual orientation.³⁸ This limited formulation could result in a restrictive interpretation of the law, even though Article 2 of the LPD bans discrimination on the ground of presumed personal characteristics.

Law on Gender Equality

The Law on Gender Equality (LGE) was adopted in May 2021,³⁹ replacing the previous Law on Equality between the Sexes.⁴⁰ Despite being progressive at the time of its adoption in 2009 and praised by the experts as the “most advanced” anti-discrimination act in Serbia with regards to positive obligations imposed on state and non-state actors, including employers,⁴¹ the Law on Equality between the Sexes was also criticised by civil society, independent state human rights institutions, and international stakeholders for not being aligned with the EU acquis⁴² and international standards on gender equality; also that, in practice, it had little effect on improving gender equality.⁴³ Over the years several drafts of the Law were prepared and the Government was heavily critiqued for delays in adoption.⁴⁴ For years, women’s rights CSOs advocated towards its adoption. In 2021, the National Assembly finally passed the new bill at the end of May and the LGE came into force on 1 June 2021. The new LGE has remedied deficiencies of the previous law and is considerably more comprehensive.⁴⁵ As such, it should enable better respect for gender equality.

All provisions concerning judicial protection against gender-based discrimination were removed from the LGE, given that the LPD, as an umbrella anti-discrimination law, particularly with the latest amendments, provides for holistic judicial protection against discrimination.

Sex and Gender

Changes in the name of the LGE, and the shifted focus from equality between the sexes to gender, is indicative of Government efforts to harmonise domestic legislation with international human rights law on gender equality. At the time of its adoption, the Law on Equality between the Sexes was the first legislation that introduced definitions of “sex” and “gender”.⁴⁶ Like the old law, the new LGE is limited in its definitions of “sex” and “gender” (Article 6) in that it does not recognise intersex or gender non-conforming individuals who fall outside of the sex and gender binary. As such, it fails to provide those individuals with sufficiently effective protection from all forms of discrimination. Similar to the amendments made to the LPD, the LGE introduces sex characteristics as a separate protected personal characteristic.

³⁸ Reljanović, M., *Study on implementation of anti-discrimination law in Serbia*. Yucom. Belgrade, Serbia, 2018, p. 16.

³⁹ The Law on Gender Equality (Official Gazette of the Republic of Serbia No. 52/2021, dated 24.05.2021, came into force on 1 June 2021).

⁴⁰ Law on Equality between Sexes (Official Gazette of the Republic of Serbia, 2009-12-11, No. 104/09).

⁴¹ Equal Rights Trust, *Equality in Practice, Implementing Serbia’s Equality Laws*, London, 2019, p.69-71.

⁴² The LGE does not define or prohibit denial of reasonable accommodation, multiple discrimination, discrimination by association or discrimination by perception, and harassment is only expressly prohibited in the context of labour. *Ibid.*, 69.

⁴³ The Draft Law on Gender Equality. National Assembly, 26 April 2021, p. 37-38, at:

http://www.parlament.gov.rs/upload/archive/files/cir/pdf/predlozi_zakona/2021/741-21.pdf.

⁴⁴ European Commission, *Serbia 2020 Report, 2020*, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

⁴⁵ The LGE has 77 articles, 20 articles more than the previous Law on Equality between the Sexes.

⁴⁶ Article 10 of the Law on Equality Between the Sexes.

Gender-based Violence and Harassment

The LGE, *inter alia*, defines and prohibits discrimination as harassment, degrading treatment, threats, conditioning, sexual harassment, sexual blackmail, gender-based hate speech, and violence based on a person's sex, sex characteristics, gender, or sex reassignment.⁴⁷ The law differentiates and defines these concepts, including definition of gender-based violence, violence against women, harassment, sexual harassment, and sexual blackmail.⁴⁸ Unlike the previous Law on Equality between the Sexes, in which Article 18 prohibited harassment, sexual harassment, and sexual blackmail and was constrained only to the work environment, the LGE provides holistic protection to all spheres of public and private life. A separate chapter of the LGE is dedicated only to gender-based violence,⁴⁹ regulating prohibition and prevention of gender-based violence, mandatory reporting, victims' support services, programs for abusers, and the financing of services.

Gender-based Discrimination in the Sphere of Labour

The LGE contains provisions regulating different aspects of work relations.⁵⁰ It covers not only employment, but the law provides protection to persons who are involved in any form of labour. The LGE contains provisions on general and specific measures aimed at securing equality in employment and self-employment of women and men and increasing opportunities for persons from vulnerable groups. The law guarantees equal treatment of women and men regarding availability of jobs, selection of candidates and hiring, promotion, working time, leave from work, pay, work conditions, professional development and training, breaks and holidays, social insurance, termination of work, and other aspects. The employer, private or public, has a duty to secure a gender balance in managerial and supervising positions, and, in case of imbalance between men and women in these positions, the employer has an obligation (Article 30) to take positive measures to remedy the situation. Harassment, sexual harassment, and sexual blackmail in relation to labour is explicitly prohibited (Article 32), including during hiring, professional development, or promotion. The law guarantees women and men equal pay for equal work (Article 34) or work of equal value and defines 'work of equal value'. Fines for employers for violations of gender equality provisions (Article 67) range from 85 to 17,000 EUR.

Pregnancy, Family Status, and Unpaid Labour

The LGE provides special protection to employees with children. Gender inequality is explicitly prohibited in Article 33 with regards to pregnancy, maternity leave, and parental leave. None of these circumstances can constitute a ground for discrimination during hiring,⁵¹ or restrict the right to professional development, promotion, and access to benefits introduced during absence. In addition, following absence from work, an employer has the duty to return the employee to the same or a similar position. Article 31 forbids employers from terminating work contract based on pregnancy, maternity leave, or parental leave.

The LGE introduces in the Serbian legal system the concept of unpaid labour, which is determined as work for which there is no monetary compensation and entails domestic work, care for children, elderly, and sick family members, agricultural labour, and other, similar unpaid work.⁵² Persons who are engaged in unpaid labour are entitled to state-financed

⁴⁷ Article 4 paragraph 5 of the LGE.

⁴⁸ Article 6 paragraph 1 points 10, 11, 13, 15 and 16 of the LGE.

⁴⁹ Articles 51-58 of the LGE.

⁵⁰ Articles 27-35 of the LGE, but also see Articles 8-11 and Article 16 of the LGE.

⁵¹ Article 33 of the LGE.

⁵² Article 6 paragraph 1 point 23 of the LGE.

health insurance if they are not eligible for insurance on other grounds.⁵³ The law establishes a duty to periodically collect statistical data on unpaid work in order to determine its total value and its share in the Gross Domestic Product, which would ideally influence state policies including labour policy.⁵⁴

The Law on Prevention of Discrimination against Persons with Disabilities

This Law prohibits discrimination on the basis of ability and aims to promote the inclusion of PWDs in all spheres of society. The Law on the Prevention of Discrimination against Persons with Disabilities⁵⁵ obliges state bodies to provide PWDs access to public services and prohibits discrimination in specific areas, such as employment, health, and education.⁵⁶

The Law introduces special regulations in civil suits initiated for protection from discrimination on the basis of ability.⁵⁷ Plaintiffs are entitled to request that the court prohibit an act that may result in discrimination, to prohibit the further commission or repetition of an act of discrimination, to order the defendant to take action to eliminate the effects of discriminatory treatment, to establish that the defendant treated the plaintiff in a discriminatory manner and to order compensation for material and non-material damages.⁵⁸

The Law on the Vocational Rehabilitation and Employment of Persons with Disabilities

The Law on the Vocational Rehabilitation and Employment of Persons with Disabilities⁵⁹ is the first law to comprehensively govern the employment of PWDs, and it gives precedence to the employment of PWDs in the open labour market over alternative models of employment. The Law lays down active measures for the employment of PWDs, including reimbursement of employers' expenses for adapting the workplace and subsidising the first 12 monthly salaries paid to those who are without work experience but are hired for an indefinite period of time. The Law also obliges employers to hire a specific number of PWDs (Article 24); the number depends on the total number of their workers. Employers that fail to do so (Article 26) are required to pay 50% of the average wage in Serbia into the budget fund for vocational rehabilitation and encouragement of employment of PWDs.

Law on Financial Support for Families with Children

Following pressure CSOs and parents' associations, in 2021 the government introduced important legislative changes to the Law on Financial Support for Families with Children,⁶⁰ which were introduced into the 2018 Law regulating child benefits, parental payments, maternity leave pay, and leave of absence payments for the special care of a child up to five years of age.⁶¹ Prior to changes law had significant gaps that led to disadvantaged circumstances for many parents, especially in regard to maternity leave pay. Prior to the legislative changes deciding on the Commissioner's proposal for review of

⁵³ Article 28 paragraph 4 of the LGE.

⁵⁴ Article 28 paragraphs 2 and 3 of the LGE.

⁵⁵ Official Gazette of the Republic of Serbia, No. 36/2009, 32/2013.

⁵⁶ Articles 11-31.

⁵⁷ Articles 39-45.

⁵⁸ Articles 41-43.

⁵⁹ Official Gazette of the Republic of Serbia, No.36/09 and 32/2013.

⁶⁰ Law on Financial Support for Families with Children (Official Gazette of the Republic of Serbia, No. 113/2017 and 50/2018).

⁶¹ *Ibid.*

constitutionality and legality of the relevant law articles,⁶² the Constitutional Court adopted decision in which it was determined that certain provisions (Article 17 paragraph 2, Article 18 paragraphs 2, 4 and 6) were not in accordance with the Constitution.⁶³

The most important change is a provision according to which the full monthly amount of the mother's salary compensation, i.e., the salary during maternity leave, cannot be less than the minimum salary determined on the day of the beginning of exercising that right. According to Article 14 of the new law, mothers can no longer receive compensation less than the "minimum" amount determined before beginning maternity leave. The same rights and benefits related to birth, childcare and special childcare are now granted to mothers who work in agriculture for a period of 18 months⁶⁴ before the birth of the child.⁶⁵ No official reason has been provided as to why 18 months was the selected period of time.

Support for parents who are caring for an ill child also has been improved. The prior provision did not allow the simultaneous use of the right to salary compensation during absence from work for special childcare and the allowance for assistance and care that a child has on the basis of different ability; this restriction has been deleted in the new law. Now parents can use these rights simultaneously or cumulatively.⁶⁶

From 1 January 2022, employed women, women who are self-employed or engaged on the basis of flexible forms of work, and earn income that is higher than three average salaries in the Republic of Serbia, will be able to receive salary compensation and other benefits up to five average salaries in Serbia on the day of beginning the leave.⁶⁷

Some changes that CSOs insisted on still did not find their way into the Law. It is yet to be seen if guaranteed minimum wage for all those who receive less than minimum wage during parental leave, reducing the number of months that are included in the calculation of compensation from 18 to 12, and equalising the rights of women entrepreneurs with other mothers will find their way into the Law. In June 2021, the Commissioner issued a new initiative regarding the necessary legal amendments, outlining the need to equalise the rights of women entrepreneurs who, due to the lack of adequate financial support during pregnancy and maternity leave, still must opt between work and family life.⁶⁸ Women's entrepreneurship was also highlighted in the 2020 Annual Report, where it was emphasised that it is necessary to actively encourage the development of women's entrepreneurship, achieving equality in availability of jobs, equal earnings, as well as conditions for promotion.⁶⁹

Strategic Framework for Gender Equality

A gender equality strategic framework exists, especially in the context of labour, but it is mostly outdated. The National Strategy for Gender Equality 2016 – 2020⁷⁰ lacked an Action Plan for the last two years of its implementation.⁷¹ The Strategy for the Prevention of

⁶² Article 13 paragraph 4, Article 17 paragraph 2, Article 18 paragraph 2 and Article 54 paragraph 2 of the Law on Financial Support to Families with Children.

⁶³ IUz-216/2018 on 20 December 2020.

⁶⁴ Article 17, following the decision of the Constitutional Court IU3-247/2018.

⁶⁵ Article 18, following the decision of the Constitutional Court IU3-247/2018.

⁶⁶ *Ibid.*

⁶⁷ Article 15, following the decision of the Constitutional Court IU3-247/2018.

⁶⁸ Commissioner for the Protection of Equality, *Initiative to amend the Law on Financial Support to Families with Children*, 2021, at: <http://ravnopravnost.gov.rs/inicijativa-za-izmenu-zakona-o-finansijskoj-podrsi-porodici-sa-decom-3/>.

⁶⁹ Commissioner for the Protection of Equality, *Regular Annual Report of the Commissioner for Protection of Equality for 2020*, 2020, at: <http://ravnopravnost.gov.rs/rs/izvestaji/>.

⁷⁰ The National Strategy for Gender Equality 2016-2020 (Official Gazette of RS No. 4/2016).

⁷¹ New Strategy is yet to be adopted as Working Group is in its early stages of work.

and Protection against Discrimination expired in 2018,⁷² and no new strategy has been prepared or adopted.

A recent report assessing different national strategies that contribute to combating discrimination against women in the labour market concludes that the relevant policy framework is incomplete and not fully aligned with international standards.⁷³ The report further highlights that only one-third of relevant strategic documents include a gender dimension, while only two policy documents contain measures that are adequate to combat discrimination against women in the sphere of labour. Overall, the strategic framework does not have a sufficiently developed gender perspective and anti-discrimination measures related to labour and employment are inadequate. The report concludes that reporting is unsatisfactory, and the implementation of measures is inefficient, particularly in relation to women at-risk of multiple discrimination (single mothers, Romani women, elderly women).

In addition to the above-mentioned policy documents, the National Youth Strategy for the period 2015-2025⁷⁴ contains measures that promote female entrepreneurship and employment of young women from vulnerable groups. This document also includes measures aimed at improving the employability, employment, and social inclusion of young persons, particularly those who are at-risk of social exclusion, as well as measures for promoting gender equality and an inclusive society.

Institutional Responsibility

Several institutions have legal responsibilities related to addressing gender-based discrimination as it pertains to labour, as summarised in this section.

Parliament

The **Parliamentary Committee for Human and Minority Rights and Gender Equality** discusses draft laws and other regulations in terms of gender equality. It monitors implementation of laws and regulations relating to gender equality.

Government

The **Coordination Body for Gender Equality**, led by the Deputy Prime Minister, is an inter-governmental body that addresses all gender equality issues and coordinates the work of the state administration in relation to gender equality in Serbia.

The **Ministry of Human and Minority Rights and Social Dialogue** is a newly established ministry that replaced the former Office for Human and Minority Rights. Its mandate is to promote and develop gender equality and non-discrimination, as well as to monitor compliance with international human rights instruments.

The **Ministry of Labour, Employment, Veteran and Social Affairs** is in charge of the relevant legislative and strategic framework related to labour. Within the Ministry, there is a Sector for Anti-Discrimination Policy and Promotion of Gender Equality.⁷⁵

The **Labour Inspectorate (LI)** is under the jurisdiction of the Ministry of Labour, Employment, Veteran, and Social Affairs, and is tasked with inspecting workplaces in the

⁷² The Strategy for the Prevention of and Protection from Discrimination (Official Gazette of RS No. 60/2013).

⁷³ I. Sekulović, *Against Discrimination of Women: Measures in the Area of Labour and Employment as Priority in Strategic Documents of Serbia in EU Accession Process*, Foundation Center for Democracy, 2020, Belgrade. The Report analyses 15 strategic documents in the areas of economy (8), social policy (5) and basic rights (2) (pp. 50-51).

⁷⁴ The National Youth Strategy for the Period 2015-2025 (Official Gazette of RS No. 22/2015 from 27.02.2015.).

⁷⁵ Ministry of Labour, Employment, Veteran and Social Affairs, *Announcement*, 2017, at: <https://www.minrzs.gov.rs/sr/aktuelnosti/saopstenja/novi-sektor-za-unapredjenje-polozaja-zena-marginalizovanih-grupa-i-pruzanje-podrske-za-ublazavanje-migrantske-krize>.

territory of Serbia to ensure that health and safety guidelines are being met. To do so, it undertakes monitoring in the form of regular, extraordinary, and supplementary controls and worksite visits. The LI also ensures that all relevant workplace legislation is in place to protect the health and safety of all workers. The LI has the power to submit misdemeanour and criminal offence reports to relevant courts and prosecuting authorities. In case of unlawful dismissal, the LI can issue a temporary measure suspending the dismissal decision and restore the employee back to work until the judicial dispute between the employee and employer is resolved. Within its competencies, the Inspectorate is additionally tasked with a full range of forms of protection regarding social issues and labour rights, including LGBTQIA+, ethnic minority, and differently abled communities.⁷⁶

The **Market Inspection Sector** operates within the Ministry of Trade, Tourism and Telecommunications and it performs inspection supervision over the application of laws and other regulations regulating e-commerce, quality control services, public information on unsafe products on the market, and activities to combat unfair competition. The Market Inspection Sector supervises the work of unregistered employment agencies as well as for jobs offered by private individuals. In addition, it monitors enforcement of the Law on Advertising, it is responsible for verifying the advertising of jobs in the country and abroad (through agencies), including online advertising. Their role although underused could be important for risk prevention and detection of labour exploitation in employment.⁷⁷

The **Republic Agency for Peaceful Settlement of Labour Disputes** is a government organisation that deals with the amicable settlement of individual and collective labour disputes, including disputes related to discrimination. The Agency is the only specialised institution that deals with labour law.

The Statistical Office of the Republic of Serbia – Unit for Social Development Goals, Socio-Economic Indicators and Justice Statistics organises, collects, and updates gender-disaggregated data, prepares indicators for gender equality and produces gender statistics, including statistics related to labour.

The **Social Inclusion and Poverty Reduction Unit** is a government body with a mandate to strengthen the government's capacities to develop and implement social inclusion policies based on international best practices.

Independent Institutions

The **Commissioner for the Protection of Equality** is as an independent state body whose mandate and jurisdiction are regulated through the LPD.⁷⁸ The Commissioner's main task is to receive and consider complaints of discrimination submitted either by individuals or human rights organisations on behalf of an individual or a group claiming that they experienced discrimination. The Commissioner will only consider complaints in which a competent court has not already dealt with the matter. The Commissioner issues an opinion on whether discrimination has occurred and a recommendation to remedy the situation.⁷⁹ Recommendations are legally binding, though they are not enforceable; the Commissioner has no power to penalise perpetrators of discrimination if they fail to comply with the given recommendations. The jurisdiction of the Commissioner also encompasses filing misdemeanour offense reports, initiating civil proceedings for protection against

⁷⁶ Egal Drop-In Centar, Community-Based Support for LGBTI People: The First Drop-In Centre and Institutional Frameworks, 2021.

⁷⁷ PrEUgovor, Astra – Anti Trafficking Action, *Prevention of Trafficking in Human Beings for the Purpose of Labour Exploitation*, 2018, at: <https://www.preugovor.org/upload/document/07-sprecavanje-trgovine-ljudima.pdf>.

⁷⁸ Article 1 paragraph 2 of the LPD.

⁷⁹ Articles 35 – 40b of the LPD.

discrimination, monitoring implementation of anti-discrimination legislation, and initiating legislative changes.⁸⁰

When institutions have failed to protect peoples' rights or adhere to their rules, the **Protector of Citizens of the Republic of Serbia (Ombudsperson)** is the independent body that reviews the claims. This applies, but is not limited, to claims of minority liberties and rights being violated, malevolent or arbitrary treatment by the authorities, humiliation or infringement of dignity based on personal characteristics.

The **Social and Economic Council** is an independent three-party body that gathers government representatives, representatives of employers and labour unions with an aim to establish and develop social dialogue on economic and social human rights and freedoms, and the social and economic position of workers and employers. The Council's task is to establish the minimum wage in the country.

Law-Enforcement Authority

The **Police** receive, consider, and investigate complaints of criminal offences including, *inter alia*, the criminal offences of Violation of Equality from Article 128 of the Criminal Code (CC)⁸¹, Violation of Labour Rights and Social Security Rights (Article 163 of the CC), Violation of the Right to Employment and during Unemployment (Article 164 of the CC), Violation of the Right to Strike (Article 166 of the CC) and Sexual Harassment (Article 182a of the CC).⁸²

The **Public Prosecutor's Office** investigates and prosecutes perpetrators of the above-mentioned criminal offences that are related to the labour environment, including those which contain a gender dimension.

Judiciary

Civil courts⁸³ rule (first and second instances) on cases of gender-based discrimination and harassment in relation to labour.

Misdemeanour courts determine cases where an employer is alleged to have committed a misdemeanour offence as stipulated in the LPD and/or the LGE, or is alleged to have committed other labour-related offences.

The Constitutional Court protects constitutional rights to equal treatment and labour-related rights.

Conclusion

The current legal framework provides sufficiently strong protection and is in accordance with a number of relevant international standards, especially following the adoption of the latest legislation on gender-equality. Nevertheless, to achieve comprehensive legislative protection, it is necessary to overcome the existing gaps that lead to significantly worse-economic status of women or contribute to gender-based discrimination when it comes to labour; most notably the Law on Financial Support for Families with Children requires numerous amendments to be in-line with the EU Work-Life Balance Directive. Additionally, it is necessary to introduce standardised legislation and practices that will fulfil the basic right to legal documents for trans persons in Serbia.

⁸⁰ Commissioner for the Protection of Equality, *Background information*, at: <http://ravnopravnost.gov.rs/en/background-information/>.

⁸¹ Criminal Code (Official Gazette of RS, No. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019)

⁸² The Criminal offence of Sexual Harassment is prosecuted upon proposition of the victim, not *ex officio*.

⁸³ Courts in Serbia are organised as courts of general and specialised jurisdiction. Courts of general jurisdiction are Basic, Higher, Courts of Appeal and Supreme Court of Cassation. Basic Courts and Higher Courts have civil and criminal chambers.

The subsequent sections of this report, using the Serbian legislation as the framework, will investigate the lack of the accountability of the state institutions to ensure that employers provide safe and non-discriminative work environment, and to enforce cross-sectoral binding legislation on non-discrimination.

PEOPLE'S AWARENESS AND ATTITUDES TOWARDS DISCRIMINATION

This chapter examines people's awareness and attitudes towards discrimination, drawing from the survey results and interviews. It seeks to respond to the research question: "to what extent are people aware of various forms of discrimination and how to report them, and how has this awareness changed over time?" It therefore compares survey data from 2018 and 2021 to examine any changes that have occurred.

All survey respondents were ages 15 to 64 years old, as legally allowed to work in accordance with Eurostat guidelines. In total, 1380 people clicked on the questionnaire and 484 completed at least 90% of the survey. Most participants were women (approximately 91%) living in urban areas (89% of women respondents), and between ages 30 and 49 (68%). Although significant efforts and resources were invested in distribution methods to try to diversify the sample, it remained rather homogeneous, formed mostly of full-time employed women with secondary (or higher) education (for full demographic description, see Annex 2).

Nevertheless, the fact that approximately 82% of the participants were employed full-time provides valuable insights into the full-time labour market. Most participants (84% or 461 respondents) had worked for more than one year in their current position, and approximately 40% (219 respondents) had worked in their current positions for 10 or more years. Of the participants employed at the time of their response, 43% worked in the private sector, while approximately 37% worked in the public administration; an additional 9% worked for publicly owned enterprises.

Table 1. Employment Status

EMPLOYED		UNEMPLOYED		OTHER			
Full-time	Part-time	Self-employed	Registered with the National Employment Service	Not registered with the National Employment Service	Students	Pensioners	
Total %	77%	3%	3%	11%	2%	3%	1%
Total #	512	19	18	73	13	16	10
% of Men	78%	3%	1%	10%	3%	5%	/
# of Men	51	2	1	11	2	4	/
% of Women	72%	3%	3%	15%	3%	2%	1%
# of Women	461	17	18	62	16	12	10

One-fifth of the respondents working at the time of response earned less than the minimum wage, while only 39% received a wage equal to or higher than the national average.⁸⁴ This finding offers evidence that minimum wage and below minimum wage earnings remain a persistent problem in Serbia.⁸⁵ Given that wages are determined according

⁸⁴ The average salary in Serbia is approximately 60,000 Serbian Dinars or 500 Euros (currency conversion at the time of writing this report, 2021).

⁸⁵ Centre for Dignified work, *Assessment of Economic and Social rights in the Republic of Serbia*, 2019, p. 39, at: <http://cdsr Srbija.org/wp-content/uploads/2020/06/Analiza-ENG-CDR-final.pdf>; M. Reljanovic, *Alternativno radno zakonodavstvo*, 2019, p. 133, at: <http://cdsr Srbija.org/wp-content/uploads/2020/06/ARZ-Reljanovic-2019.pdf>.

to the hourly rate of labour,⁸⁶ employers' discretion in deciding on employees' workloads can lead to lower wages than the statutory minimum. For example, if production was lower due to COVID-19, or other circumstances, employees may receive less remuneration, below the minimum wage. The most vulnerable are workers employed with fixed-term contracts or as seasonal workers.⁸⁷

Also, working hour rates refer only to employees who have signed an employment contract; other employees do not necessarily receive the minimum wage, as they do not receive a wage, but rather individually agreed monetary compensation for their work. One of the most recent cases involves a garment factory in the south of Serbia. The case is notable because it shows the complexity of alleged human rights violations, especially in the context of legislative loopholes available to companies. Namely, due to the fact that some workers did not meet the production norm, they received a wage lower than the minimum. The Labour Inspection to which the case was reported found that there were no irregularities with the case and that the company was simply using the opportunity provided for in the law.⁸⁸

When asked about experience with undeclared wages, approximately 9%⁸⁹ of respondents indicated that their employer does not declare the actual, real wage that they receive to the relevant state authorities, and 16%⁹⁰ responded that they do not know whether their employer reports their earnings to state authorities. Three-quarters of respondents, however, stated that in the past three years their employer(s) declares their wage correctly to the authorities, an improvement from the first edition of this research report, wherein 70% of respondents indicated the same but encompassing the prior 10 years from the time of responding.

Six percent of the employed surveyed participants were asked by their employer to return part of the wage. This practice became even more noticeable during the COVID-19 pandemic, especially during the State of Emergency declared in March 2020. As reported in interviews with labour unions' representatives, some employers deprived their employees of the minimum wage by not paying employees more than the amount paid by the state, even if they worked full time during the State of Emergency. Media reported that in some cases, employers demanded that, after receiving their minimum wage payment, employees were to give back part of their wage in the case when, due to pandemic measures, the business worked in reduced capacity or was closed.⁹¹ There are no precise data on this practice, however, this was also mentioned during an interview with a Labour Union representative⁹² as well. Survey respondents experienced a similar situation. During the State of Emergency, approximately 43%⁹³ of respondents were not paid their actual wage. Further, 12%⁹⁴ were not paid at all, while 30%⁹⁵ were paid a reduced wage.

Data collected from the survey indicate that labour rights violations are occurring, and have occurred in the past three years, affecting women and men. Possibilities exist that these

⁸⁶ Article 112 of the Labour Law.

⁸⁷ NALED, *Reforma sistema zaposljavanja sezonskih radnika u poljoprivredi – Analiza efekata predložene reforme*, 2018, at: https://naled.rs/htdocs/Files/02470/Analiza_reforma_zaposljavanja_sezonskih_radnika_april_2018.pdf.

⁸⁸ Bukvić, Lj., 'Lisca zaposlenima umanjila zakonom zagarantovan minimalac', *Danas*, 4 December 2020, at: <https://www.danas.rs/ekonomija/lisca-zaposlenima-umanjila-zakonom-zagarantovan-minimalac/>; Radnik, *Inspekcija u "Konfekciji Lisca": Zarade pojedinih zaposlenih niže od minimalne, ali nema nepravilnosti*, 2020, at: <http://www.radnik.rs/2020/12/inspekcija-u-konfekciji-lisca-zarade-pojedinih-zaposlenih-nize-od-minimalne-ali-nema-nepravilnosti/>.

⁸⁹ N = 39

⁹⁰ N = 72

⁹¹ B., Lj., 'Pojedine „gazde“ dale otkaz radnicima „pre vremena“', *Danas*, 20 January 2021, at: <https://www.danas.rs/ekonomija/pojedine-gazde-dale-otkaz-radnicima-pre-vremena/>.

⁹² Interview with labour union representative, woman, 2021.

⁹³ N = 103

⁹⁴ N = 30

⁹⁵ N = 72

may relate to gender-based discrimination, but further inquiry is needed and time for people to come forward to report these.

Awareness and Attitudes about Gender-based Discrimination

Most respondents (93% of women and 86% of men)⁹⁶, were aware that gender-based discrimination is illegal in Serbia. Comparatively, survey findings in the first edition showed 96% of women and 93% of men. This may indicate a slight decrease in awareness between 2018 and 2021, though this cannot be confirmed due to the survey's lack of statistical significance. To some extent, they were aware of the relevant institutions that addressed gender-based discrimination in labour. One interview respondent stated: "Although I know that the discrimination is illegal, sometimes it feels like it is part of the culture something that I just need to bear and laugh off".⁹⁷ This same sentiment could also be seen in survey responses: "I experienced classic catcalling and petty sexism if I may put it that way. But I guess it is nothing worth mentioning in our society.

“ Although I am in management, it regularly happens to me that I miss important agreements because they happen between male colleagues outside of work (at a café, sports game). Also, I lead a team that consists exclusively of men older than me, and I experience comments about sexual frustration, amazement that I have a partner, etc.

- Survey response, woman, age 35

Constant hostile atmosphere.”⁹⁸ One woman who experienced gender-based discrimination indicated that sometimes the discrimination led to exclusion in decision-making.⁹⁹ Research conducted by the Commissioner has found that people tend to perceive that discrimination related to labour is widespread.¹⁰⁰ Coupled with the likelihood of survey respondents being aware that gender-based discrimination in labour is illegal, data presented by the Commissioner indicates that Serbian society is generally aware of discrimination in labour. Despite the awareness, data also indicates that reporting rates are low (see Prevalence and Experiences with Discrimination; Institutional Response to Discrimination).

⁹⁶ N = 487, N = 51

⁹⁷ In-depth interview with survey respondent, woman, 35.

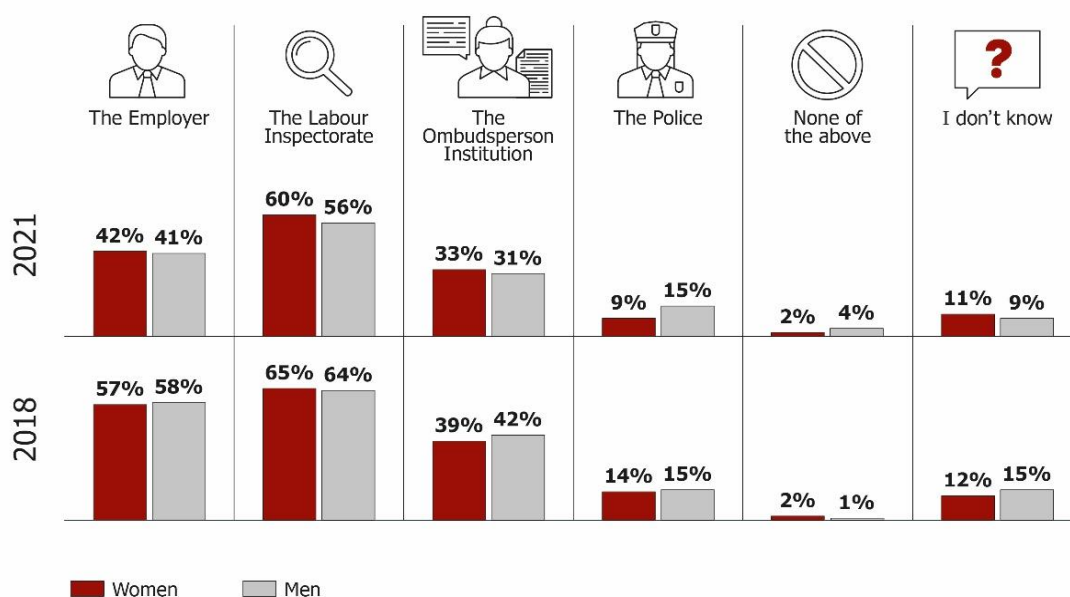
⁹⁸ Survey respondent, woman, 41.

⁹⁹ Survey respondent, women, 40.

¹⁰⁰ Commissioner for the Protection of Equality, *Discrimination in the Labour Market*, 2019, p. 6, at: <http://ravnopravnost.gov.rs/wp-content/uploads/2020/01/diskriminacija-na-trzistu-rada-FINAL.pdf>.

More than half of the respondents surveyed through Kvinna till Kvinna's research (approximately 60%)¹⁰¹ identified the LI as an institution where gender-based discrimination should be reported (see Graph 1); and 33%¹⁰² identified independent state bodies, namely the Ombudsperson, as a relevant institution. Every tenth respondent did not know where to report gender-based discrimination if it happens. This marks an increase compared to the 2018 survey, in which 8% of respondents reported the same (with no statistical difference between men and women's level of knowledge).

Graph 1. To Which Institutions Should Gender-based Discrimination Be Reported, by Respondents' Gender



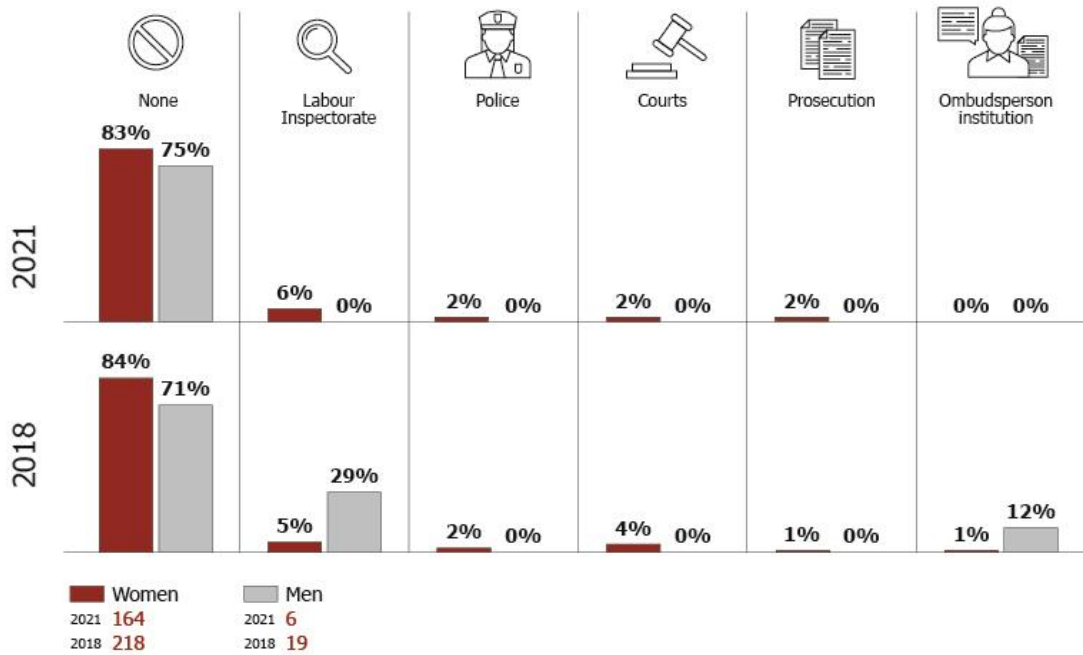
Although most women respondents were able to identify at least one institution where they could report gender-based discrimination in labour, it was indicative that approximately 83%¹⁰³ of women who had experienced discrimination did not report it (see Graph 2 and 3).

¹⁰¹ N = 308

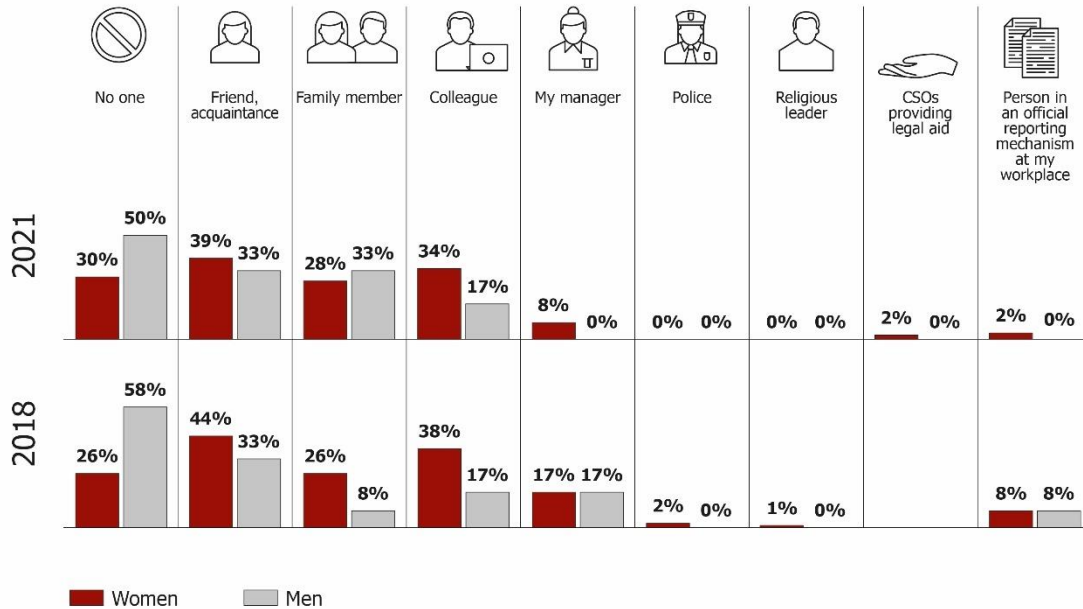
¹⁰² N = 240

¹⁰³ N = 225

Graph 2. To Which Institutions Did Respondents Report Gender-based Discrimination, by Respondents' Gender



Graph 3. To Whom Did Respondents Report Sexual Harassment, by Gender



In relation to the third research question, "For what reasons have few discrimination cases been reported and/or filed?", the data collected suggests a disconnect between

knowledge and actual action, which may be contributing to the under-reporting of gender-based discrimination cases.

One survey respondent noted that “inspections and state services do not work in order to protect rights, rather they avoid their obligations and leave workers unprotected from discrimination and injustice.”¹⁰⁴ There is a noticeable gap between the work that is done by the relevant institutions and the perception of that work among people who feel that their rights have been jeopardised. The latter is a prevailing attitude among the respondents, both in the interviews and survey responses.

Conclusion

It is clear that respondents generally were aware of gender-based discrimination in labour and that it is illegal. Despite this awareness, when it comes to reporting, however, the reporting rates remain low in this second edition as well (See: Institutional Response to Discrimination). Although most women respondents were able to identify at least one relevant institution where they could report gender-based discrimination in labour, it was indicative that approximately 83% of women who had experienced this form of discrimination did not report it. Further research is required to ensure a better understanding of whether women can recognise discrimination when it is happening to them or in their presence, and to what extent. As with the first edition of the report, this second edition showed that awareness does not necessarily correlate with recognition. There is a significant difference between being aware of gender-based discrimination’s existence in general and being able to recognise when the discrimination is gender-based or based on different grounds such as age, ability, class, ethnicity, or sexual orientation, to name a few. It is additionally difficult to identify which forms of discrimination are at-play when discrimination on multiple grounds is taking place.

Inadequate implementation of the relevant legal framework can also be an attributing to inadequate institutional capacities, lack of knowledge, and weak coordination between relevant institutions. Interviews with representatives of the judiciary, independent government bodies, labour unions, and CSOs all shared the opinion that opportunities provided by law are not sufficiently used.

¹⁰⁴ Survey respondent, woman, 56.

PREVALENCE AND EXPERIENCES WITH DISCRIMINATION

This chapter examines the prevalence of gender-based discrimination at work, discussing individual experiences of such discrimination as illustrative. The first section examines the overall prevalence of gender-based discrimination. The second section analyses different forms of gender-based discrimination in relation to promotion, hiring, contracts, and pay. It also provides an overview of findings regarding working conditions, pregnancy and maternity leave, and sexual harassment at work, as possible forms of gender-based discrimination in labour. The third section discusses various forms of discrimination and how they may or may not intersect with gender-based discrimination.

Overall Prevalence of Gender-based Discrimination

In general, 40% (173 respondents) of the women surveyed¹⁰⁵ stated that between the time of response and 2018 they had experienced gender-based discrimination related to labour, whereas 47% of women had in the first edition of this report. Although the samples differ, are not necessarily comparable, and are not statistically representative, qualitatively, this indicates that women continue to face gender-based discrimination in labour. Of the total number of men who responded to the survey, eight (17%) answered that between the time of response and 2018 they had experienced gender-based discrimination related to labour.

Of the women who had experienced this form of discrimination, when asked which institutions they contacted, approximately 83% (143 respondents) said that they had not contacted any of the relevant institutions. Approximately 6%¹⁰⁶ contacted the LI, 2% (four women) contacted the police and the prosecution, and only three women were involved in court proceedings. The fact that few women report discrimination to institutions contributes to the fact that institutions have documented or assisted cases, and therefore have few records of such cases.

Just over half of the persons who said they had suffered gender-based discrimination (55%, or 92 respondents) were working in the private sector when it occurred, while 39% (65 respondents) were working in public administration (including ministries, municipalities, health institutions, public schools, universities). Little difference exists compared to the 2018 survey, wherein 53% were employed in the private sector at the time of discrimination and 35% were working in the public administration. Noticeably, over half of the instances of reported discrimination both in 2018 and 2021 took place in the private sector, which may suggest that there is a higher likelihood of gender-based discrimination in labour occurring in the private sector than in other sectors.

CSO Reactor – Research in Action used logistic regression for the survey responses to test whether the probability of experiencing gender-based discrimination (self-reflected) in the workplace could be predicted from gender, age category, educational level, current employment position and monthly salary. Although the overall model is not significant, gender significantly predicts the probability of being (or perceiving to be) discriminated in the workplace. The odds of experiencing gender-based discrimination in the workplace for women are 1113 times as large as the odds for men, when all other variables are controlled for (see Annex 5).

An interviewed judge observed that although obligations and duties towards employees are the same in state-owned and private companies, people are more likely to

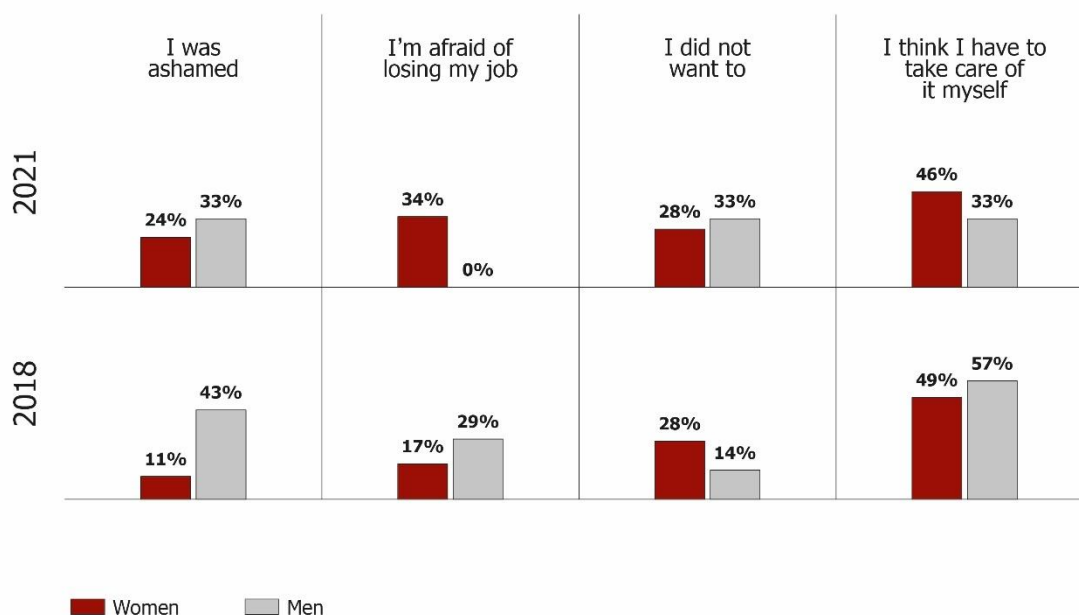
¹⁰⁵ N = 438

¹⁰⁶ N = 10

seek their rights if the violation happened in a state-owned company, whereas workers in private companies are less likely to complain. According to the judge, this is the result of an atmosphere in which any grievance may be followed by job loss or other consequences.¹⁰⁷ A Human Resources professional and a long-time CSO legal aid provider both emphasised during interviews that the most preferable way of dealing with discrimination for victims would be the swift procedure within the company; this creates an opportunity to continue working freely under improved circumstances.

As the CSO representative stated, “Victims usually just want to continue working while being treated well and with respect. They do not want to jeopardise their job and put themselves through the possibly long and draining [court] process”.¹⁰⁸ These interviews suggest that fear of job loss or other consequences contribute to women’s unwillingness and hesitancy to report gender-based discrimination, particularly if they work in the private sector. This may be a factor contributing to low reporting and thus continuing low prevalence rates, as recorded by institutions. Simply because discrimination is not reported, however, does not mean that it does not exist (see Graph 4).

Graph 4. Reasons Why Sexual Harassment at Work Was Not Reported, by Gender



In a survey conducted by the Commissioner, 42% of employers observed that the level of discrimination is rising. This may be hypothesised as an indication that employers have become more sensitised to discrimination; since recognition and awareness are the first crucial steps, this may show improved readiness to be involved in working towards better address of gender-based discrimination at work.¹⁰⁹

¹⁰⁷ Interview with High Court judge, woman.

¹⁰⁸ Interview with CSO representative, woman.

¹⁰⁹ Commissioner for the Protection of Equality, *Discrimination in the Labour Market*, 2019, p. 7, at: <http://ravnopravnost.gov.rs/wp-content/uploads/2020/01/diskriminacija-na-trzistu-rada-FINAL.pdf>.

Different Forms of Gender-based Discrimination

This section discusses different forms of discrimination, including related to hiring and promotion; marital status and family planning; age; contracts and pay; contract length; working hours; and sexual harassment at work. It draws from survey findings and interviews, as well as literature and reports published on these issues.

Discrimination in Hiring and Promotion

Discrimination in hiring and promotion remain widespread in Serbia.¹¹⁰ Between 2018 and 2021, 76%¹¹¹ of respondents said that they had been discriminated against during the hiring process, 78%¹¹² of women and 63%¹¹³ of men. Namely women were discriminated on the grounds of age in approximately 45%¹¹⁴ of cases, gender (28%, or 64 women), appearance (25%, or 58 women), political party preference (24%, or 56 women), and in 20%¹¹⁵ of cases, on whether they had or planned to have children. Similar forms of discrimination were reported in the [2019 edition](#) of this report.

“ I encountered discrimination and harassment regarding all aspects of me being a woman. If I wore a dress, I heard comments like ‘Oh, ready to get a promotion?’ If I wanted new work challenges so I can work towards a promotion, comments along the lines of ‘you better find a husband’ were common. I have to say that both men and women made the comments, and the worst part is that they were always in the form of a joke, so I didn’t know how to report them.

- In-depth interview with survey respondent, woman, age 41

This form of discrimination can be very subtle, hidden behind norms and criteria that have been formed based on pre-existing gender biases (see Box 1). When a social construct such as gender becomes the *status quo*, so too do the discriminatory practices embedded within, often becoming conflated to universal truths, or colloquially “the way things are”. This can often be discouraging and makes it difficult to disrupt the *status quo*. As such, it could be challenging to identify discrimination when it occurs, and later document and report.

Of the participants who were employed at the time of the survey, or had been employed in the previous ten years, approximately 27% indicated that they experienced some form of discrimination in promotion.¹¹⁶ The sample of men was too small to be indicative. However, only one man indicated that he had experienced gender-based discrimination in

“ I feel that due to appearance I was not promoted on three occasions, although I had the most suitable experience and education. The explanation was very explicit: that I was not visible enough and attractive to business partners.

- Survey response, woman, age 41

¹¹⁰ Commissioner for the Protection of Equality, Special Report on Labour Discrimination, 2019; Bradas, S. & Reljanovic, M., Indikatori dostojanstvenog rada u Srbiji, Analiza normativnog okvira i prakse, 2019.

¹¹¹ N = 198

¹¹² N = 179

¹¹³ N = 19

¹¹⁴ N = 103

¹¹⁵ N = 11

¹¹⁶ N = 166

promotion, which when compared to every tenth woman having experienced the same, the findings are stark.

Case Study 1: Unequal Pay for Equal Work

AA has been employed at a local cultural center, a public institution, in Mitrovica since 1991. She was originally employed as a cook, but through the years, she was reassigned to other positions, including the position of an usher, which requires a higher level of education but also entails a higher pay scale. Over the course of her employment, AA completed another level of education and obtained a higher degree. Due to these new circumstances, on several occasions she requested an amendment of her employment contract so as to correspond with the actual work she was performing and thus to be transferred to a higher pay scale. After the employer refused to amend her contract, AA filed a claim against the employer before the Higher Court in Leskovac for discrimination on the grounds of gender. She argued that over the period of almost two years she was performing the same work as her male colleagues who were also employed as ushers, but she was paid less despite having fulfilled formal requirements after obtaining a higher-level degree. In the claim, AA further explained that she was exposed to verbal abuse and threats perpetrated by the Director, similarly to some other women colleagues; a treatment which was exclusively targeted at the female colleagues and that had seriously compromised her health.

The Higher Court in Leskovac dismissed her claim as unfounded.¹¹⁷ The court argued that the plaintiff did not suffer less favourable treatment in comparison with persons in similar situation, i.e., other employees who obtained a higher level of education in the same period. The court concluded that the employer could not amend the plaintiff's employment contract in a timely manner due to economic and organisational reasons, and that it was not based on the plaintiff's gender. Namely, the Director addressed the cultural centre's founder to approve additional budgetary funds to cover increase in a salary for the plaintiff, but since it is a public institution solely dependent on fiscal allocations and transfers, that request was denied. With regards to the argument that in the same period, the employer hired several persons without the prior approval of its founder – a procedure that is mandatory by law - the court reasoned that it was beyond its task to assess legality of other employment contracts the employer had concluded. The court dismissed the claim of discriminatory harassment, arguing that there was no evidence of the conflict between the plaintiff and director being motivated by the plaintiff's gender or any other personal characteristic, rather, it concerned tensions around work-related requirements and conditions which falls under the scope of different material law and not on the LPD.

Of the participants who indicated that they had experienced some form of discrimination in promotion, approximately 13% said that discrimination was based on their age (73 women compared to 7 men). For comparison, data collected in the first edition of this report indicated that approximately 43% of women survey respondents had experienced some form of discrimination in promotion, 14% of which identified gender-based discrimination and another 14% identified discrimination on the grounds of age.

¹¹⁷ Leskovac Higher Court 15P1. Br. 13/19 from 19 August 2020.

According to one respondent: "As a member of the security service in a Ministry, despite my university degree and all the passed professional exams, I could not be promoted to managerial positions, because I am a woman."¹¹⁸

Discrimination related to Marital and Parental Status

Half of the total survey respondents had an interview in the last three years, and of this sample, 63%¹¹⁹ experienced questions that might imply discrimination. The most frequently encountered (approximately 52%) were questions about marital status or future marriage plans.¹²⁰ Questions related to family planning and children were posed in 44% of cases.¹²¹ In almost 7% of cases, the inquisition went even further, wherein women were asked to provide the employer with medical proof that they are not pregnant.¹²² Notably, this is the same percentage of respondents that were asked to provide this medical proof as reported in the first edition of the report.

In job applications and interviews, employers are more likely to ask women questions about family and marital status, or to automatically exclude women due to the presumption of inability to reconcile work and family life obligations. Research data indicate that women tend to encounter questions about their marital status and family planning more frequently than men.

When it comes to discrimination regarding family planning, women have a higher likelihood than men of experiencing discrimination or discriminatory questions, regardless of their family status or circumstances. If they have children, they are considered to be too preoccupied to work, and deprived of a potential promotion. If they do not have children, some woman indicated that they encounter a different type of discrimination in comparison to colleagues that do; as stated in one interview: "I am discriminated against because I have no children. Therefore, it is considered that I can do more work, and my obligations accumulate, while other colleagues have less."¹²³

“

I absolutely think I was discriminated against because I am a woman. It was expected that I am always good-looking and dressed up, that my job always comes first, that I do not plan on having children. After I got married, the employer also made a number of inappropriate and provocative comments about it.

- In-depth interview with survey respondent, woman, age 29

¹¹⁸ Survey respondent, woman, 48.

¹¹⁹ N = 164

¹²⁰ N = 119

¹²¹ N = 101

¹²² N = 15

¹²³ Survey respondent, woman, 33.

Case Study 2: Selection Inequality Related to Family Planning and Reproduction

In 2019, the High Court in Niš ruled against the Ministry of Education, Science and Technological Development on the grounds of gender-based discrimination that took place during a PhD scholarship selection process.¹²⁴ The Ministry announced a doctoral scholarship competition for which the plaintiff applied. Criteria for the ranking were published and along with the application, the plaintiff submitted evidence regarding the fulfilment of the conditions for scholarships. The defendant stated that the plaintiff did not meet the conditions to be shortlisted because she was born in 1991, not in 1992 as it was stated in the evaluation criteria. The Ministry did not take in consideration that the plaintiff took a break due to pregnancy and maternity leave between her completion of studies and enrolment in doctoral studies. Before going to Court, the plaintiff addressed the Commissioner who gave issued an opinion, including a recommendation stating that the plaintiff in this case had been discriminated against on the grounds of gender. The Ministry informed the plaintiff that it would neither act in accordance with the recommendation nor change its decision.

During the judicial process, the Court stated that “pregnancy and childbirth as biological processes sometimes lead to the need to put certain aspects of women’s lives on hold in order to preserve her life and health, as well as the health of the child”. According to the judgment: “That is exactly why, among other things, special protection of mothers and children has been established by the Constitution of the Republic of Serbia and many other regulations, especially in the field of work and education. For these reasons, the court was of the opinion that the plaintiff made it probable that the defendant committed an act of discrimination, and indirect discrimination on the grounds of sex, and that it was probably done by an act seemingly based on the principle of equality, which is neither justified by a legitimate aim nor were the means to achieve that goal adequate and necessary.”

When interview and survey responses are compared with the ILO report “Women in Business and Management Gaining Momentum”, the aforementioned concerns, challenges, and respondents’ opinions correspond also with the ILO report findings: pregnant women are more likely to be discriminated against in hiring and firing; women employees on maternity leave are more likely to be denied the right to return to work once their maternity leave is finished; maternity discrimination pushes more women into gig employment or the informal economy, where wages are often lower and the hours are less stable.¹²⁵

¹²⁴ An anonymised copy of the decision was obtained through a data request submitted to the court.

¹²⁵ ILO, *Women in Business and Management: Gaining Momentum, Global Report*, 2015, p.60, at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_316450.pdf.

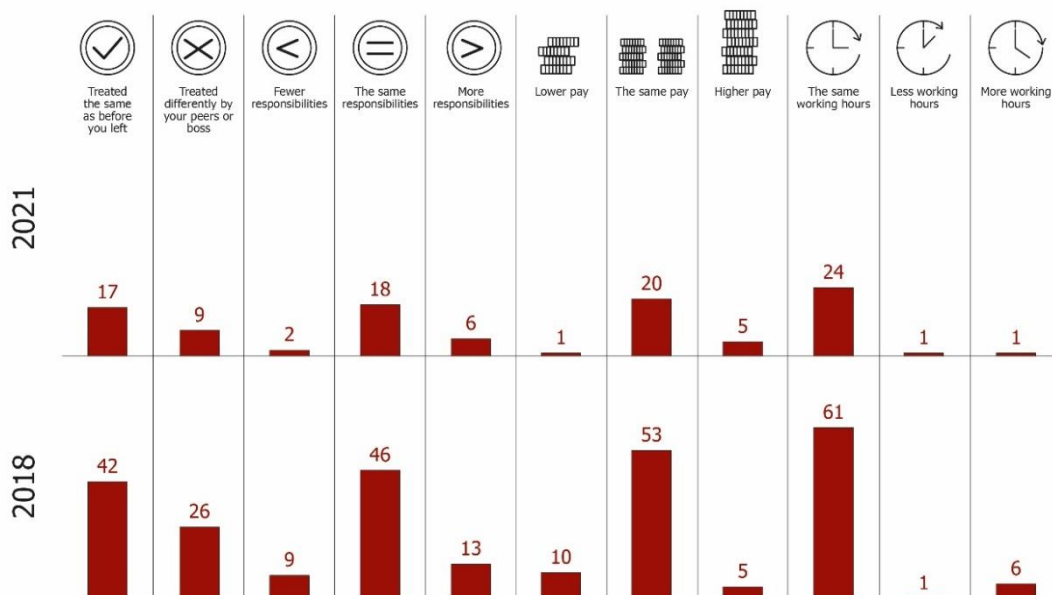
Of the surveyed women, 11% (48 women) had experienced being pregnant while employed between 2018 and 2021. Concerningly, 21% of those women responded that their legal right to paid maternity leave was denied; they received neither paid leave nor a government benefit during their maternity leave. After their maternity leave, 54% (26 women) returned to their previous place of employment, and 10% (five women) were pressured to return to work earlier than planned. More than one-third (approximately 35%, or 26 women) felt that their peers or boss treated them differently after their maternity leave. Comparatively, data from the first edition of the report indicated that 28% of the women survey respondents in 2018 had been denied their right to paid maternity. Of those women, 38% (nine women) had reported that they were treated differently upon their return. Research findings in both editions indicate that maternity leave violations persist as a form of gender-based discrimination in Serbia.

“ My employer did not allow me to have a day off. I was 18 weeks pregnant, and I had to go for amniocentesis. After a couple of days, I had to be on sick leave. The employer announced that I would be fired after the sick leave expired, and that's how it was.

- In-depth interview with survey respondent, woman, age 37

While women reported having different treatment and experiences after returning to work after maternity leave, two women (8%) reported that they had fewer responsibilities upon returning to work and one woman (approximately 4%) shared that she received a lower pay scale upon return compared to when she went on leave. Comparatively, the 2018 survey responses were 13% and 15%, respectively (see Graph 5).

Graph 5. Different Types of Treatment Women Faced after Returning from Maternity Leave



The difference between the findings in the first edition of the report and this second edition may indicate a decrease in discriminatory maternity leave practices, though this is unlikely when taking the timeframe into consideration, wherein the first edition of the report

encompassed the previous 10 years and this timeframe encompassed only three. Therefore, it is likely more accurate to conclude that the first edition included a higher number of cases of maternity leave violations than the second edition because it included a longer period of time.

Discrimination Based on Age

It is already well acknowledged by international human rights organisations, including the UN, that prejudice and discrimination based on age are widespread around the world, affecting millions of older and younger people. Data collected in the survey captured many elements of ageism related to labour in Serbia, as 49% of the respondents who felt that they faced discrimination in hiring (approximately 76% of the total number of respondents) said that they had been discriminated against on the basis of age¹²⁶. In the first edition of this report, several respondents asserted that age-based discrimination (26% of women and 27% of men) occurred during the hiring process. This is in-line with the results of a survey conducted by the Commissioner, in which surveyed employers and employees agreed that PWDs and older workers face the most discrimination in labour.¹²⁷

“ *The society in which we live has its own, established patterns. One is that older women are invisible. Our opinion is disregarded, our knowledge and experience are unnecessary. We are no longer a [futile] decoration [so that] unimportant and inadequate tasks are delegated to us.*

- Survey response, woman, age 57

“ *In addition to my gender, discrimination was mostly related to age. It was mainly focused on the unequal evaluation of work and a lack of trust.*

- Survey response, woman, age 28

Contracts and Pay

The widespread presence of the informal economy in Serbia, estimated to comprise 18% of total employment, negatively affects both human and labour rights.¹²⁸ The sectors most affected by the informal economy are agriculture (in which approximately 41% of employment is informal), unpaid domestic labour (24%), construction (8%), retail sale (approximately 6%), and manufacturing (5%).¹²⁹

Of the survey respondents that have worked in the last three years, 17%¹³⁰ have been asked to work regularly without a contract. There are no statistically significant differences between men and women. Comparatively, approximately 45% of working survey respondents stated in the first edition of this report that they had been asked to work regularly without a contract (in the previous 10 years at the time of response). As the sample is not statistically representative, it is difficult to conclude whether this practice has decreased. Nevertheless,

¹²⁶ N = 103

¹²⁷ ILO, *Women in Business and Management: Gaining Momentum, Global Report*, 2015, p.8, at https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_316450.pdf.

¹²⁸ ILO, *Overview of the Informal Economy in Serbia*, 2020, at: <https://www.esap.online/docs/103/ilo-overview-of-the-informal-economy-in-serbia>.

¹²⁹ *Ibid.*

¹³⁰ N = 95

clearly the practice of asking workers to work without contracts continues, affecting both women and men workers as a workers' rights violation.

Length of current contract

Of the survey participants who have (or had) an employment contract, 58%¹³¹ had a permanent contract, 27%¹³² had employment contracts with a duration of less than a year, while 13%¹³³ reported having fixed-term contracts longer than one year. The sample sizes were too small and work places too different to draw conclusions as to whether women or men may face gender-based discrimination

“

When you are a woman, employed for 20 years on a fixed-term basis, the contract is renewed every year, and you are also a mother and a tenant, the directors think that you will endure everything to save your job and that you will be silent and work overtime for free. Every year I depend on whether they will sign the contract again and whether there will be full or reduced working hours, which is directly reflected in the [...] wages.

- In-depth interview with survey respondent, woman, age 45

related to contract length. Even so, qualitative survey responses and interviews suggest that use of fixed term contracts continues and seemingly affects women disproportionately. Survey findings from the first edition suggested that women were more likely than men to sign three-month contracts or to have never had a written contract at all.

Of all survey respondents, 25%¹³⁴ indicated that they had been asked to sign an employment contract at least once without being allowed time to read and understand the terms of the contract. This practice was confirmed during an interview with a CSO representative that provides legal aid to persons who have experienced discrimination. On several occasions, they had encountered situations in which women working on a production line or in agriculture did not even know that they are not permanently employed and that they would not have any rights in case of dismissal. Their trust in the employer and lack of legal knowledge was abused by the employer who provided temporary employment contracts without explaining the legal consequences of this form of contract. Although the employer is within their legal rights when providing employees with temporary employment contracts, the unequal position of employees in this situation of precarious labour, as well as the power imbalance between the employer and employee were nevertheless abused.

Although the Labour Law stipulates that a written employment agreement must be signed by each employee, both evidence on how the Labour Law has been implemented and survey results indicate a different situation exists in practice.

Working Hours

Slightly more than half (approximately 54%) of the employed respondents, stated that they worked overtime in the last three years: 49%¹³⁵ usually worked 41-60 hours per week and 5% more than 61 hours per week.¹³⁶ Less than half (44%) of the sample of those who were employed at the time of responding answered that they worked between 21 and 40 hours per week and only 2% between 1 and 20 hours per week. More than half (56%) of the

¹³¹ N = 316

¹³² N = 83

¹³³ N = 73

¹³⁴ N = 138

¹³⁵ N = 202

¹³⁶ N = 23

persons working overtime said that they were not compensated for overtime work. More men (23%), however, received time off as a compensation than did women (12%). Additionally, more men were paid for their overtime (31%) than women (16%). Research findings from the 2018 survey indicate similar, gender differences, wherein 31% of men compared to 16% of women indicated that they were paid for their overtime at the same or a higher rate than their usual wage. Collected data indicate that overtime is a regular occurrence rather than an exception. Employees rarely have say in decision-making when it comes to overtime work, and are often left with little choice other than to accept the terms for fear of reprisal.

“

I was permanently exposed to intimidation. Managers do not respect working hours; they ask for information and text in Viber groups from 8:00 am until late into the evening and on weekends.

- Survey respondent, woman, 36

Sexual Harassment at Work

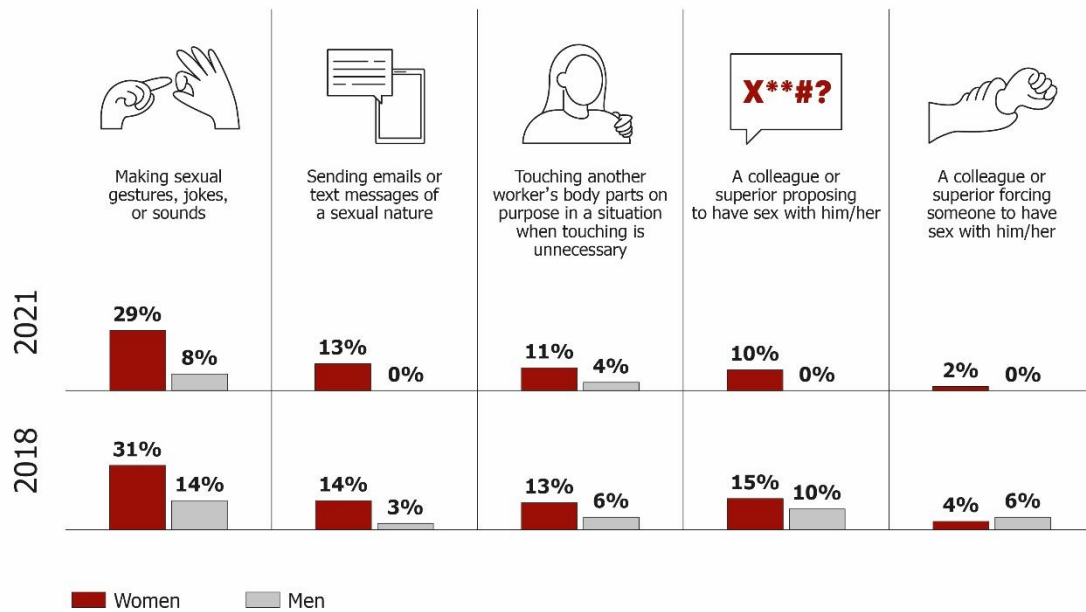
Sexual harassment is among the most blatant forms of gender-based discrimination in labour. Although sexual harassment is a criminal offense, prohibited in Serbia, it remains widespread. The sheer number of women who shared their experiences in the form of qualitative responses in the online survey indicated that sexual harassment related to labour remains widespread, as in the first edition of this report. Women shared experiences of sexual comments, threats, advances, touching, humiliation, and violence. Researchers could not quantify the number of occurrences, as many women shared numerous experiences of sexual harassment at work. Nevertheless, qualitative evidence from a diverse array of respondents shows that sexual harassment remains widespread.

Perhaps one of the reasons for inadequately dealing with this widespread issue is the unclear legal nature of sexual harassment in Serbian law.¹³⁷ Considering the relatively low number of court processes, it can be concluded that improvement in reporting issues of sexual harassment has not been made in the previous three years. In assessing multivariate relations, the first edition of this research found that gender was the only significant predictor of the probability of experiencing sexual harassment. When controlled for other demographic characteristics, such as sector of employment, working position, and monthly net salary, woman had more than two and half times (2.6) greater odds of experiencing sexual harassment in the workplace than did men. Assessing the multivariate relations in this second edition (see Annex 5), it was concluded in this edition as well that that only gender category is a significant predictor i.e., the odds of being sexually harassed for women are 3425 times as large as the odds for men, when all other variables are controlled for.

Among survey respondents, 165 women (36%) had experienced at least one form of sexual harassment at work compared to 6 men (12%). More specifically, 132 women, or 29% of women who had responded that they had experienced some form of workplace sexual harassment, had been subjected to sexual gestures, jokes, or sounds. Comparatively, four men had experienced the same. Sixty-one women (13%) had received e-mails or text messages of a sexual nature from a colleague or superior; no men who completed the survey had identified that they had experienced this form of sexual harassment in labour. Fifty 50 women (11%) had been subjected to inappropriate touching (e.g., bottom, breasts, etc.), compared to two men (see Graph 6).

¹³⁷ Reljanovic, M. 'Sexual Harassment at Work in the Republic of Serbia - Regulatory Framework and its Implementation', *Sexual Harassment in Serbia*, OSCE Mission to Serbia, at: <https://www.osce.org/files/f/documents/2/6/473253.pdf>.

Graph 6. Survey Respondents' Experiences with Different Forms of Sexual Harassment at Work, by Gender



Approximately 10% (44 women in total) had received a proposal for sex from a colleague or superior, whereas no men had responded that they experienced this form of sexual harassment in labour.

Perhaps the most telling of all are the data gathered on the most serious cases of sexual harassment in labour. Eleven women (2%) had responded that a colleague or superior had forced them to have sex. One limitation (see "Limitations" in

Annex 1) of this online survey is the wording of the particular question that pertains to different forms of sexual harassment.¹³⁸ Within this question there are a list of different forms of sexual harassment, and respondents were asked to identify which ones they had experienced. The last option for respondents, in English, was "a colleague or superior forced you to have sex with him/her" (for the full survey, see Annex 3).

Due to the nature of the Serbian language, there is space for interpretation of the Serbian wording of this option, in that it can be interpreted as rape that was perpetrated by a colleague or a superior, or as ongoing pressure for sexual intercourse but not the act of



While I was sitting at my workplace, a colleague was touching my back, partially tucking his hand under my shirt in the neck area. As we sat in the meeting next to each other, he would put his hand over the back of my chair and touch me on the back in front of my colleagues.

- In-depth interview with survey respondent, woman, age 40

¹³⁸ "The following is a list of situations that reflect certain behaviours. Please indicate if you consider them to be sexual harassment when they occur at work. On the second scale please indicate if it ever happened to you at work."

rape itself.¹³⁹ Despite this unclear formulation, the previous option within that same question was regarding a colleague or superior proposing sex. Therefore, it can be interpreted that respondents were aware that proposed sex was covered in the previous option, and that those who responded that their superior or colleague forced them to have sex did not interpret it as a form of ongoing persuasion, but rather the act of rape. Since the survey was anonymous, there is no way to follow-up with respondents. Due to research limitations, this cannot be confirmed, though researchers are nonetheless inclined to believe victims/survivors that responded to the survey when it comes to their understanding of the responses despite this potential space for different interpretations. Researchers remind readers that the *#MeToo* movement and corresponding *#BelieveWomen* movements raised awareness on the need to believe victims/survivors and to not question their experiences, as this is something societies and institutions have failed with in the past, leading to inadequate protection services and sentencing of perpetrators.

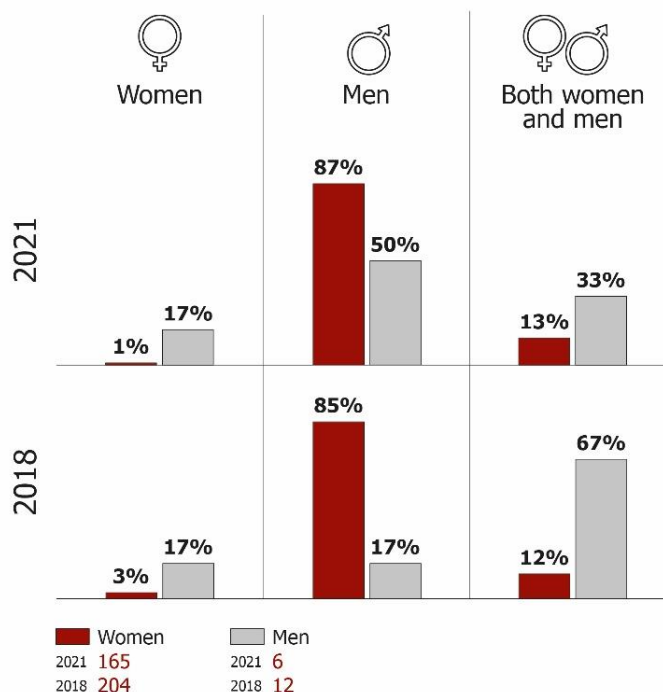
In the 2018 survey responses, 40% of women similarly indicated that they had experienced at least one of these forms of sexual harassment at work. The collected data indicates that women are significantly more often victims/survivors of sexual harassment in the workplace than men. The prevalence of workplace sexual harassment remains high, as in the first edition of this report (see Graph 7).

A regional survey conducted in 2019 by the Organisation for Security and Cooperation in Europe (OSCE)¹⁴⁰ found that women not active in the formal labour market, such as retirees and women performing unpaid domestic work, were significantly less exposed to sexual harassment than economically active women.

According to the OSCE, this is primarily because they are less involved in the types of relationships within which sexual harassment takes place. Indeed, qualitative responses from survey respondents to this research similarly suggested that the power relations between supervisors and women workers, who are rarely in management roles, likely place women at greater risk of sexual harassment at work.

In 2021, 87%¹⁴¹ of the women survey respondents who had experienced sexual harassment at work stated that the perpetrators were men. Meanwhile, 13%¹⁴² had

Graph 7. Gender of Perpetrators of Sexual Harassment, by Respondents' Gender



¹³⁹ The Serbian version of "A colleague or superior forcing someone to have sex with him/her", as it appeared in the online survey is as follows: "Kolega/inica ili nadređeni/a primorava nekoga na seksualni odnos sa njim/njom".

¹⁴⁰ OSCE, *OSCE-led Survey on the Well-being and Safety of Women in Southeast and East Europe*, at: <https://www.osce.org/projects/survey-on-the-well-being-and-safety-of-women>.

¹⁴¹ N = 143

¹⁴² N = 21

experiences with both men and women as perpetrators. In the previous research, 85% of the women who reported experiencing sexual harassment at work similarly stated that the perpetrator was a man and 12% had experienced harassment from both men and women. Most women (65%) have been victimised by persons who work in higher positions than them, which suggests that power imbalances contribute to workplace sexual harassment. Systemic power imbalances, whereby men are more likely than women to hold higher decision-making positions, coupled with social gender norms contribute to sexual harassment affecting women at work disproportionately.¹⁴³

In some cases, women can also be victims/survivors of sexual harassment even if they hold positions of power, simply *because* they are women. Findings from an international survey revealed that 55% of women in senior leadership experienced sexual harassment.¹⁴⁴

Survey results suggested that only 8%¹⁴⁵ of women who suffered sexual harassment at work told their manager and only 3%¹⁴⁶ contacted an official reporting mechanism. Comparatively, in the 2018 survey, 17% reported harassment internally and 8% to an official mechanism. Although the samples differ, survey findings thus suggest little to no

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I experienced continuous sexual harassment by a student of mine, over 18 years old, a high school graduate. I turned to a colleague, his teacher. Then I went to the principal. She said that everything should remain between us. That we should not disturb [the student] with those problems. She said it was a child's joke. She talked to him. He so-called 'apologised'. That's where we left off. Today, I would not allow it to end like that.

- Survey response, woman, age 36

improvement in women reporting sexual harassment in the past three years. Women rarely decide to initiate proceedings for protection against sexual harassment at work, including but not limited to: the fear of termination of employment; future differential treatment at work (the possibility of even more severe abuse because they “dared” to report harassment); or feelings of discouragement from entering

protection mechanism processes, especially when faced with court proceedings that often last many years. Also, in Serbia, monetary compensation for material or non-material damage is usually awarded in an inadequate amount, thus leaving victims/survivors with little incentive to enter the often difficult, expensive, and time-consuming court process. Even when employees dare to seek protection, this seems to occur when they stop working for the employer.

Worryingly, nearly half of the women (46%, or 23 women) who did not report their experiences with sexual harassment thought that they should take care of it themselves, while 34% (17 women) were afraid that they would lose their job and 24% (12 women) were ashamed. Interestingly, the number of women who are ashamed of reporting incidents more than doubled since the first edition report, from 11% to 28%. These numbers suggest insufficient social support for victims/survivors, as well as a persisting social atmosphere that supports silence and victimisation, though this may be subject to change on account of Serbia's #MeToo movement and pending potentially ground-breaking sexual harassment court cases involving public figures and politicians.

¹⁴³ Bjelotomic, S., *Why Aren't There More Female Company Directors in Serbia?*, 2020, at:

<https://www.serbianmonitor.com/en/why-arent-there-more-female-company-directors-in-serbia/>.

¹⁴⁴ McKinsey & Company, *Women in the Workplace 2021*, at: <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace#>.

¹⁴⁵ N = 13

¹⁴⁶ N = 5

Types of Discrimination

This section discusses gender-based discrimination affecting different groups, examining potential intersectional, or multiple, discrimination. It focuses on gender-based discrimination affecting PWDs, LGBTQIA+ persons, and Roma women, drawing from interviews and existing literature.

Gender-based Discrimination against Persons with Different Abilities

Serbia still lacks data on how many of its citizens are living with different abilities (PWD). The estimated number varies from less than 8% of Serbia's population,¹⁴⁷ based on the data from the latest-conducted census in 2011, to international organisations' estimates that 15% to 20% of the global population live with some form of different ability.¹⁴⁸ Despite improvements to the legal framework with Serbia's adoption of the Law on Professional Rehabilitation and Employment of Persons with Disabilities,¹⁴⁹ as well as anti-discrimination legislation, the employability of PWD remains very low.

In 2019, 13,331 PWDs were registered as unemployed with the National Employment Service, including 5,574 (approximately 42%) women.¹⁵⁰ Employers forwarded to the National Employment Service 1,307 notices of their need to employ 2,663 PWDs in 2019. The National Employment Service referred a total of 10,164 job-seeking PWDs to these employers, who hired 1,435 of them (14%).¹⁵¹ These data coupled with interview findings from this research suggest that employers tend to opt to pay the fine instead of hiring PWD, in accordance with the law requiring employers with more than 20 employees to hire at least one PWD or pay a fine.¹⁵² According to the data collected from the online mixed methods survey, approximately 10%, or 49 participants that answered 90% or more of the survey, self-identified as having a different ability. Two women and one man answered that their employer who knew of their different abilities denied them sick leave, wherein one employer even asked inappropriate questions related to the woman's health.¹⁵³ The same number of participants (49) who responded to the 2018 online survey self-identified as having a different ability, however the 2018 sample was larger and therefore accounted for 9% of overall responses.

Within this generally difficult context for PWD to secure employment, interviews with CSO representatives suggest that, women with different abilities face additional challenges securing employment, including persisting negative stereotypes and attitudes linked to

“ Non-compliance, or rather, partial compliance with the decision of the National Employment Service's decision on [different] abilities.

- Survey response, woman, age 39

¹⁴⁷ Marković, M., *Popis stanovništva, domaćinstva i stanova 2011. u Republici Srbiji – Osobe sa invaliditetom u Srbiji*, Republički zavod za Statistiku, 2014, <https://pod2.stat.gov.rs/ObjavljenePublikacije/Popis2011/Invaliditet.pdf>.

¹⁴⁸ World Health Organisation, *World Report on Disability*, 2011, p. 44., at: https://www.who.int/disabilities/world_report/2011/report/en/.

¹⁴⁹ Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of RS, br. 36/2009).

¹⁵⁰ National Employment Service of Serbia, *Izveštaj o radu Nacionalne službe za zapošljavanje za 2019. godinu*, 2019, at:

https://www.nsz.gov.rs/filemanager/Files/Dokumenta/Izve%C5%A1taj%20i%20program%20rada%20NSZ/14387_izvestaj_o_rad_u_nsz_-_i_-_xii_2019._godine.cleaned.pdf.

¹⁵¹ *Ibid.*

¹⁵² ILO, *Vodič sa primerama dobre prakse u zapošljavanju osoba sa invaliditetom: Glasovi sa inkluzivnih radnih mesta u Republici Srbiji*, 2019, at: https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/publication/wcms_735180.pdf.

¹⁵³ Survey response, woman, 37

differences in ability, which when coupled with their gender, make women with different abilities more vulnerable to gender-based discrimination in labour.¹⁵⁴ A weak social support system dedicated to making entry into employment more accessible for PWD remains a major problem, as support services for PWD in a form of nurturance, advice, financial assistance are still rarely available. PWD with higher educational levels face fewer challenges when entering the labour market than those who have a secondary education or lower, but they still face discrimination in comparison to other candidates.¹⁵⁵

Social entrepreneurship, perceived as a promising form of employment of PWDs, is developing very slowly in Serbia. Positive examples exist of enterprises employing persons with mental health barriers and providing them with good working conditions.¹⁵⁶ The drafting of a law on social entrepreneurship has been under way since 2018, and it is planned to be adopted by the end of 2021.¹⁵⁷ Currently this area is not comprehensively regulated.¹⁵⁸

Gender-based Discrimination against LGBTQIA+ Persons

The LPD prohibits discrimination in employment and promotes equal conditions for enjoying all labour rights, including promotion, professional training and fair, satisfactory working conditions. The Labour Law prohibits direct and indirect discrimination of employees and people seeking employment based on sex or sexual orientation. Nonetheless, literature, survey responses, and interviews all indicate that widespread discrimination against LGBTQIA+ persons continues within labour and hiring.

Lack of trust in institutions and fear of stigmatisation and victimisation mean that few cases of violence and discrimination towards LGBTQIA+ persons are reported.¹⁵⁹ Serbia continues to lack official data on discrimination against LGBTQIA+ people in the labour market. The only court decision related to workplace discrimination based on sexual orientation was in 2009.¹⁶⁰

Many LGBTQIA+ people are still afraid to come out at work because they believe that they will be subjected to differential treatment by the employer after coming out in the workplace.¹⁶¹ Interviews with LGBTQIA+ community members from the first edition of this report indicated much the same. Evidence for such differential treatment is difficult to obtain, and such cases are difficult to prove in a court of law. Most lesbians in Serbia are unemployed or in temporary, precarious work.¹⁶² Regarding gender-based discrimination in the hiring process, out of the 313 total respondents who answered that they had been asked an inappropriate question by a potential employer during an interview in the past three years, 15 people (13 women, two men) had been asked a question regarding their sexual orientation and/or gender identity. Additionally, eight respondents (five women, three men) shared that they had not received a promotion in the last three years due to their sexual orientation and/or gender identity. One of the men interview respondents, who was employed in customer service industry shared: "Although in general everyone was nice to me, sometimes

¹⁵⁴ Interview with woman CSO representative.

¹⁵⁵ Interview with woman CSO representative.

¹⁵⁶ Naša Kuća – Udruženje za podršku osobama ometenim u razvoju, at: <http://nashakuca.blogspot.com>.

¹⁵⁷ *U pripremi nacrt zakona o socijalnom preduzetništvu*, 2021, at: <https://www.paragraf.rs/dnevne-vesti/260421/260421-vest8.html>.

¹⁵⁸ Cvejic, S., *Social enterprises and their ecosystem in Europe, Country Fiche Serbia*, 2018, at: <https://www.econbiz.de/Record/country-fiche-serbia-cveji%C4%87-slobodan/10012103407>.

¹⁵⁹ European Commission, *Serbia 2020 Report*, 2020, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

¹⁶⁰ GSA, 'First Final Verdict for Severe Discrimination at the Workplace Based on Sexual Orientation', 2013, at: <http://en.gsa.org.rs/2013/01/first-final-verdict-for-severe-discrimination-at-the-workplace-based-on-sexual-orientation/>.

¹⁶¹ Interview with the LGBTQIA+ person, man, 39.

¹⁶² Mršević, Z., *Položaj lezbejki i trans žena u vreme pandemije korona virusa*, 2020, A 11 – Initiative for Economic and Social Rights.

I feel like I am left behind because manager avoided to put me to be front face of the business".¹⁶³

No major progress was achieved since the 2018 baseline report. CSOs Loud and Queer and EGAL Drop-in Centre conducted an online survey of 1198 LGBTQIA+ community members in 2020 and reported that during the COVID-19 pandemic, more than two-thirds of the LGBTQIA+ population in Serbia was without one necessity, either food, shelter, or a job.¹⁶⁴ Labris, the Belgrade-based women's CSO for lesbian human rights, iterated these same findings, leading to the conclusion that legalising same-sex marriage would allow those who have lost their jobs during the pandemic to rely on the economic and social rights on behalf of their spouses, in the event that their spouse is still employed.¹⁶⁵

Trans¹⁶⁶ persons continue to be particularly vulnerable to violence, abuse and discrimination while intersex persons remain invisible both socially and legally.¹⁶⁷ As reported in the first edition of this research report, most trans people struggle with job interviews because they have to hide their gender identity from the potential employer, and this continues into this reporting period as well. Trans communities faces major barriers in accessing labour. Interview responses revealed high unemployment rates, often leaving temporary and occasional jobs as the only options for employment, even for trans community members that are university-educated.¹⁶⁸ There is no evidence to indicate that this has changed since the previous reporting period. The Belgrade-based LGBTQIA+ CSO Geten reports on the barriers that trans communities face in obtaining an economic livelihood, also citing that unemployment rates of trans communities are high.¹⁶⁹ It is common for trans persons to experience some form of employment violence or discrimination related to gender identity.¹⁷⁰

The basic right to obtaining legal documents remains a barrier for many trans persons in Serbia. The bureaucratic process has not yet streamlined the option for changing gender identity in official documents at any level of government. This is problematic because it is a specific form of gender-based discrimination; if changes to their gender and name are not legally recognised, they do not fit with their perceived gender. In 2020, Geten, published a guide for transitioning in Serbia, including the process for name and gender identity changes in legal documentation. In the guidelines, Geten notes that the process is a complicated and time-consuming one, and that not having legal gender recognition or documentation adequately reflecting their gender expression and/or identity contributes to high unemployment rates within trans communities.¹⁷¹

Lacking personal documentations, trans people face serious challenges in exercising labour and employment rights. Furthermore, both Geten and ERA - LGBTI Equal Rights

¹⁶³ Interview with the LGBTQIA+ person, man, 39.

¹⁶⁴ Milićević, B. & Čeh, A., *COVID-19 i LGBTI zajednica u Srbiji*, 2020, Loud & Queer, Egal.

¹⁶⁵ Labris, *Analiza položaja LGBTI osoba tokom krize COVID-19 i preporuke za adekvatan odgovor države na društvene potrebe LGBTI zajednice*, 2020, Labris – Organizacija za lezbejska ljudska prava.

¹⁶⁶ An umbrella term that includes people who identify outside of the gender binary (woman/man) and for the purposes of this research report, people who identify as transgender, gender queer, gender non-conforming, and any other non-binary identity/expression of people who do not identify with their gender assigned at birth.

¹⁶⁷ European Commission, *Serbia 2020 Report*, 2020, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

¹⁶⁸ Vidić, J., *Istraživački izveštaj – istraživanje o potrebama transrodnih i nebinarnih osoba u Republici Srbiji*, 2020, at: <https://www.transserbia.org/images/2020/dokumenta/geten-izvestaj-o-potrebama-i.pdf>.

¹⁶⁹ Todorović, J. & Lazić, S.D., *Vodič kroz tranziciju za trans osobe u Srbiji*, 2020, at: https://transserbia.org/images/2020/dokumenta/Vodic_kroz_tranziciju_za_trans_osobe_u_Srbiji.pdf.

¹⁷⁰ Vidić, J., *Istraživački izveštaj – istraživanje o potrebama transrodnih i nebinarnih osoba u Republici Srbiji*, 2020, at: <https://www.transserbia.org/images/2020/dokumenta/geten-izvestaj-o-potrebama-i.pdf>.

¹⁷¹ Todorović, J. & Lazić, S.D., *Vodič kroz tranziciju za trans osobe u Srbiji*, 2020, at: https://transserbia.org/images/2020/dokumenta/Vodic_kroz_tranziciju_za_trans_osobe_u_Srbiji.pdf.

Association for Western Balkans and Turkey iterate that changing personal documents is conditioned by medical interventions that many community members may not wish to undergo.¹⁷² The inability to obtain legal documentation that adequately reflects their gender identity creates obstacles not only in hiring practices, motivated by employers' preconceived prejudices, but also in simple bureaucratic procedures such as signing contracts. Without a standardised system of accessing and changing documentation required for entering employment, an initiative such as the Ministry of Labour, Employment, Veteran and Social Affairs' training courses for trans persons starting their own business¹⁷³ fall short of achieving adequate trans representation in the labour market and lack a transformative change perspective at an institutional level.

The barriers and discrimination that the LGBTQIA+ communities face regarding all aspects of labour in Serbia make them more vulnerable, contribute to increased marginalisation, and to their lack of economic and social rights.

Gender-based Discrimination against Roma

Existing data confirm that deep inequalities exist in the labour market between Roma and non-Roma. Moreover, Romani women are in a particularly vulnerable position. Indeed, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities (Advisory Committee), noted with regards to Serbia that "Roma are the only ethnic group almost entirely excluded from the formal labour market".¹⁷⁴ Informal labour remains high among Roma, despite a general decrease in informal employment reported in the European Commission 2019 Country Report¹⁷⁵ for Serbia.¹⁷⁶

In 2019, the unemployment rate for non-Roma was 16%, compared to 36% for Roma; unemployment among Romani women was 45%.¹⁷⁷ Approximately two-thirds of unemployed Roma are experiencing long-term unemployment, which is more than those in the ethnic majority group that are registered as unemployed.¹⁷⁸ While there was a drop in the overall number of persons registered with the National Employment Service during the past several

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I was discriminated against [at work] because I am a Roma woman, they always called me a 'little gypsy', they didn't know that it bothered me a lot.

- Roma woman, age 44

years, the number of registered, unemployed Roma (50.2% of which are women) has increased from 3% of those who are registered as unemployed to 5%.¹⁷⁹ This should not be necessarily interpreted as an increase in Roma unemployment, but rather as their increased registration with the National Employment Service to be eligible for

¹⁷² ERA - LGBTI Equal Rights Association for Western Balkans and Turkey, et al., *Written Contribution on the Position of LGBTI Persons to the 3rd Cycle of the Universal Periodic Review of Republic of Serbia*, 2020, at: <https://www.ohchr.org/Documents/HRBodies/UPR/NGOsMidTermReports/ERA-3rd-Serbia.pdf>.

¹⁷³ ILGA Europe, Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans, and Intersex People in Serbia Covering the Period of January to December, 2020, at: <https://www.ilga-europe.org/sites/default/files/2021/serbia.pdf>.

¹⁷⁴ Council of Europe. Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Serbia, ACFC/OP/IV(2019)001, 2019, p.16.

¹⁷⁵ Country Reports are published annually by the European Commission as part of the EU Enlargement Package for each of the accession countries. These annual reports assess the extent to which candidate countries have accomplished the necessary reform policies and accession criteria, as well as the situation in the respective country.

¹⁷⁶ European Commission, *Serbia 2019 Report*, 2019, https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

¹⁷⁷ *Ibid.*

¹⁷⁸ National Employment Strategy for the period from 2021 to 2026 ("Official Gazette of RS" No. 18/2021-4 dated 1 March 2021).

¹⁷⁹ *Ibid.*

different measures aimed at increasing their employability and employment. For years, the government has implemented active labour market policy measures targeting specifically Roma. However, the impact of these measures remains low.¹⁸⁰ This was confirmed by the conclusion of the aforementioned Advisory Committee that “the situation of Roma in the labour market and the cumulative nature of discrimination they face are such that it will require repeated and sustained efforts” to eliminate the gap between Roma and the rest of the population.¹⁸¹ Meanwhile, Roma remain underrepresented in the public administration.

The government acknowledges that discrimination and existing prejudices are factors that hinder inclusion of Roma in the formal labour market and their employment.¹⁸² Literature indicates that Roma communities have are more likely to experience discrimination when looking for employment or in the workplace than any other ethnic group in Serbia. The Ethnicity Research Centre reported that, when it came to looking for employment, 57% of Roma respondents experienced discrimination more than 10 times while looking for work, which is a higher frequency than, comparatively, other ethnic minority groups in Serbia; 38% of Albanian respondents and about one quarter of Croat respondents.¹⁸³ Roma respondents are also more likely to experience frequent instances of discrimination in the workplace (60% of Roma respondents) compared to 24% of the Albanian respondents and approximately 25% of Croat respondents who had reported facing the same type of discrimination.¹⁸⁴ Romani women tend to perceive differently than men the main obstacles in the labour market; while men mainly pointed out accessing employment as the main problem, Romani women identified inequality in pay, being among the first employees to be fired, no advancement opportunities due to low education and political affiliation as the main difficulties.¹⁸⁵ An interviewed Romani woman shared:

For years, I was doing my job [in the public institution] and my temporary contract was constantly renewed. I completed all required trainings, achieved visible results and never received any complaint about my work or from my colleagues. I was also doing work outside of my contract when told to do so by my superiors. But because I was not politically active, when my last contract expired, they replaced me with a person who is politically suitable but does not even meet formal requirements for that specific job position. I filed a complaint, but it was useless.¹⁸⁶

This quote identifies how discrimination can be intersectional, in this case on the grounds of gender, ethnicity, and political affiliation. The consequence of this discrimination on multiple and intersectional grounds was a denied promotion.

The ethnic minority group with the highest number of responses to the online survey was the Croat minority group (14 participants total), followed by Hungarian (12 participants total).

Even still, there were no survey responses that indicated that members of these ethnic minority groups had experienced discrimination in labour on the grounds of their ethnicity, whereas three Roma women (from a total of eight total Roma participants) had shared about their experiences of workplace discrimination on the grounds of their ethnicity. One woman

¹⁸⁰ European Commission, *Serbia 2020 Report*, 2020, p. 95, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

¹⁸¹ Council of Europe. Advisory Committee on the Framework Convention for the Protection of National Minorities, Fourth Opinion on Serbia, ACFC/OP/IV(2019)001, 2019, p.16

¹⁸² National Employment Strategy for the period from 2021 to 2026 (“Official Gazette of RS” No. 18/2021-4 dated 1 March 2021).

¹⁸³ Bašić, G. et al., Descriptive Analysis of the Research into “Social Relations between Ethnic Communities in Serbia”, Ethnicity Research Center, 2020, p. 36.

¹⁸⁴ *Ibid.*

¹⁸⁵ Poverenik za zaštitu ravnopravnosti, Percepcija romske zajednice o diskriminaciji (Roma Community Perception of Discrimination), Beograd, 2021, p. 21-22.

¹⁸⁶ Interview with a Romani woman.

shared that her colleagues had called her a derogatory and racist slur as a nickname, which she internalised, having never shared with them that this insulted her.¹⁸⁷

Another study reports that Roma attest to structural marginalisation in the labour force, stating that they must work harder than others to keep their job; that they are offered shorter contracts with fewer benefits, even when they have the same qualifications; and that they are often treated differently.¹⁸⁸ This research further notes that the notion of “work” is extremely gendered in a way that domestic or unpaid labour is not perceived as work by Romani women or men; it is considered to be the responsibility of a woman regardless of whether she is employed or unemployed. Moreover, even if the Romani woman is making a living in the informal sector, it is not perceived as “work” but rather as a “survival strategy”.

The report noted that while they strive to secure “decent work”, Romani women “find themselves increasingly caught up in coercive webs of appropriate gendered behaviour in public spaces as well as within the household.”¹⁸⁹ A recent survey conducted by the Commissioner among different Roma persons on their perceptions of discrimination, complements these findings. The survey establishes a correlation between social exclusion and understandings of discrimination, concluding that Romani women respondents, particularly those without income and of low education, feel disempowered without possibilities for improving their position.¹⁹⁰

Conclusion

A general and comprehensive conclusion on the discrimination of the vulnerable groups on the labour market cannot be easily drawn because of their diverse characteristic and reasons for vulnerability. Data collected through a mixed method approach shows that there is a higher risk of discrimination when their gender intersects with other grounds of discrimination. Data collected from the Courts and the Commissioner indicate that reporting rates are concerningly low, despite the general consensus by those institutions that these groups are more likely to be exposed to inequality at the labour market.

¹⁸⁷ Survey response, woman, Roma, 44.

¹⁸⁸ The World Bank Group, *The Problem is They See Us as a Whole: Explaining Gender and Ethnicity-based Inequalities Among the Roma in Serbia*, 2019, Washington, p. 26-28.

¹⁸⁹ *Ibid.*

¹⁹⁰ Poverenik za zaštitu ravnopravnosti (2021). *Percepcija romske zajednice o diskriminaciji (Roma Community Perception of Discrimination)*. Beograd, p. 51.

INSTITUTIONAL RESPONSE TO DISCRIMINATION

This chapter seeks to respond to the last research question: how have relevant institutions treated discrimination cases to date, and how has this changed over time, if at all? It examines knowledge, attitudes, and treatment of discrimination cases by relevant institutions in Serbia. Data informing this section draw from the literature review, legal analysis, qualitative semi-structured interviews, and responses to the online survey regarding individuals' experiences when interacting with institutions. Data also was gathered through Freedom of Information requests sent to relevant institutions, in accordance with Serbia's Law on Free Access to Information of Public Importance.

Interview and data requests were sent to the following relevant institutions responsible for addressing gender-based discrimination in the labour market: Higher Courts throughout the country; the Ministry of Labour, Employment, Veteran, and Social Policy; the LI; the Ministry of Human Rights and Social Dialogue; the Republic Agency for Peaceful Settlement of Labour Disputes; and the Commissioner. The judiciary's response contributed significantly to the research. The Ministry of Labour, Employment, Veteran, and Social Policy and the LI provided incomplete data and were unwilling to schedule an interview.

Judicial Remedy

Effective access to justice is an essential right. The obligation not to discriminate against women and to achieve *de facto* equality between women and men is an essential part of these rights (See: Legal Overview). The UN Committee on the Elimination of Discrimination against Women has articulated six interrelated elements of access to justice that are considered key for a justice system that is responsive to gender.¹⁹¹ These are justiciability; availability; accessibility; good quality; accountability; and the provision of remedies for victims. This research assessed these key elements regarding access to justice in cases of gender-based labour discrimination in Serbia.

This section of the report analyses the judicial protection available to women regarding gender-based discrimination in labour. The intention is to assess to what extent women are using courts as a mechanism to fight discrimination at work; to what extent the judicial system is responsive to gender-based discrimination; what the most common forms of discrimination in labour are that women are reporting; and what the roles of other, non-judicial protection mechanisms are. Data was collected from Higher Courts, judges, and the Ministry of Human and Minority Rights and Social Dialog through Freedom of Information requests and qualitative semi-structured interviews.

Court Statistics

Building on the previous research carried out in 2018 and published in 2019, it was viable to start by identifying gaps and challenges preventing access to relevant data. First, it is important to acknowledge the fact that official statistics on the number of cases related to gender-based discrimination in Serbia does not exist. Second, with regards to collecting data on judicial case law, the research team was aware of the challenges faced during the first, baseline research conducted in 2018; the information system within courts does not provide

¹⁹¹ See General Recommendation No. 33 of the UN Committee on the Elimination of Discrimination Against Women issued on the 23 July 2015, CEDAW/C/GC/33.

gender-disaggregated information on the type of discrimination or grounds of discrimination; particular information needs to be filtered manually by courts' staff, wherein gender is assessed by the staff on the basis of the plaintiff's name. The courts' automated tracking system files cases as general discrimination and/or mobbing; no further automated filtering is possible. Given the risk that courts may have rejected requests as too overburdening court staff, the research team limited their focus to a three year-period (2018- 2020); to information related to overall discrimination claims; and, where available, to discrimination claims specifically on employment, including how many women complained of discrimination, regardless of the grounds. While being aware that the requested information would not provide answers specifically on work-related gender-based discrimination, researchers still considered that it could offer valuable insight into the extent to which women employees utilise judicial mechanisms in seeking protection of their rights to equal treatment at work.

Responses to Freedom of Information requests were received from all Higher Courts. To the researchers' knowledge, this is the first time that systemic data on domestic discrimination case-law, disaggregated by gender, has been collected and analysed in the Serbian context in the form of a published report.¹⁹² Not all courts provided answers to all questions, and some courts provided inconsistent information. Of 24 courts that responded, 10 courts¹⁹³ provided full information segregated by gender, and five courts¹⁹⁴ provided partial information. Nine courts¹⁹⁵ provided no data on women applicants, six of which stated that this was simply because they did not have a single claim filed by a woman. Notably, it was beyond the scope of the research to assess whether all courts provided accurate information. Despite these constraints, the data collected offer valuable insight and reveal interesting trends.

During the three-year scope that this research report encompasses, more than 40,000 discrimination lawsuits were filed and just under 26,000 judgments on discrimination were delivered

	LAWSUITS	PROCEEDINGS	JUDGMENTS
2018	30651	24511	17826
2019	6055	3217	4595
2020	3864	477	3559
TOTAL	40570	28205	25980

before domestic Higher Courts (Table 2). Further analysis reveals a major annual decrease in the number of court cases filed, from 30,651 lawsuits filed in 2018 to 3,864 lawsuits submitted in 2020. Looking at individual courts, the most dramatic illustration is the Higher Court in Kraljevo where lawsuits dropped from 3,854 to 35 in 2020. A more thorough analysis beyond the numbers reveals an anomaly currently at play in Serbia.

Of the total number court cases filed on the grounds of discrimination in labour, submitted to the research team following data requests, most cases concerned the payment of per diems to army reservists. More specifically, tens of thousands of Yugoslav army reservists reported discrimination based on residence due to the 2008 Government decision to pay daily allowances for their service in 1999 only to those reservists living in "underdeveloped" municipalities. This is on the grounds of a 2014 European Court of Human Rights (ECtHR) judgment that referred army reservists to seek remedy in accordance with the Anti-Discrimination Law, creating an influx of discrimination cases in Higher Courts. Having that in mind, it is reasonable to conclude that numbers from 2020, rather than the surge following the 2014 ECtHR ruling, more objectively reflect the regular workload of

¹⁹² The 2019 edition of this report did not include data from courts, as the courts neither provided responses to Freedom of Information requests nor responded to interview requests during the research and data collection period.

¹⁹³ Higher Courts in Belgrade, Leskovac, Novi Pazar, Novi Sad, Prokuplje, Sombor, Užice, Valjevo, Vranje, Zaječar.

¹⁹⁴ Higher Courts in Čačak, Jagodina, Niš, Pančevo, Sremska Mitrovica.

¹⁹⁵ Higher Courts in Kragujevac, Kraljevo, Kruševac, Negotin, Pirot, Požarevac, Šabac, Smederevo, Subotica.

¹⁹⁶ Numbers of cases from Tables 2 to 10 are based solely on Freedom of Information responses.

discrimination cases and actual state of affairs regarding judicial protection on the issue. Regardless, the thousands of army reservists' cases do indeed reveal the importance of ECtHR judgments, demonstrating that they can be foundational for further mass and strategic litigation on the grounds of discrimination. It is also noteworthy that two courts, the Higher Court in Požarevac and the Higher Court in Subotica, did not have a single case of discrimination filed within a three-year period.

During the relevant period, women filed 0.3% of all discrimination civil claims (Table 3) and received about 0.25% of all discrimination judgements (Table 4). By year, in 2018 women filed the highest number of general discrimination claims: 44. This, however, represents only 0.14% of all discrimination lawsuits lodged that year and is not necessarily with regard to gender-based discrimination in the labour market. Even when the cases of army reservists are put aside, the proportion of women seeking redress for discrimination before civil courts remains low, and the number of women seeking redress for gender-based discrimination in the workplace is even lower.

Table 3. Number of Discrimination Lawsuits, Disaggregated by Gender, by Year

	OVERALL	WOMEN PLAINTIFFS	% OF WOMEN PLAINTIFFS
2018	30651	44	0.14
2019	6055	42	0.68
2020	3864	42	1.07
TOTAL	40570	128	0.31

Table 4. Number of Discrimination Judgements, Disaggregated by Gender, by Year

	TOTAL NUMBER OF CASES	NUMBER OF CASES FILED BY WOMEN PLAINTIFFS	% OF WOMEN PLAINTIFFS FROM TOTAL
2018	17826	10	0.05
2019	4595	29	0.63
2020	3559	27	0.75
TOTAL	25980	66	0.25

When assessing the extent to which workers filed discrimination cases, the data depict the following: over the course of three years, 417 discrimination claims related to labour were brought to Serbian courts, and 732 discrimination judicial proceedings were conducted that ended with 157 final court decisions (Table 5). By comparing the influx of lawsuits with the number of judgements, and considering the length of civil proceedings, it can be hypothesised that in the coming years more judicial decisions will be delivered, contributing to the further development of jurisprudence on labour discrimination.

Table 5. Comparison of Filed Cases to Final Judgements, by Year

	LAWSUITS	PROCEEDINGS	JUDGEMENTS
2018	169	152	25
2019	118	211	76
2020	130	369	56
TOTAL	417	732	157

The share of labour discrimination cases among the overall number of discrimination cases, however, remains low; over the course of three years, only 1% of lawsuits regarding discrimination dealt with inequality in the labour market, with that share being the highest in 2020 with approximately 3% (Table 6). In terms of the highest number of individual discrimination complaints, in 2018, 169 lawsuits were lodged for discrimination in the labour market, though this data is not based solely on gender-based discrimination but on all forms of discrimination. Looking at annual data, in 2019 the highest number of judgments (76) were delivered against employers (Table 7).

Table 6. Number of Labour Discrimination Lawsuits, by Year

	OVERALL DISCRIMINATION LAWSUITS	LABOUR DISCRIMINATION LAWSUITS	% OF LABOUR DISCRIMINATION LAWSUITS
2018	30651	169	0.55
2019	6055	118	1.95
2020	3864	130	3.37
TOTAL	40570	417	1.02

Table 7. Number of Labour Discrimination Judgements, by Year

	OVERALL DISCRIMINATION LAWSUITS	LABOUR DISCRIMINATION LAWSUITS	% OF LABOUR DISCRIMINATION JUDGEMENTS IN THE OVERALL DISCRIMINATION
2018	17826	25	0.14
2019	4595	76	1.65
2020	3559	56	1.57
TOTAL	25980	157	0.60

When it comes to women seeking judicial protection in instances of labour discrimination, despite the increasing trend indicated in the data, overall numbers remain low. In 2018, 25 women filed a case of discrimination in the labour market, followed by 46 complaints in 2019. In 2020, 68 women filed labour discrimination lawsuits, which represented 52% of all claims on the same issue (Table 8). During the reporting period, one third of all labour discrimination cases were initiated by women, while approximately 25% of judgments concerned women (Table 9). Two-thirds of cases involving discrimination against women at work were still pending by the end of 2020. In addition, when analysing the influx of labour-related discrimination lawsuits compared to the number of judgements on the subject within the three-year period, it appears that justice is attainable to women at a slower pace than it is to men.

Table 8. Number of Labour Discrimination Lawsuits, Disaggregated by Gender, by Year

	# OF LABOUR DISCRIMINATION LAWSUITS	# FILED BY WOMEN	% OF WOMEN PLAINTIFFS FROM TOTAL
2018	169	25	14.8
2019	118	46	38.9
2020	130	68	52.3
TOTAL	417	139	33.3

Table 9. Number of Labour Discrimination Judgements, Disaggregated by Gender, by Year

	# OF LABOUR DISCRIMINATION LAWSUITS	# FILED BY WOMEN	% OF WOMEN PLAINTIFFS FROM TOTAL
2018	25	6	24
2019	76	19	25
2020	56	15	26.8
TOTAL	157	40	25.4

According to the survey very few women who suffer gender-based discrimination related to labour seem to seek judicial protection from civil courts. Only three women survey respondents had sought protection (2% of those who answered that they experienced gender-based discrimination between 2018 and 2021). For comparison, 2018 research findings indicated that nine women had been involved in court proceedings related to gender-based discrimination in labour. This indicates that still few women initiate court proceedings for this form of discrimination. Researchers hypothesise that the COVID-19 pandemic

measures, institutional closures during the State of Emergency, and (pre)existing barriers to accessing and affording judicial institutions contributed to and even exacerbated low reporting.

In analysing the number of women who seek judicial protection specifically because of inequality at work or in relation to employment, regardless of the area of discrimination, data indicate that two-thirds of judgments delivered within the relevant period concerned labour discrimination. This suggests that most women who filed cases experienced discrimination at work, more than in any other environment or social sphere. Research findings from the first edition of this report indicated that gender-based discrimination in the labour market in Serbia was widespread and that women were disproportionately affected.¹⁹⁷ The report additionally outlined that reporting rates for this form of discrimination in the workplace were extremely low. Bearing this in mind, indicators that women are more likely to report discrimination in the workplace than in any other social sphere, researchers hypothesise that the phenomenon is likely more widespread than the data indicates.

Table 10. Share of Labour Discrimination Judgments in the Overall Discrimination Judgements Involving Women, by Year

	OVERALL DISCRIMINATION WOMEN PLAINTIFFS	LABOUR DISCRIMINATION WOMEN PLAINTIFFS	% OF LABOUR DISCRIMINATION FROM OVERALL CASES
2018	25	6	24
2019	76	19	25
2020	56	15	26.8
TOTAL	157	40	25.4

Judges’ Knowledge, Attitudes and Experiences with Gender-based Discrimination

To complement empirical data, qualitative semi-structured interviews were conducted with relevant institutions. Interviews with 11 Higher Court judges were conducted, representing six different courts, divided by geographic region: Vojvodina (North), South, East and Central Serbia. A total of 25 requests were sent, and responses were received for each; 19 of 25 courts declined participating in the research. Of the interviewed judges, 30% stated that judges did not encounter cases of gender-based discrimination in the labour market over the course of the last three years. Other requests were declined either due to courts’ heavy workload or a lack of interest. It is important to note that all judges that accepted interview requests were women, very knowledgeable on gender-based discrimination, and eager to contribute to improved access to justice for such cases. They were an immensely important source of information and provided an overview of the current state of access to justice for gender-based discrimination in the labour market. However, judges with differing views, such as those possessing less knowledge about discrimination, were not interviewed through this research. Therefore, the interview findings are not representative regarding the knowledge, attitudes, and experiences of all judges, as the sample did not include diverse judges.

Interviews with judges, held both in-person and online, offered a unique perspective into gender-based discrimination and the efficiency of the right to legal remedy. The judges interviewed (9 of 11) tended to have more than 10 years of experience. This section summarises some of the trends identified.

Without accurate information on the plaintiff’s gender, it is impossible to truly assess judicial protection for women. Official data suggest that more discrimination cases are filed by men. Therefore, it could be concluded that women face less discrimination

¹⁹⁷ Dan, A. & Vrbaški, S., *Gender-based Discrimination and Labour in Serbia*, The Kvinna till Kvinna Foundation, 2019.

than men. However, this contradicts other available data on gender-based discrimination provided by international organisations,¹⁹⁸ state bodies,¹⁹⁹ civil society,²⁰⁰ and media reports. When discussing discrimination in general, all judges noted that the lack of information on applicants' gender, or the ground of discrimination contributes to slower development of jurisprudence and prevents deeper analyses. As one of the judges stated, "Unfortunately, I don't have statistics but my feeling is that there are much fewer women than men. I believe that they have a different approach and that men do not need support. They decide more easily to bring the case in front of the court. I think that women also approach their decision more strategically, only when they are certain that they can win." Only when accurate statistics on the plaintiff's gender become available will it be possible to adequately and accurately assess the level of judicial protection for women.

The **legal framework is not used to its full potential**. All judges agreed that when it comes to gender-based discrimination in labour, the Serbian legal framework is complete; what is lacking is the empowerment of victims to use it. As one judge stated: "Equality is just formal, in law, as our society does not follow legal developments enough. For example, there is no flexibility in work to accommodate women's needs and their obligations and position in the family." Another judge stated, "bringing the case in front of the court has a reputation of being a non-efficient and slow remedy that people then use in either very severe situations, or when they feel very supported by family and colleagues to do that." The interviews highlighted the need to work on implementation and further clarification of jurisprudence.

Judges still lack access to practical examples and jurisprudence that could inform their rulings. Examples of good practice in rulings on gender-based discrimination in labour happen in isolation and are made by judges that have adequate knowledge and are aware of the latest jurisprudence developments. When a judge deliberates on a decision based on her/his previous experience, even if the judge thinks the case may be interesting to other judges in Serbia, judges have no mechanism for distributing information on that decision. As a result, other judges also have few opportunities to learn from existing jurisprudence.

Judges lack adequate training on gender-based discrimination. All interviewed judges observed the lack of adequate training on discrimination on the grounds of gender.²⁰¹ All interviewed judges noted that not of all their colleagues have sufficient knowledge on gender-based discrimination and that it would be beneficial to develop training that would cover the most relevant jurisprudence developed in this area. Lack of familiarity with gender-based discrimination standards and jurisprudence leads to inconsistent legal protection and implementation of the right to legal remedy. One judge noticed that due to the lack of this form of training, there is a perceivable difference between women and men judges, stating that "it is harder for men to grasp the problems that women can experience in work.

¹⁹⁸ United Nations Human Rights Office of the High Commissioner, *Committee on the Elimination of Discrimination against Women Considers the Report of Serbia*, 2019, at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=24236&LangID=E>; European Commission, *Serbia 2020 Report*, 2020, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

¹⁹⁹ Commissioner for the Protection of Equality, *Regular Annual Report of the Commissioner for Protection of Equality for 2020*, 2020, at: <http://ravnopravnost.gov.rs/rs/izvestaji/>; "Commissioner's Opinions and Recommendations in the Complaints Procedure", <http://ravnopravnost.gov.rs/en/opinions-and-recommendations/commissioners-opinions-and-recomendations-in-the-complaints-procedure/gender-sex/>.

²⁰⁰ Sekulovic, I., *Protiv diskriminacije žena*, 2021, at: <http://www.centaronline.org/userfiles/files/publikacije/fcd-ivan-sekulovic-mere-protiv-diskriminacije-zena-u-oblastima-rada-i-zaposljavanja.pdf>.

²⁰¹ Note that sporadic training is available. E.g. in 2019 the Commissioner conducted a seminar for attendees of the 9th generation of the initial training of the Judicial Academy, as well as two counselling sessions for lawyers.

That does not mean that they do not know the law; it is just important to cover that gap with training, especially constant insights into jurisprudence developments”.²⁰² It was also noted that there is a significant difference among courts in their workloads and that this difference may contribute to why, in some courts, judges have less time to engage in diverse seminars and research. As one of the judges mentioned: “The adoption of the new amendments to the Civil Procedure Law will relieve the largest courts, which may leave judges more time to deal with different issues in more detail.” This is in-line with 2019 European Commission Country Report for Serbia,²⁰³ as well as the Action Plan adopted by the Ministry of justice. The 2020 Country Report, however, indicated that no progress was made in addressing the previous year’s recommendations when it came to the functioning of the judiciary.²⁰⁴

The number of court cases does not mirror the level of gender-based discrimination in practice. As it was not possible to identify grounds for discrimination from data received from Freedom of Information request responses, researchers relied on the judges’ experience for understanding what the most common grounds were in lawsuits. Interviews indicated that there is significant inconsistency and diversity in the cases, showing that jurisprudence on this issue is only recently starting to develop. It was noted that some problems related to labour exist regardless of gender, but they seem affect women more, like prolonged working hours, work on weekends, and working night shifts. It was also mentioned by one judge that since women work in industries where labour rights violations are often reported by media and CSOs, the fact that there is a low number of such cases in courts does not represent accurately the status quo.

Additionally, although obligations and duties towards employees are the same in state-owned and private companies, one judge shared the opinion that the type of the company can make a significant difference. People are more likely to demand their rights if the labour violation happened in a state-owned company. In comparison, workers in privately-owned companies are less likely to report the violation. According to this respondent, the result is an atmosphere wherein reporting can be followed by losing a job or other severe consequences. None of the interviewed judges were aware of cases of discrimination on multiple grounds, but one judge said that might be “because they have more obstacles to even bring the case in front of the courts”. This brings to light the sheer difficulty of bringing a case to court, particularly in instances when gender-based discrimination intersects with other grounds of discrimination.

Analysis of Judicial Decisions on Discrimination in Labour

Information sought from all Higher Courts included a request to provide copies of all final court decisions that concern discrimination in labour. By obtaining these documents, the research team sought to analyse information otherwise not visible through statistics, including but not limited to: personal characteristics as predominant grounds for discrimination, incidents of gender-based discrimination, whether complaints concern public or private

²⁰² At the time of writing this report, researchers were still waiting for the official data from the Judicial Academy, according to their website there is no training on gender discrimination, and just one a year on Anti-discrimination Law.

²⁰³ European Commission, *Serbia 2019 Report*, 2019, p. 24, https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf; Ministry of Justice, “Revised Action Plan for Chapter 23 and Judicial Development Strategy for the Period of 2020-2025”, at: <https://www.mpravde.gov.rs/sr/tekst/30402/revidirani-akcioni-plan-za-poglavlje-23-i-strategija-razvoja-pravosudja-za-period-2020-2025-22072020.php>.

²⁰⁴ European Commission, *Serbia 2020 Report*, 2020, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

employers, types of labour discrimination, which measures were requested by applicants, and which remedies were granted by courts.

While copies of court decisions were requested from all 25 Higher Courts, only 10 courts provided these documents. In total, 35 court decisions were received, out of which 23 were discrimination cases. Not considering discrimination cases related to army reservists (13 cases involving only male litigants), of the 10 remaining discrimination cases, seven involved men plaintiffs, while women appeared as litigants in three cases (30%). These cases involved alleged discrimination in a variety of situations: labour, pension benefits, social benefits, access to public places, access to justice, and membership fees in the Bar Association.

Regarding the outcomes of the litigation, seven judgments (70% of the cases) declared the claims unfounded, and discrimination was confirmed in three cases. The court ordered compensation, prohibition of further discrimination, and publishing of the judgment. In all cases, the defendants were public authorities, public institutions, or public companies; none of the cases were against a private entity. It is noteworthy that in most of the cases, personal characteristic as a ground for discrimination were not specified or it was unclear. In cases where grounds for discrimination were explicitly mentioned, personal characteristics of the litigants implied age, profession, gender, political affiliation, economic situation, place of work, and/or belonging to an ethnic minority.

Despite the courts providing statistics for 157 final court judgments dealing specifically with labour discrimination over the course of the past three years (2018 – 2020), they disclosed copies of only six judgements on discrimination at work, of which two complaints were lodged by women (30%). The women reported discrimination on the grounds of political affiliation and gender. Discrimination in treatment by the manager (in the form of denying access to tools necessary for performing their work) based on political affiliation was confirmed, while the court dismissed the claim of gender-based discrimination and political affiliation (equal pay for equal work).

Judgments on Gender-based Discrimination

At the beginning of 2020, the Ministry of Human and Minority Rights and Social Dialogue took over certain competencies in the field of anti-discrimination and gender equality from the Ministry of Labour, Employment, Veteran and Social Policy.²⁰⁵ The Ministry of Human and Minority Rights and Social Dialogue has taken over all records regarding anti-discrimination, including the obligation of further record-keeping of all final decisions made in litigations involving gender-based discrimination. Upon submitting a Freedom of Information request, the data received in response to the requests showed that within the three-year period there were only seven judgments on gender-based discrimination, all concerning discrimination of women. Only one case, however, involved gender-based discrimination in the labour. Discrimination was established in six cases, a ban on further discrimination was ordered by the judge in five and compensation was awarded in three cases.

The Commissioner for the Protection of Equality

The work of the Commissioner demonstrates that labour and employment is the field of social relations which is the most affected by discrimination. Since its establishment in 2010, the Commissioner receives the highest number of complaints concerning work-related issues. Despite annual fluctuations in numbers, labour discrimination steadily constitutes about one-third of the Commissioner's case load. Trends in the increases or decreases in reporting in a particular field, or based on a specific personal characteristic, depend predominantly on whether or not there have been significant legislative changes or an extraordinary event that draws higher attention to a particular issue (e.g., elections and

²⁰⁵ Law on Ministries, Official Gazette, No. 128/2020, Art. 41

accessibility of voting places for persons with different abilities in 2018, COVID and health in 2020). In the periods free of major social, political, or legal turmoil, however, labour discrimination is the most dominant field of the Commissioner’s work.²⁰⁶ Similar conclusions are drawn from the data between 2018 and 2020 when about every fourth complaint concerned labour discrimination:

Table 11. Types of Grievances to Commissioner, by Year²⁰⁷			
	OVERALL # DISCRIMINATION GRIEVANCES	# DISCRIMINATION GRIEVANCES IN LABOUR	%
2018	947	197	21
2019	711	229	32
2020	674	184	27
TOTAL	2332	610	26

A gender balance exists among persons filing discrimination grievances (51% women, 49% men, see Table 12). Regarding labour rights specifically, women were more likely to file complaints with the Commissioner than men (approximately 60% women, 40% men, see Table 13). This could be indicative of women experiencing discrimination at work more often than men, corroborating findings from the Literature Review, the first edition of this report, online survey findings, and an interview with a representative of the Commissioner.²⁰⁸ In addition, the extent to which women address the Commissioner for protection of their labour-related rights, including gender-based discrimination, is encouraging compared to the extent to which they have sought protection from other institutions, such as civil courts, LIs or mediation bodies. The fact that more women have filed discrimination cases does not necessarily mean that these cases involved discrimination based on the grounds of gender. Data from the Commissioner’s database indicate that women are active and taking the initiative to address work inequality, regardless of the ground of discrimination, but they evidently choose the Commissioner as a more responsive and accessible mechanism than others.

Table 12. Discrimination Grievances Submitted to the Commissioner, Disaggregated by Gender, by Year								
	2018	%	2019	%	2020	%	TOTAL	%
Men	265	41.5	296	51	322	55	883	49
Women	373	58.5	283	49	265	45	921	51
Total natural persons	638	100	579	100	587	100	1804	100

Table 13. Labour Discrimination Grievances Submitted to the Commissioner, Disaggregated by Gender, by Year								
	2018	%	2019	%	2020	%	TOTAL	%
Men	70	38.5	70	40.5	69	40.8	209	39.9
Women	112	61.5	103	59.5	100	59.2	315	60.1
Total natural persons	182	100	173	100	169	100	524	100

²⁰⁶ Interview with representative of the Commissioner, woman.

²⁰⁷ Data for Tables 11 – 14 obtained from the Commissioner’s Annual Reports for 2018-2020, at: <http://ravnopravnost.gov.rs/en/reports/>.

²⁰⁸ Interview with representative of the Commissioner, woman.

Data obtained from the Commissioner’s Annual Reports (see Table 14) indicates that people in the Serbian labour market face discrimination on various grounds, but gender-based discrimination disproportionately affects women. Intersectionality of two or several personal characteristics clearly exists in labour discrimination, with gender and marital or family status being the most frequent grounds for multiple discrimination. Such intersectional discrimination can place women in even more vulnerable positions.

Table 14. Intersectional Discrimination Reported to the Commissioner, Disaggregated by Gender, by Year

	DISCRIMINATION: GROUNDS OF GENDER LABOUR				LABOUR DISCRIMINATION: GROUNDS OF FAMILY & MARITAL STATUS			
	Men	Women	TOTAL	% of all grounds	Men	Women	TOTAL	% of all grounds
2018	8	24	33	19	2	15	18	10.3
2019	5	32	41	20.3	1	18	20	9.9
2020	6	38	49	23.8	4	24	28	13.6

Women also are overrepresented with regards to discrimination on other grounds such as health²⁰⁹ or age.²¹⁰ Meanwhile, labour discrimination based on political or labour union affiliation, ethnicity, or different ability seem to affect women and men similarly.

Gender-based discrimination manifests itself in all aspects of labour relations: during hiring processes, in promotion, contract termination, and with regards to maternity leave rights, among others.

Despite being unlawful, questions posed about family and maternity status, or conditioning job offers to women who agree to postpone their family plans, continues among employers, including since the first edition of this report.²¹¹ Discrimination is present in both public and private sectors, but an analysis of the Commissioner’s case law on labour discrimination suggests that women (and men) predominantly report employers from the public sector. This corresponds with the view of one labour union representative who noted that employees in the public sector perceive that the risk of losing their job if they initiate legal action against their employer is somewhat less likely than it is for employees in the private sector.²¹² Further, survey responses indicated that both reports of gender-based discrimination in labour and reports of workplace sexual harassment were more likely to occur in the private sector (see People’s Awareness and Attitudes Towards Discrimination).

²⁰⁹ According to the Commissioner, in 2020, 23 women reported health-related discrimination in labour, compared to nine men.

²¹⁰ According to the Commissioner, in 2019, 11 women and four men reported age-based discrimination in labour; comparatively in 2018, 16 women, and eight men.

²¹¹ Commissioner for the Protection of Equality, *Special Report on Labour Discrimination*, 2019.

²¹² Interview with labour union representative, woman.

Case Study 3: *Blanco* Termination and Gender-based Discrimination

A single mother of three children who works as a server in a kindergarten's kitchen was fired from her job a few days after returning from a leave to tend to her sick child. Upon her return, she was handed with a notice of consensual termination of her employment contract. This notice of employment termination she was conditioned to sign in advance during the hiring process, known colloquially as a "*blanco* termination contract". The woman was allegedly told that she was not "reliable" but that "the doors of the kindergarten would be open to her when her children grew up". When the woman reported the unlawful termination, the Labour Inspectorate concluded that it was beyond the scope of their mandate to assess validity of the employment contract termination agreement.

The woman then submitted a complaint to the Commissioner on the grounds of health and family status. The kindergarten denied such accusations, stating that they would never impose any measure on their staff contrary to the law, that they take good care of their employees, even allowing the complainant to take leftover meals home to her children. After assessing the facts of the case and shifting the burden of proof, the Commissioner concluded that the kindergarten directly discriminated against the complainant due to her gender. The Commissioner issued a recommendation for the kindergarten to draft a new employment contract with the complainant if her position is still available, and in the future to refrain from violation of anti-discrimination legislation or imposing any measure on their employees due to fear that they might be absent from work because of sick leave.²¹³

Regarding the outcomes of proceedings initiated by the Commissioner, no available data specifically reflects outcomes related to gender-based discrimination in labour-related issues. A significant share of complaints, however, has been rejected or dismissed because the facts of the cases did not amount to discrimination. A combination of factors contributes to this, many of which go beyond the Commissioner. First, workers may not be sufficiently familiar with the legal concept of discrimination; they may perceive any differences in treatment or injustices faced in the workplace as discrimination, even though it may fall under other legal categories.²¹⁴

In Serbia, this is a widespread problem among the general public, reported in the first edition of this report as well. Second, as indicated in the data collected through various interviews with institutional representatives, many of the relevant state institutions that should address and mitigate gender-based discrimination in labour remain unaware of the issue and incapable of identifying it. Interviews with representatives from the judicial system also illustrate this challenge (see Judicial Remedy). Third - and corroborated by the online survey as well as the literature - discrimination is difficult to prove, in that a social phenomenon built on structural inequity, based on gender, does not tend to manifest itself in tangible forms of evidence. Rather, it is a series of behaviours and decision-making carried out on behalf of preconceived prejudices. This, along with aforementioned challenges, makes gender-based discrimination exceptionally difficult to prove.

²¹³ Commissioner for the Protection of Equality, Opinion No. 07-00-143/2020-02 from 18 December 2020.

²¹⁴ Interview with representative of the Commissioner, woman.

Case Study 4: Maternity Leave, Hiring and Gender-based Discrimination

A woman employed as a stenographer in the First Basic Court in Belgrade filed an anonymous complaint with the Commissioner concerning discrimination in promotion and hiring due to her gender, health, and family status. She had been working as a stenographer between November 2012 to June 2017 based on the temporary employment contract that had been renewed every several months. When she became pregnant in June 2017, she took her pregnancy and maternity leave that extended until the beginning of 2020 due to her subsequent pregnancy. In December of 2019, while she was still on maternity leave, her employer posted an internal call for a permanent stenographer, a position for which she applied. The Selection Committee rejected her application on the grounds that she had not been employed in this position for a minimum of two years in continuity, thus not meeting the requirements of the Law on Public Administration Employees.

Given that the Commissioner cannot act upon anonymous complaints, the procedure was ceased in this individual case. Given the scope and seriousness of the problem, however, this anonymous complaint prompted the Commissioner to issue an official Recommendation to the High Court Council²¹⁵, an independent judiciary body entrusted with the task to secure autonomy of the judiciary, on interpretation and implementation of relevant provisions of the Law on Public Administration Employees in a manner that does not hinder the equality of women employed in courts who have taken maternity leave.

In 2018 the Commissioner issued similar Recommendation to all courts in Serbia²¹⁶ concerning discrimination of women who have been absent from work due to pregnancy and/or maternity leave, and their ineligibility for promotion minimum two years upon their return to work. This treatment is the result of conservative interpretations of provisions on evaluation and promotion of public administration employees which states that an employee who has been absent from work more than six months in one calendar year is not eligible for professional evaluation and consequently neither for promotion to a higher position or higher pay grade. This provision, however, particularly affects women working across different sectors of public administration as it does not take into consideration their legally entitled maternity leave and calculates the leave as time spent absent from the workplace and from that particular position.

The Labour Union in the District Prison in the town of Leskovac filed a complaint to the Commissioner on behalf of one of their members for discrimination on the grounds of gender and family status. The employee was ineligible for evaluation because she was absent from work throughout 2014 due to maternity leave and thus unable to be transferred to a better pay scale. She filed an appeal with the Government Appeal Commission but to no avail.

The Commissioner for the Protection of Equality then issued an Opinion²¹⁷ that the Leskovac District Prison in this case did indeed discriminate against their employee on the grounds of gender and family status. The institution issued a Recommendation that the prison authorities remedy the situation by conducting new evaluations of the complainant's work by not counting maternity leave in their provision on being absent from work.

²¹⁵ Commissioner for the Protection of Equality, Recommendation No. 07-00-110/2020 from 11 February 2020.

²¹⁶ Commissioner for the Protection of Equality, Recommendation No. 021-02/2018-02 from 01 June 2018.

²¹⁷ Commissioner for the Protection of Equality, Opinion No. 07-00-440/2017-2 from 19 January 2017.

Similarly, upon complaint received from the Chamber of Social Protection, a professional organisation for licensing and professional development of social workers, the Commissioner issued a Recommendation to the Ministry of Labour, Employment, Veteran and Social Affairs²¹⁸ to amend their regulation on licensing of social workers so as to ensure that the licences of employees who have been absent from work over longer period due to pregnancy and maternity leaves, leave for nursing a child or sick leave, are extended. The current ambiguity in such regulations allows for restrictive interpretations of the requirements for license renewal thus putting those employees, and disproportionately women, at-risk of losing their job during, and upon returning, from their leave.

Recommendations issued by the Commissioner have been implemented with a rate as high as 90%, but data is not disaggregated specifically for discrimination at work, and this information could be confirmed through the interview with the Commissioner's representative.

The Republic Agency for Peaceful Settlement of Labour Disputes

The Republic Agency for Peaceful Settlement of Labour Disputes (hereinafter: the Agency) is the only separate government body specialised in labour law disputes; it is established and organised based on the Law on Amicable Resolution of Labour Disputes.²¹⁹ The Agency deals with the amicable settlement of individual and collective labour disputes. It is a voluntary mechanism as the condition to start the settlement process is the consent of the parties, the employer, and the employee, and to resolve the dispute amicably so as to avoid addressing the matter before the competent court. It is important to note that, in discrimination and harassment cases, the alleged abuser does not have to give consent for dispute resolution.²²⁰

Individual disputes brought before the Agency may be related to workplace discrimination and harassment as well as wrongful termination of employment contract, working time, compensations and payment of wages.²²¹ Collective disputes may be related to: obligations and responsibilities of employees, employers, and labour unions; the right to form and to join a union; the right to strike and the right to be informed; and establishing minimum working process.²²² Individual disputes are managed by an arbitrator, while collective disputes are resolved with the assistance of conciliators. Both arbitrators and conciliators are independent and impartial experts in the field of labour law. By law, they are obliged to attend different professional trainings, and to date there were several trainings on discrimination.²²³

²¹⁸ Commissioner for the Protection of Equality, Recommendation No.021-01-111/2019-02 from 24 July 2019.

²¹⁹ Official Gazette of the Republic of Serbia 125/04, 104/09 and 50/18.

²²⁰ Radivojević, M., 'Problemi pravne zaštite u slučaju mobinga', <https://www.divac.com/Vesti/2873/PROBLEMI-PRAVNE-ZASTITE-U-SLUCAJU-MOBINGA.shtml>.

²²¹ A full list of possible reasons for individual dispute is listed in Article 3 of the Law: termination of employment contract, working time, payment of subsidy for the annual holiday, salary payment, compensations and payment of minimum wages, workplace discrimination and harassment, severance payment on retirement, reimbursement of expenses for meals at work, reimbursement of expenses for commuting to and from work, payment of jubilee awards.

²²² A full list of possible reasons for individual dispute is listed in Article 2 of the Law: conclusion, amendments or implementation of the collective agreement and general act that regulates rights, obligations, and responsibilities of employees, employers, and trade union, right to form and to join a trade union, right to strike and right to be informed, consulting and participation of employees in management, determining the representativeness of trade unions at the employer, establishing minimum working process.

²²³ Note that the Commissioner held trainings for conciliators and arbitrators registered with the Agency for Peaceful Settlement of Labour Disputes. One conciliator on the registry works in the office of the Commissioner.

The decision of the arbitrator is final and enforceable; no appeal can be lodged against it. The arbitrator's decision, however, can be a subject of judicial review.²²⁴ In discrimination and mobbing cases, the dispute can be resolved only by the agreement of the parties²²⁵, unlike in other types of disputes where the arbitrator alone decides on the outcome. In addition, the procedure in discrimination cases is always closed to the public. These proceedings are typically held in the employer's premises. Addressing the Agency is simple and accessible, with minimum bureaucracy required. When filing a motion for peaceful dispute resolution, only basic information is requested and no evidence is required at the initial stage; the presentation of evidence and arguments take place later in the proceedings, only if the other party agrees to peacefully resolve the conflict. As the procedure is voluntary, not all employers agree to participate (approximately 50% agree, on average, since the establishment of the Agency).

The number of disputes solved through dispute resolution mechanisms has increased over the years, but it is still incomparably lower than the number of labour disputes in front of courts (e.g. 74,000 court labour disputes in 2018,²²⁶ compared to 919 individual labour disputes before the Agency in the same year). Most disputes concerned public sector employers given that there is a government recommendation that labour disputes involving public entities should always be resolved through peaceful settlement.²²⁷

So-called "material" disputes are the predominant type of conflicts resolved before this institution.²²⁸ According to data received from the Agency, the number of disputes regarding discrimination and mobbing is very low, and no disputes regarding sexual harassment in the workplace were filed. The existing database within the Agency only offers general information about the type of dispute, parties and the outcome of the dispute resolution.²²⁹ In discrimination cases disaggregating or filtering on grounds or types of discrimination is not possible. Information provided for this research were collected manually by the Agency's staff.

Despite the modest case-law on discrimination, the data submitted to the research team still offer an interesting overview (Table 15). During the research period, more than half of all motions for peaceful resolution of individual labour disputes were filed by women (53%), with the percentage as high as 60% in 2019. Women predominantly addressed the Agency for disputes with employers on grounds other than discrimination (about 97%). Less than 0.5% of motions filed by women concerned discrimination in the labour market and 2.7% were in relation to mobbing disputes. The overall share of discrimination cases in the total number of motions brought before the Agency, filed by men and women is 0.4%, and comparatively 2.1% for mobbing. Regarding both of these issues, women were more likely to file complaints than men, namely, 59% of all discrimination and 67% of mobbing motions were filed by women.

²²⁴ Decision of the Supreme Court of Cassation Rev 2. 653/14 from 10 September 2015.

²²⁵ Article 35b of the Law on Amicable Resolution of Labour Disputes (Official Gazette of RS Nos. 125/04, 104/09, 50/18).

²²⁶ Lazović, I., *Perspektive mirnog resavanja radnih sporova u Republici Srbiji*, 2017, at: <https://scindeks-clanci.ceon.rs/data/pdf/1820-3159/2018/1820-31591801101L.pdf>.

²²⁷ Interview with representative of the Republic Agency for Peaceful Settlement of Labour Disputes, man.

²²⁸ "Material" disputes are types of individual disputes between employees and employers that concern any financial matter arising from employment status, such as: salary compensation, meal allowance, travel expense, compensation for unused annual leave, jubilee benefits, etc. (Interview with representative of the Republic Agency for Peaceful Settlement of Labour Disputes, man).

²²⁹ Article 54 of the Law on Amicable Resolution of Labour Disputes.

Table 15. Number and Types of Disputes Filed, Disaggregated by Gender, by Year

Number of motions for peaceful settlement of dispute	2018-2020				2018		2019		2020	
	All	%	Women	%	All	Women	All	Women	All	Women
TOTAL	3868		2066	53	919	395	2300	1379	649	292
Discrimination	17	0.44	10	59	5	3	2	1	10	6
Sexual harassment	0	0	0	0	0	0	0	0	0	0
Mobbing	82	2.12	55	67	32	18	16	10	34	27

Several possible reasons may contribute to the relatively small number of discrimination disputes initiated (17 cases or 0.4%) and resolved by the Agency. First, most cases reported to the Agency concern discrimination in the hiring process, which falls outside the scope of its mandate. In such situations, the Agency refers the party to address the Commissioner for the Protection of Equality. According to an interview with one of the conciliators, in these cases conflict tends to be very intense and personal, so it is no surprise that parties tend to choose a different system of protection.²³⁰ Secondly, and as research finding highlighted in the first edition of this report, there is a general lack of public awareness on discrimination, recognising different forms of discrimination in labour, of the Agency's mandate, especially outside larger cities, and a lack of motivation to seek protection.²³¹ The general lack of understanding continues today.

The biggest challenge in discrimination disputes before the Agency, apart from obtaining consent from the employer to accept peaceful resolution, is monitoring whether the employer adheres to the decision not to discriminate in the future. These types of disputes tend to last longer than other, "material" disputes given the sensitive topic, and usually require hearing of witnesses, which takes more time, while material evidence is less common. Discrimination disputes are, however, usually resolved within the allotted 30-day deadline.²³²

Labour Inspectorate

In Serbia, the LI is the immediate monitoring mechanism for the promotion, supervision, and implementation of labour laws and occupational health and safety measures, as well as for the improvement of working conditions. As such, it is essential in preventing, monitoring, and addressing violence and harassment against women at work, and is responsible for ensuring gender responsiveness through all its activities.²³³ Even though LIs do not have jurisdiction to enforce the Anti-discrimination Act or gender-based labour violations, they have the authority to strategically enforce gender-related principles and rights at work.²³⁴ This was noted in the Commissioners' 2020 Annual Report, which stated that the LI should continue to intensify inspections in the process of labour and employment in terms

²³⁰ Interview with the representative of the Republic Agency for Peaceful Settlement of Labour Disputes, man.

²³¹ *Ibid.*

²³² *Ibid.*

²³³ ILO, *Empowering Women at Work Trade Union Policies and Practices for Gender Equality*, 2020, at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_760529.pdf.

²³⁴ ILO, *Building Modern and Effective Labour Inspection System*, at: https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---sro-port_of_spain/documents/genericdocument/wcms_633612.pdf.

of violation of equal employment opportunities or exercising all labour rights under equal conditions.²³⁵

Having this in mind, this research aimed to assess current LI practice, as well as views and attitudes of Labour Inspectors on the role they have in monitoring and mitigating gender-based discrimination and gender inequality. Freedom of Information requests and requests for interviews with labour inspectors were sent to all 25 LI internal organisational units in Serbia. The responsiveness of the LI, and the corresponding Ministry of Labour, Employment, Veteran and Social Policy within which the LI operates, was relatively low. The research team received responses for only 12 organisational units and all interview requests were declined.

Although half of the internal organisational units did not respond (52%), some trends emerged from the responses received (see Tables 16-18). First, there is a significant difference in the number of complaints received by different internal organisational units. As labour inspectors did not agree to provide clarifications, the LI's latest Annual Report was used as a reference point.²³⁶ For example, in 2019, the LI received 5,338 requests in total. When compared with data collected for this research, it can be hypothesised that most reports come from a few organisational units located in larger towns, e.g., Niš and Novi Sad. According to the 2019 Annual Report, the most common reasons for requesting labour inspections related to the conduct of employers contrary to the provisions of the Labour Law, general acts of the employer, as well as employment contracts in cases of unpaid wages and other irregularities with wages. Very few cases related to gender-based discrimination, mobbing, or sexual harassment in labour.

Table 16. Complaints Submitted to Labour Inspectorate in 2018, by Type

Labour Inspectorate Department	Complaints	Gender-based discrimination	Mobbing	Sexual harassment	Complaints lodged by women
Leskovac	96	0	0	0	0
Niš	930	0	1	0	1 - mobbing
Novi Sad	558	0	1	0	1 - mobbing
Moravički okrug	139	0	2	0	0
Pirot	N/A	0	2	1	1 - mobbing
Šabac	149	0	1	0	1 - mobbing
Sombor	110	0	2	0	1 - mobbing
Sremska Mitrovica	0	0	0	0	0
Užice	0	0	0	0	0
Vranje	1	0	1	0	1 - mobbing

²³⁵ Commissioner for the Protection of Equality, *Regular Annual Report of the Commissioner for Protection of Equality for 2020*, 2020, at: <http://ravnopravnost.gov.rs/rs/izvestaji/>.

²³⁶ 2018 and 2019 comprehensive reports could be found on the Ministry of Labour, Employment, Veteran and Social Policy website, at: <https://www.minrzs.gov.rs/sr/dokumenti/ostalo/izvestaji-o-radu/plan-inspekcijskog-nadzora>. At the time of writing this report, the 2020 Annual Report had not yet been published.

Table 17. Complaints Submitted to Labour Inspectorate in 2019, by Type

Labour Inspectorate Department	Complaints	Gender-based discrimination	Mobbing	Sexual harassment	Complaints lodged by women
Leskovac	148	0	3	0	2 - mobbing
Niš	683	0	0	0	0
Novi Sad	498	0	2	0	1 - mobbing
Moravički okrug	113	0	0	0	0
Pirot	N/A	0	1	1	0
Šabac	149	0	3	0	1 - mobbing
Sombor	110	0	1	0	0
Sremska Mitrovica	0	0	0	0	0
Užice	0	0	0	0	0
Vranje	1	0	0	0	0

Table 18. Complaints Submitted to Labour Inspectorate in 2020, by Type

Labour Inspectorate Department	Complaints	Gender-based discrimination	Mobbing	Sexual harassment	Complaints lodged by women
Leskovac	151	0	1	0	1 - mobbing
Niš	676	0	1	0	1 - mobbing
Novi Sad	782	0	1	0	0
Moravički okrug	104	0	1	0	0
Pirot	2	0	1	1	1 – sexual harassment
Šabac	154	0	2	0	0
Sombor	140	0	0	0	0
Sremska Mitrovica	3	0	3	0	2 -mobbing
Užice	0	0	0	0	0
Vranje	14	0	1	0	0

Notably, when it comes to addressing the LI, women mostly reported workplace mobbing. This is to some extent confirmed in the 2019 Annual Report, which states that the LI received 40 requests from employees related to harassment at work, of which 24 requests were submitted by women and 16 by men.²³⁷ In 2019, no requests for protection of rights related to the application of the Law on Gender Equality were submitted.²³⁸

The Annual Report for 2019 also revealed that employees usually turn to the LI for protection of their employment rights upon employment termination, even though when labour inspectors perform inspections *ex officio*, these same employees, during the course of their employment, are very inclined to protect the employer with their statements.²³⁹ In these instances, it can be hypothesised that, due to the imbalance in power between the employee (less power) and the employer (more power), people are more likely to protect the employer for fear of reprisal or even fear of losing their job.

Also, unregistered employment was mostly identified in industries such as hospitality and food services, trade, construction, production of textiles, leather and footwear, and

²³⁷ Labour Inspectorate, *Izveštaj o radu*, 2019, p.23, at:

<https://www.minrzs.gov.rs/sr/dokumenti/ostalo/izvestaji-o-radu/plan-inspekcijskog-nadzora>.

²³⁸ *Ibid.*

²³⁹ *Ibid.*, p. 10.

production of food products; these are all industries (with the exception of construction) where women represent a significant number, or even majority, of workers.²⁴⁰ According to the EU Country Report, in Serbia, labour inspections have focused on tackling undeclared work, but have neither yielded significant results nor a significant impact. The Law on Inspection Oversight²⁴¹ needs to be amended to comply with the relevant ILO conventions that were ratified by Serbia, notably to ensure that labour inspectors are given autonomy to enter workplaces freely and without giving notice.²⁴²

One of the major inconsistencies that data collected for this research identified is in relation to the question of the LI's role in addressing discrimination. Namely, their 2019 Annual Report clearly states the important role of the LI, even emphasising certain groups made vulnerable, including women, especially in relation to the protection of their right to paid maternity leave, older persons, persons with different abilities and LGBTQIA+ persons. Nevertheless, there is no significant practice of the LI treating such cases related to discrimination.²⁴³ In 2019, the LI did not issue decisions to eliminate irregularities related to the provisions of the Labour Law, which relate to the prohibition of discrimination; in 2018, they issued 16 decisions and in 2017, 19 decisions.²⁴⁴

The research team addressed the Ministry of Labour, Employment, Veteran and Social Policy for approval for requesting and conducting interviews with LI organisational units. According to the brief response received from the Ministry, in which the interview request was denied, additional information was provided by the representative. In their response, they stated that in 2019 and 2020, the LI did not encounter any cases of discrimination against employees in terms of Labour Law violations. Additionally, there were no reported cases of discrimination against employees on the grounds of gender. According to the Ministry's response, no decisions to eliminate irregularities related to the provisions of the Labour Law, specifically to the prohibition of discrimination were implemented. For comparison, according to data provided in older Annual Reports, 16 decisions were issued in 2018 related to the prohibition of discrimination, 19 decisions in 2017, and 23 decisions in 2016. Unfortunately, it was not possible to discuss these discrepancies in data and email responses in more detail with Labour Inspectors in an interview setting as interview requests were denied.

According to the collected data, the total number of misdemeanour proceedings initiated in 12 LI internal organisational units was nine: one in Vranje in 2020; one in Sremska Mitrovica in 2019 and two in 2020; one in Šabac in 2019 and one in 2020; one in Niš in 2018; two in Novi Sad in 2020. All proceedings were initiated on the basis of mobbing. Violations of the Law on the Prevention of Harassment at the Workplace²⁴⁵ were determined in eight reported cases: one in Vranje in 2020; one in Sremska Mitrovica in 2020; one in Šabac in 2019 and one in 2020; one in Leskovac in 2019; one in Kikinda in 2019; one in Niš in 2018; one in Novi Sad in 2020.

The data received, although valuable, could not answer core research questions. Without fully disaggregated data, and with no interviews, it is not possible to conclude or hypothesise why the number of complaints can vary from, for example, several hundred in Niš to none in Užice. It can only be hypothesised that it may vary depending on the cumulative effect of factors like labour inspectors' activity, the type of industry, size of the companies, size of the town, and level of knowledge and willingness of employees to report violations. The lack of clear data that is comparable between the institutions, when compared to the situation as reported in the literature, suggests that there is no definitive and clear-cut

²⁴⁰ *Ibid.*, p. 21.

²⁴¹ Law on Misdemeanours (Official Gazette of the Republic of Serbia No. 36/2015, 44/2018).

²⁴² European Commission, *Serbia 2020 Report*, 2020, at: https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/serbia_report_2020.pdf.

²⁴³ Labour Inspectorate, *Izveštaj o radu*, 2019, p. 22, at:

<https://www.minrzs.gov.rs/sr/dokumenti/ostalo/izvestaji-o-radu/plan-inspekcijskog-nadzora>

²⁴⁴ *Ibid.*

²⁴⁵ *Ibid.*

understanding of the actual situation. The only clear conclusion can be that the data represent an extremely small proportion of all initiated misdemeanour proceedings and determined violations.

Labour Unions

Labour unions in Serbia, through collective bargaining with employers, seek to protect and improve the incomes of their members, provide job security, protect labour rights, and represent labourers and advocate on their behalf when their labour rights are violated. There are two nationally representative labour union confederations: the Confederation of Autonomous Trade Unions of Serbia (Savez samostalnih sindikata Srbije) and the United Branch Trade Unions (Ujedinjeni granski sindikati). Both participate in the Social and Economic Council at the national level. Their self-declared membership is approximately 500,000 and 200,000 members, respectively. There are three more union confederations in Serbia with significant membership bases: the Confederation of Free Trade Unions, the Association of Free and Independent Trade Unions, and the United Trade Unions 'Sloga', with self-reported membership bases of an estimated 180,000, 150,000, and 100,000, respectively.²⁴⁶ Though an exact number of members is difficult to determine, it is estimated that the true numbers are around half of the self-reported membership numbers, which would put the unionisation rate²⁴⁷ at around 25–30%.²⁴⁸ The number of union members is on the decline, as an increasing number of employees cannot organise in unions because they work remotely or under fixed-term contracts that do not guarantee full labour rights. Due to this, labour unions are encountering significant barriers in reaching the most vulnerable people.²⁴⁹

According to union representatives, women's activism and participation in unions varies depending on the sector and size of the union membership. Every union has a "women's section"; however, women are not adequately represented in unions' management structures.²⁵⁰ For example, the 11-member Executive Board of the United Branch of Trade Unions has only one woman in the position of Executive Secretary.²⁵¹ In Serbia, Ranka Savić is the only woman president of a union, as President of the Association of Free and Independent Unions. It can be hypothesised that, without adequate gender representation in decision-making bodies of unions, gender-based discrimination in the labour market may not be prioritised.

Quantitative survey data collected through this research indicated that approximately 31% of survey participants (141 women and 25 men) believe that there are no unions that represent their interests, and a significant portion of respondents (191 respondents, from a total of 544) do not know if unions even exist. Comparatively, data collected in 2018 indicated that of a total of 609 respondents, 180 did not know unions existed. Survey responses indicate that the presence of unions is felt in certain industries much more than in others. One labour union representative shared that "unions are putting certain efforts into tackling gender discrimination, for example it is part of regular curriculum of their training sessions, but what is missing is sustainability of the actions and strategic approach to both litigations and communication with employers".²⁵²

²⁴⁶ Eurofound, 'Living and working in Serbia', at: <https://www.eurofound.europa.eu/is/country/serbia>.

²⁴⁷ A calculation of the total membership of trade unions in a given profession or sector.

²⁴⁸ Eurofound, 'Living and working in Serbia', at: <https://www.eurofound.europa.eu/is/country/serbia>.

²⁴⁹ 'Broj članova sindikata u Srbiji opada', *Radio-televizija Vojvodine*, 24 February 2020, at: https://www.rtv.rs/sr_lat/ekonomija/aktuelno/broj-clanova-sindikata-u-srbiji-opada_1096540.html.

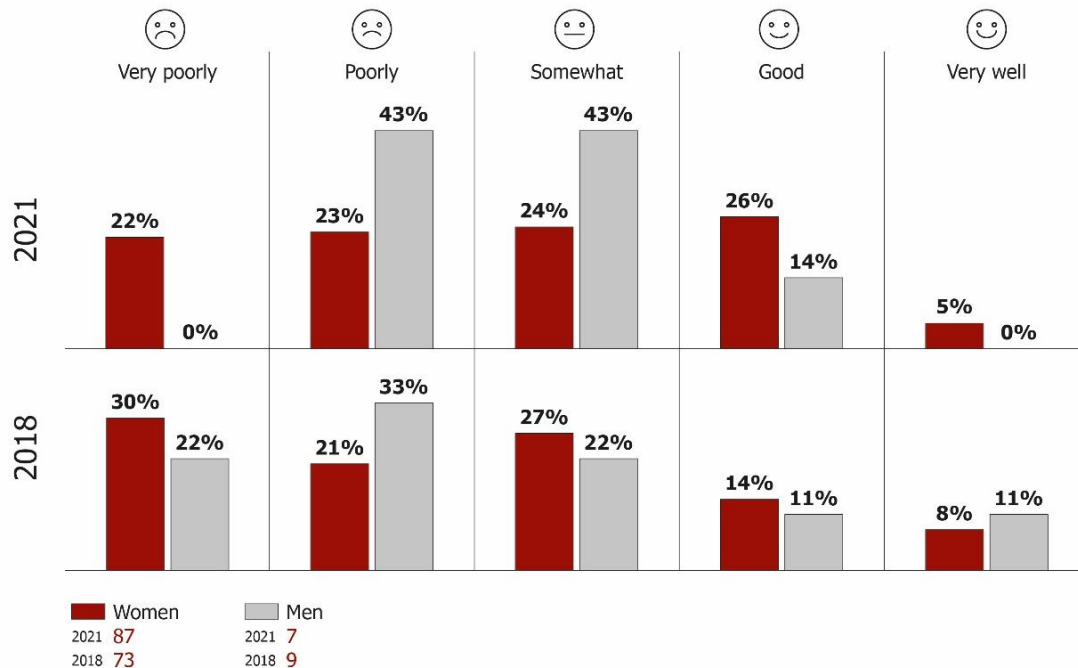
²⁵⁰ Interview with labour union representative, woman.

²⁵¹ Centre for Democracy Foundation, 'Radnice na prvoj liniji - žene, sindikati i kriza', 2020, at: <http://www.centaronline.org/sr/dogadjaj/12093/radnice-na-prvoj-liniji-zene-sindikati-i-kriza>.

²⁵² Interview with labour union representative, woman.

Of those who confirmed that workers' unions are representing their interests, half are union members. A total of 94 respondents were represented by a union, of which 45% (39 women and three men) think that unions poorly or very poorly represent their interests (see Graph 8). This differs from 2018 responses that answered in the same way, in which 51% of unionised respondents (37 women and five men) believed their interests were being poorly or very poorly represented by their labour unions.

Graph 8. How Well Do You Feel that Your Workers' Union Represents Your Interests, by Gender



Interviews with union representatives suggest that labour unions consider gender-based discrimination in the labour market as an issue that needs to be seriously addressed, but they tend to lack capacities and expertise. According to available information and literature, all unions have gender equality in their founding documents. None, however, have a system for collecting data concerning discrimination in the labour market. According to one of the interviewed respondents, labour infringement issues that unions address, such as working hours, minimum wage, and collective bargaining affect all genders, thus contributing to the improvement of women's positions in the labour market as well.

One of the issues addressed in interviews with labour union representatives is the implementation of the Law on Agency Employment. Union representatives were of the opinion that this law may lead to labour rights infringements, allowing companies to engage an unlimited number of workers and depriving them of labour rights that are guaranteed under the Labour Law. This was also confirmed during an interview with a women's CSO representative, who stated that the number of women employed in this way is on the rise, and that the organisation is receiving an increased number of complaints and requests from women for assistance regarding this matter.²⁵³

²⁵³ Interview with CSO representative, woman.

CSOs

The civil society sector is one of the main contributors to change and human rights development and implementation in general. It faces many political and financial challenges and operates under various types of pressure.²⁵⁴ According to CIVICUS, an organisation that tracks civic space, civil society organisations' space in Serbia is rated as "obstructed".²⁵⁵ Kvinna till Kvinna, in the organisation's annual report "Women's Rights in Western Balkans" on women's social standing in the Western Balkans, reports on attacks on women human rights defenders, among other indicators. Each year, an analysis of the numbers of attacks on WHRDs in Serbia indicate that they are on the rise. The 2020 edition of the report, the upward trajectory continued, with mass attacks and threats against WHRDs in a context of shrinking space for civil society.²⁵⁶

The trend of Serbia doing the most poorly in the region with regard to this indicator also continues on an annual basis. What is perceived as a change from the 2018 baseline report on gender-based discrimination is the rise of political pressure on organisations that deal with economic and social rights, which although common in the past, has continued to increase during the three years encompassed in the research data collection timeframe. As space for civil society and activism continues to shrink in Serbia, women's CSOs are working in an increasingly dangerous environment, and are faced with a growing propensity of backlash.²⁵⁷

Many organisations deal with discrimination in its various forms, in all facets of society. Organisations are working with LGBTQIA+ persons, PWD, ethnic minorities, and persons who have experienced gender-based violence. However, very few CSOs in Serbia focus specifically on tackling gender-based discrimination in the labour market. The baseline research and this second edition are both part of the regional Action "Furthering Women's Labour Rights". Through this programme, three CSOs were supported in raising-awareness, legal aid and court monitoring, and advocacy activities (See: Case Studies 5-7). In many cases in Serbia, it is civil society that steps in to fill the gap when the state institutions are failing, whether the gap is in service provision, representation, or legal recognition. Ženski centar Užice (Women's Centre Užice) is a women's rights organisation in the Southern Serbian region. They provide services for women victims/survivors of gender-based violence, such as legal support and an SOS hotline for the region. Local women also receive support in becoming economically independent and empowered through their Textile Recycling Centre (Reciklaža tekstila Užice). This centre is an example of best practice when it comes to economically empowering at-risk women at the local level by employing them and ensuring they have an economic livelihood. The Textile Recycling Centre provides them with entry into the labour market that government programmes cannot provide.

²⁵⁴ For example, in 2020 Serbia's Administration for the Prevention of Money Laundering, part of the Ministry of Finance, requested banks information for financial data on 20 individuals and 37 CSOs to determine whether the listed organisations and individuals have anything to do with terrorist financing or money laundering.

²⁵⁵ CIVICUS, 'Serbia', <https://monitor.civicus.org/country/serbia/>.

²⁵⁶ Gačanica, L., Gjoshi, R., Vrbaški, S. *Women's Rights in Western Balkans*, 2020, Kvinna till Kvinna, https://kvinnatillkvinna.org/wp-content/uploads/2020/11/The-KvinnatillKvinna-Foundation-report-WRWB_2020.pdf.

²⁵⁷ Interview with CSO representative, woman.

Case Study 5: Best Practice for Prevention

ROZA – Association for Women’s Labour Rights (ROZA) from Zrenjanin in Northern Serbia, a partner organisation to Kvinna till Kvinna within the programme *Furthering Women’s Labour Rights*, focused on prevention of gender-based discrimination in labour. The women’s rights CSO is the only one in Serbia that focuses on women’s labour rights. ROZA held country-wide workshops with youth, focusing on recognising and reporting gender-based discrimination and labour rights violations in both the workplace and hiring process. Entry and exit surveys were conducted for each workshop, and participants’ survey results indicated that the majority were aware of how to recognise workplace discrimination and mobbing, but few knew of a family member or close personal contact who had experienced either. The members of ROZA shared that this was a concerning finding, as it showed that, despite learning to recognise it, few adults in young girls’ lives are willing to discuss experiences of gender-based discrimination in labour.

By working with youth, namely high-school aged girls across the country, the organisation empowers girls who will be entering the labour market following high school graduation, in industries such as trades or services. This is seen as a best practice for preventing gender-based discrimination in labour, as it emphasises young girls’ empowerment by raising their awareness about the topic. Such workshops ought to be supported so as to enter regular and annual high school curricula.

Within the same programme period, ROZA published a handbook *What Awaits me in the Labour Market? A Short Guide for Youth*.²⁵⁸ In less than one year, the handbook was downloaded more than 11,000 times, speaking to the need for this information among youth in the general public.

“During interviews, one employer asked women if their childbirths were natural or via C-section.” – Facebook comment on post about handbook publication

Interviews conducted with three CSOs in Serbia working in the field of labour rights, as part of this research, indicate that they continuously lack resources and that they face constant insecurity that prevents them from providing sustainable assistance to persons affected by discrimination, or continuously working on this one issue. Many organisations seem to be project-based, dealing with issues according to donors’ priorities. Another challenge highlighted in interviews regarding CSOs’ work in Serbia is that very few CSOs have ongoing collaboration with governmental institutions and that they are not seen as valuable monitor and contributor to policy development. The government has not allocated sufficient resources to support civil society work on this area.²⁵⁹ All of these findings fall in line with similar trends identified based on research with CSOs in the region.

²⁵⁸ Đokić, Ž., et al., *Šta me čeka na tržištu rada? Kratak vodič za mlade*, ROZA, 2020, Zrenjanin, at: <https://drive.google.com/file/d/1Rq1mNQ1B618g1LWIHvr4KWBOQ-uVIO34/view>.

²⁵⁹ Farnsworth, N., et al. *Where’s the Money for Women’s Rights? Funding Trends in the Western Balkans*, 2020, Kvinna till Kvinna, <https://kvinnatillkvinna.org/publications/wheres-the-money-for-womens-rights-2020/>.

Case Study 6: Best Practice in Support for Reporting Discrimination

The Victimology Society of Serbia (VDS), a partner organisation to Kvinna till Kvinna in the regional programme *Furthering Women's Labour Rights* has been working with women experiencing isolation due to workplace harassment or labour rights infringements for several years. Within the programme, VDS assisted in initiating 12 court procedures; eight for work-related abuse and four for labour rights infringements. Of those, four procedures were finished, three of which ruled favour of the woman. Additionally, 88 women victims/survivors of gender-based discrimination in work received support from VDS in the form of psychosocial support, legal aid, referral services, and assistance with court procedures. The work of VDS is an example of good practice, as they provide legal and psychosocial support to women and conduct court monitoring activities.

One such case is the case of JL, a now-retired high school professor of Latin and Greek. In 2014, after noticing irregularities, she submitted a financial report to the Anti-Corruption Agency and pointed out the omissions in the work of the high school's then-Director. After that, the Director began to harass, threatening to fire, insult, belittling and constantly monitor her work. Among other things, the director unjustifiably reduced her salary, sent her to disciplinary commissions, and said, in front of her colleagues, that she should be admitted to the psychiatric ward, that she was crazy, and so on. Unable to bear such conduct anymore, JL filed a lawsuit against the Director for harassment at work. The procedure started in 2015, only to be brought to an end in 2021. The verdict was not in favour of JL, so she filed an appeal with the Court of Appeals and is currently awaiting a response to that appeal.

JL contacted the VDS Info and Victim Support Service seven years ago, reporting mobbing perpetrated by her Director. She was provided with psychosocial support, as well as legal and other types of assistance that she needed in connection with filing a lawsuit and further proceedings before the court. During the procedure, JL changed several defense attorneys, but VDS was a consistent and reliable support in situations when she was tempted to give up on the case. Each court was a traumatic experience for her, and VDS provided the support she needed, both inside and outside of the courtroom, to continue with the procedures.

This case illustrates how long labour discrimination trials last in Serbia, but also how important support is for victims/survivors, even when they have an official legal representative. VDS' decades of experience highlights how important it is that victims/survivors have legal assistance and support before and after the trial. For the duration of the regional programme support alone, VDS provided support services to 88 women who experienced gender-based discrimination, labour violations and work-related abuse, including COVID-19-related labour rights violations. VDS also monitored 12 court procedures, and published *Guidelines on Protecting Women from Gender-Based Discrimination and Rights Violations in Labour and Hiring*.²⁶⁰ The organisation's support to victims/survivors of gender-based discrimination in labour is a best practice example that should be emphasised for how other CSOs can provide support. Moreover, it is a best practice that produces quantifiable and robust results, and which donors ought to support such activities when it comes to ending gender-based discrimination in labour in Serbia.

"Thank you for your support and kind words that you always gave me with your presence, even when [I felt like] there was no hope." – JL, following the last hearing

²⁶⁰ Čopić et al., *Vodič za zaštitu od rodno zasnovane diskriminacije i povreda prava u oblasti rada i zapošljavanja*, Victimology Society of Serbia 2020, at: http://www.vds.rs/File/VodicKaoKnjiga_2020.pdf.

Case Study 7: Best Practice for Advocacy

On May 27th, 2020, the mandate of the Commissioner in Serbia officially expired, and the government's failure to elect a new Commissioner continued until November of that same year. This meant that one of the main reporting mechanisms for gender-based discrimination in labour was not functioning at full capacity for approximately six months, amidst a global pandemic that had detrimental impacts on labour rights, worldwide. For months, Initiative A 11, partner organisation to Kvinna till Kvinna, advocated towards national and international stakeholders on this issue within the regional programme *Furthering Women's Labour Rights*.

Through external communication, the CSO explained to the public the extent to which this situation harms human rights protection of the citizens having in mind that the Commissioner is one of the key actors protecting human rights in Serbia, especially when it comes to groups made vulnerable, minorities and gender-based discrimination cases. The issue was raised in numerous meetings and correspondences, including other CSOs, labour unions, the European Commission, and the EU Delegation to Serbia. A main concern about this problem was how it would affect women's rights, and especially labour rights, taking into consideration that there is a higher number of women who report discrimination in labour. Practically speaking, as long as the Commissioner's office is not working at full capacity, women who experience gender-based discrimination, in labour and beyond, will be further victimised and are at-risk of continued or recurring discrimination. Initiative A 11's advocacy at both national and international levels brought this issue to light, not least through an Open Letter signed by 54 CSOs.²⁶¹

Worth noting is that during the government-sanctioned State of Emergency, Initiative A 11 became an expert CSO regarding monitoring measures and the derogation of civil rights and fundamental freedoms in the report *Analysis of Derogations from Human Rights during the State of Emergency Caused by the Epidemic of Infectious Disease COVID-19*.²⁶² The analysis identified that the dominant discourse centred around solely the derogation of the right to freedom of movement, however, the State of Emergency and the accompanying regulations, infringed on both the right to freedom of movement and the right to liberty and security of person. In this way, a country-wide atmosphere of legal uncertainty and unpredictability was created.

"We are talking about multiply-discriminated and marginalised people, so this mechanism is something that absolutely has to function, you need a quick response in order to know how to proceed with your [discrimination] case."

– Kosana Beker, FemPlatz, on the gap in the Commissioner's mandate

Due to the lack of resources, CSOs do not use opportunities to lead and develop strategic litigation. Same as in the baseline research from 2018, CSOs lack statistical data and information that could support their monitoring and advocacy efforts, as such data is difficult to access from institutions, as this present research attests. Statistical data is very important for monitoring and holding institutions accountable for their legal and political duties.

²⁶¹ Initiative A 11, 'Protections against Discrimination "On Hold"', 16 June 2020, at: <https://www.a11initiative.org/en/protection-against-discrimination-on-hold/>.

²⁶² Kovačević, N., *Analysis of Derogations from Human Rights during the State of Emergency Caused by the Epidemic of Infectious Disease COVID-19*, Initiative A 11, 2020, at: https://www.a11initiative.org/wp-content/uploads/2020/05/Analiza-mera-odstupanja-derogacija-od-ljudskih-i-manjinskih-prava-tokom-vanrednog-stanja-u-Republici-Srbiji-izazvanog-epidemijom-zarazne-bolesti-COVID-19_edit-2.pdf.

Businesses

Three interviews were conducted with representatives of three different companies known for their engagement and good practices regarding labour discrimination. In one interview, it was shared that the attitude towards discrimination mostly depends on the corporate culture of the company, much more than on the law. This response is a good summary of the culture of labour violations in Serbia as a whole. According to the interviewees there are two mechanisms that can be effective in protecting against discrimination, namely the protection against harassment at work and the path of protection in accordance with the Law on the Protection of Whistle-blowers.²⁶³

Both procedures guarantee confidentiality and are thus effective in terms of resolving the situation. In addition, it is crucial to educate everyone on the topic of discrimination, how to identify which form of discrimination took place, existing mechanisms, and occurrence of discrimination in the practice in order to develop awareness in the company. This can be done through awareness-raising campaigns such as those implemented by ROZA, through institutional monitoring that VDS does as a regular part of their work, or through advocacy initiatives at both international and national levels, such as Initiative A 11's work. On the other hand, employers are also responsible for educating all staff to ensure that, within their company, all staff are aware of their labour rights, how to identify different forms of discrimination on different grounds, and what reporting mechanisms are available to them, both within the workplace and externally.

The three interviewees all agreed that the legal system is only partially effective because there still exists a strong pressure on the employees not to report discrimination, coupled with the fear of the victim/survivor that they will suffer workplace consequences after reporting.²⁶⁴ Interviewed business representatives also stated that the solution is to strive for the mechanisms to be transparent and to regularly raise the awareness of all employees. Despite being known as a good practice employer regarding employees' labour rights, the three interviewed representatives shared that, in their experience, there have been very few reports of discrimination in their respective workplaces. In the few cases that had been reported, mediation was used within the company to address the problem.

Conclusion

Both the baseline report and this second edition show that responses to discrimination vary, depending on who is discriminated against, the ground(s) of discrimination, and awareness of mechanisms for reporting. What is consistent, however, across all different social spheres is that the element of awareness is key. Generally, people in Serbia have lower levels of knowledge when it comes to recognising discrimination in labour and identifying on which ground(s) they experienced discrimination. This is true of gender-based discrimination as well. Methods of raising awareness have been presented in this chapter, and best practice examples have been highlighted in the Case Studies (See: Case Studies 5 - 7). For a comprehensive set of recommendations for all relevant actors, please see the Recommendations section.

²⁶³ Interview with business representative, woman; Interview with business representative, woman; Interview with business representative, man.

²⁶⁴ *Ibid.*

IMPACTS OF COVID-19

According to the ILO, the COVID-19 pandemic affected employment to a greater extent than originally expected.²⁶⁵ The European Trade Union Confederation estimated that since the beginning of the crisis, the number of unemployed people has risen by at least 5.2 million across the EU, while working conditions have deteriorated dramatically for more than 19.6 million workers.²⁶⁶ Serbia is the only country in the region that has not introduced any special social policy measures towards the most vulnerable citizens during the state of emergency and the corona crisis, despite its legal obligation under Article 2(1) of the International Covenant on Economic, Social and Cultural Rights and the non-discrimination provisions of the European Convention on Human Rights.²⁶⁷ The civil society sector in Serbia proved its resilience amidst the COVID-19 pandemic by adapting their activities to the situation and providing services to rights holders where institutions failed. This was especially evident for services regarding all forms of gender-based violence and specific needs of marginalised communities, including but not limited to ethnic minority communities, LGBTQIA+ communities, and PWDs.

There is no official data on how many workplaces were affected by the pandemic. At the time of writing, the latest Country Report for Serbia stated that 7% of employed women lost jobs or were made to take leave compared to 4% of employed men.²⁶⁸ It is difficult to determine the number of people who have lost their jobs in Serbia as a result of COVID-19, as this depends on many variables including the accepted number of self-employed and informal worker. Considering that more than half a million people work as undeclared workers, it is vital to consider the consequences of the crisis on their status.

Women make up approximately 80% of the global textile and shoe industry workforce,²⁶⁹ and in Serbia, managerial and higher positions are filled by men, whereas women labourers in the industry are among the lowest paid in the country.²⁷⁰ In the majority of women's cases in Serbia, there is high dependency on this source of income, and losing their livelihood could have drastic consequences for them and their families. According to the online mixed method survey conducted as part of this research, of all survey respondents, 7% said that they lost their jobs because of COVID-19. Nearly one-third (31%) of those who lost their jobs stated that it was due to general layoffs of all workers. One-fifth (21%) said that their salary was decreased as result of COVID-19.

Due to isolation or other measures related to COVID-19, 47% of respondents reported that their workplace was closed for at least some period of time between the official State of Emergency in March 2020 and their date of response. More than every fifth (21%) of those

²⁶⁵ ILO, *ILO Monitor: COVID-19 and the World of Work, Seventh Edition*, 2021, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_767028.pdf.

²⁶⁶ 'Anticipating and managing the COVID-19 crisis impact on jobs and workplaces: Swift action needed to enforce rights to worker involvement', 20 May 2020, at: <https://www.etuc.org/sites/default/files/page/file/2020-06/ETUFs%20ETUC%20letter%20to%20Mr%20Schmit%20Enforcement%20of%20ICP%20rights%2020May%202020.pdf>.

²⁶⁷ Initiative A 11, *Human Rights in Serbia During the First Wave of Coronavirus: From Denial of Danger to State of Emergency*, 2020, at: <https://www.a11initiative.org/wp-content/uploads/2020/10/Human-Rights-in-Serbia-during-the-First-Wave-of-Coronavirus-1.pdf>.

²⁶⁸ European Commission, *Serbia 2021 Report*, 2021, at: https://www.mei.gov.rs/upload/documents/eu_dokumenta/godisnji_izvestaji_ek_o_napretku/serbia_report_2021.pdf.

²⁶⁹ 'Gender Discrimination', Clean Clothes Campaign, at: <https://cleanclothes.org/gender-discrimination>.

²⁷⁰ Rudić, A. & Berber, I., 'Tekstilne radnice u Srbiji – nekad i sad', *Femzin*, volume 1, Centre for Women's Studies, 2021, https://www.zenskestudie.edu.rs/images/fanzin_1_feministicka_skola.pdf.

who reported closures reported that their workplace was closed more than a month. During the closure period, 28% of them were not paid in accordance with their actual salary, nearly a fifth were not paid at all, and nearly 10% were paid at a reduced salary.

Women and women's labour rights have been particularly affected during the COVID-19 pandemic due to nursery and school closures, suspension of social support services for the elderly, and women's socialised gender role as care-takers of family members. A report published by UNICEF Serbia, wherein 1,448 households with children were interviewed, concluded that in 81% of surveyed households, mothers cared for children below age six during the first months of the pandemic and following the announcement of the State of Emergency.²⁷¹

In 10% of households, grandparents were the primary caregivers during this time-period. In comparison, fathers took care of children below age six in 8% of households, while in rural areas that number was approximately 5%.²⁷² The OSCE Mission to Serbia in their 2020 gender analysis of the pandemic reiterated that closures of schools and kindergartens, coupled with the recommended health measures for the cessation of contacts with elderly family members, made it more difficult to organise childcare, care for elderly, and for chronically ill household or family members, which in turn meant that the burden of care fell on women.²⁷³ Further, caring for children is mostly the responsibility of mothers who are more often likely to be the parent to use regular leave to take care for children, sick leave for child care, or to work part-time to care for children.²⁷⁴

After the declaration of the State of Emergency in Serbia, by a series of ordinances, orders, and conclusions, certain constitutionally guaranteed rights were limited. All the adopted measures had an impact on the labour market, and some of them referred exclusively to it.²⁷⁵ Although many government measures were an attempt to respond to the specific challenges faced by employers and employees, they did not in any way derogate from the rights and obligations established by the Labour Law. This means that even in times of crisis, as in regular circumstances, the Labour Law was the first and central source of rights and obligations. During the State of Emergency, public and private sector employees were in different positions depending on their sector.

Namely, all instructions made by the responsible authorities regarding the protection of the position of workers referred only to the employees working for state bodies, public agencies, public services, and local self-government. Recommendations of an optional nature were directed towards the private sector, so that decisions regarding employee protection

²⁷¹ Decision on the declaration of the State of Emergency (Official Gazette of RS, No. 29/2020); Decree on measures during the State of Emergency (Official Gazette of RS, No. 31/2020); Decree on organising the work of employers during the State of Emergency (Official Gazette of RS, No. 31/2020); Decree on benefits and direct benefits to economic entities in the private sector and financial assistance to citizens in order to mitigate the economic consequences of the COVID-19 pandemic (Official Gazette of RS, No. 54/2020 and 60/2020); Decree on tax measures during the State of Emergency in order to mitigate the economic consequences caused by the COVID-19 disease caused by the SARS-COV-2 virus (Official Gazette of the RS, No. 38/2020).

²⁷² UNICEF, *Istraživanje o uticaju pandemije Covid-19 na porodice sa decom u Srbiji*, 2020, p. 23, at: <https://www.unicef.org/serbia/media/15466/file/Istra%C5%BEivanje%20o%20uticaju%20pandemije%20Covid-19%20na%20porodice%20sa%20decom%20u%20Srbiji.pdf>.

²⁷³ Pajvančić, M. et al., *Gender Analysis of COVID-19 Response in the Republic of Serbia*, 2020, OSCE Mission to Serbia and Women's Platform for Development of Serbia 2014-2020, at: <https://www.osce.org/files/f/documents/9/0/459382.pdf>.

²⁷⁴ *Ibid.*, p. 21.

²⁷⁵ Decision on the declaration of the State of Emergency (Official Gazette of RS, No. 29/2020); Decree on measures during the State of Emergency (Official Gazette of RS, No. 31/2020); Decree on organising the work of employers during the State of Emergency (Official Gazette of RS, No. 31/2020); Decree on benefits and direct benefits to economic entities in the private sector and financial assistance to citizens in order to mitigate the economic consequences of the COVID-19 pandemic (Official Gazette of RS, No. 54/2020 and 60/2020); Decree on tax measures during the State of Emergency in order to mitigate the economic consequences caused by the COVID-19 disease caused by the SARS-COV-2 virus (Official Gazette of the RS, No. 38/2020).

were entirely a matter of employers' assessment. While many examples of good practice exist in the private sector, this still indicates that employees in this sector did not have the same degree of certainty regarding the protection of their rights.²⁷⁶

Notably, not only labour measures can hinder the exercise of labour rights, especially for women. Given that 79% of single-parent families in Serbia are mothers with children, the closure of schools and nurseries disproportionately burdened single parents more, as well as people living alone with children.²⁷⁷ They were more likely to encounter challenges in reconciling professional work and childcare. In cases of lived experience in gender-based violence, and especially in the event of a restraining order, women cannot count on the support of extended family members, the child's other parent or paid assistance.²⁷⁸

The Commissioner submitted recommendations to the government regarding the Programme of Economic Measures, both in 2020 and 2021, indicating that the imposed COVID-19 measures had disproportionately negative effects on the lives and livelihoods of children, women (especially those over 45 years of age), people in the informal economy, and Roma communities.²⁷⁹ Acting on the requests of a single-parents group, on 5 April 2020, the Commissioner for the Protection of Equality sent an initiative to the Government of Serbia to issue instructions that would enable the employer to allow single parents who cannot organise work from home to stay at home to take care of their children and that when making a decision on employees who will perform work outside of the employer's premises, priority is given to employed parents, without discrimination on the grounds of gender.²⁸⁰ Since this was regulated by a Recommendation rather than by a government decree, it meant that employers had more freedom in the extent to which they applied this measure.²⁸¹ Challenges related to caring for children (e.g., during the lockdown of schools and kindergartens) and balancing work and life were felt by 33% of women respondents in the survey conducted for this research. Similar challenges were felt by only 15% of men.

In addition to the closing of schools and nurseries, one of the measures that caused additional challenges for women was that public transport was at a standstill during the official State of Emergency. This measure especially threatened those who were obliged to go to work during the State of Emergency, such as healthcare workers or grocery store workers,²⁸² sectors that predominantly employ women. Additionally, data on the number of holders of driving licenses show that women use public transport more and that they depend on it more as well.²⁸³ Public transport was stopped between 21 March and 7 May 2020, and the organisation of transport of workers became the responsibility of their employers. As a result, reportedly safety on the way to and from work was dramatically compromised in some cases.²⁸⁴ For workers who had to get to workplaces and did not have the option of working

²⁷⁶ As mentioned in the Civil Courts section of this report, one interviewed judge agreed with this statement, pointing out that people are more likely to seek their rights if the violation happened in a state-owned company, workers in private companies are less likely to submit a complaint.

²⁷⁷ Ana and Vlade Divac Foundation, *Labour Market Participation of Single Parents in Serbia: Analysis and Recommendations*, 2018, at: https://www.divac.com/upload/document/publikacija_srpski_za_web.pdf.

²⁷⁸ Pajvančić, M., et al., *Rodna analiza odgovora na COVID-19 u Republici Srbiji*, 2020, at: <https://www.osce.org/files/f/documents/3/9/459391.pdf>.

²⁷⁹ 'Recommendation of Measures to the Government Regarding the Program of Economic Measures', 17 March 2021, Commissioner for the Protection of Equality, at: <http://ravnopravnost.gov.rs/preporuka-mera-vladi-povodom-programa-ekonomskih-mera-2/>.

²⁸⁰ Initiative to the Government for the development of Instructions for the actions of employers during the State of Emergency, at: <http://ravnopravnost.gov.rs/inicijativa-vladi-za-izradu-instrukcije-zapos-cir/> (accessed 2.5. 2020).

²⁸¹ *Ibid.*

²⁸² Pajvančić, M., et al., *Rodna analiza odgovora na COVID-19 u Republici Srbiji*, 2020, at: <https://www.osce.org/files/f/documents/3/9/459391.pdf>.

²⁸³ *Ibid.*, p. 120.

²⁸⁴ Kostić, N., *A Guide to Protecting Labour Rights in the Context of the COVID-19 Pandemic*, 2020, at: <https://ideje.rs/wp-content/uploads/2020/07/Vodic-za-zastitu-radnih-prava-COVID-19.pdf>.

from home, half-empty public transportation would have been a much lower risk than overcrowded, organised transportation.

In Serbia, 68.6% of employed women work in the service sector, with 212,000 women in this sector employed in trades. Although some sectors predominantly employing women, such as healthcare, recognised employees as frontline workers during the COVID-19 pandemic, the Belgrade-based CSO A 11 – Initiative for Economic and Social Rights (Initiative A 11) refers to tradeswomen as the ‘forgotten’ essential workers. As part of the “Furthering Women’s Labour Rights” regional programme, Initiative A 11’s 2021 conducted research and produced a publication to reflect these workers. The CSO’s report findings indicate that women workers in grocery or foodstuffs stores had to work in conditions where social distancing could not be practiced, and due to the nature of their job, they had to perform work in the employer’s premises.²⁸⁵ While some service industries where women make up the majority of employees were affected by job losses, bans, and restrictions, in stores selling basic foodstuffs, where women also make up the majority, demand increased due to stockpiling, thus increasing their workload and risk.²⁸⁶

The Clean Clothes Campaign closely monitored labour infringements in the textile industry during the pandemic, at both a global and local level. Though labour infringements in this industry are not necessarily related to gender-based discrimination, it is nonetheless important to observe due to the overwhelming overrepresentation of women in this industry’s workforce and its notoriously precarious working conditions. In April 2020, and during the State of Emergency, Olimpijas, a Benetton supplier in Niš, demanded its employees, the majority of which are women, work three shifts per week, including on Saturdays and Sundays, despite the government-sanctioned lockdown during weekends.²⁸⁷

Clean Clothes Campaign reports that workers were at-risk of infection in the buses that transported them to work, as well as on their breaks when safety measures were not implemented. In several other factories of the same factory group, workers reported being pressured to come to work, including those that had shown symptoms of COVID-19.²⁸⁸

All government measures taken can affect the degree of respect for employees’ rights. Their application and (mis)interpretation will likely bring a large number of cases to court. For that reason, it is necessary to bear in mind that neither the State of Emergency nor the economic crisis annuls the acquired rights of citizens. Protection mechanisms may have become temporarily less visible due to the circumstances, but they continue to be available.

As Initiative A 11 reports in their analysis of the civil rights and liberties infringed upon in Serbia during the State of Emergency, the state-sanctioned measures that lead to certain human rights infringements were not in accordance with the Serbian Constitution, ratified international treaties and generally accepted rules of international law.²⁸⁹ According to the data collected in the online survey for this research and as depicted in Table 8, there was an increase in court cases regarding discrimination in the workplace in 2020 compared to previous years. It is currently not possible to determine whether these cases are related to COVID-19 circumstances or not, though such an analysis should be made after the decisions are handed down.

²⁸⁵ Mitrović, M., *The Position of Tradeswomen During the Pandemic of COVID-19*, Initiative A 11, 2021, at: https://www.a11initiative.org/wp-content/uploads/2021/06/The-Position-of-Tradeswomen-During-The-Pandemic-of-Covid-19-Spreads_FINAL.pdf.

²⁸⁶ *Ibid.*, p. 9.

²⁸⁷ ‘Live-blog: How the Coronavirus affects garment workers in supply chains’, *Clean Clothes Campaign*, 2020, <https://cleanclothes.org/news/2021/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains>.

²⁸⁸ *Ibid.*

²⁸⁹ Kovačević, N., *Analysis of Measures Derogating from Human and Minority Rights*, 2020, <https://www.a11initiative.org/wp-content/uploads/2020/05/Analiza-mera-odstupanja-derogacija-od-ljudskih-i-manjinskih-prava-tokom-vanrednog-stanja-u-Republici-Srbiji-izazvanog-epidemijom-zarazne-bolesti-COVID-19-edit-2.pdf>.

OVERALL CONCLUSIONS & OBSERVATIONS

From the onset it is relevant to highlight that the conclusions elaborated below are stemming only from the analyses of information gathered through this research in order to compare reporting rates and rates of gender-based discrimination in the period between this and the previous, base-line report published in 2019.

The phenomenon of labour-related gender-based discrimination cannot be assessed and tackled outside of the wider context of social inequality both in respect of the position of women and continuous deterioration of workers' rights in Serbia. While there is an overall consensus that women face more discrimination at work than men, this research notes underdeveloped litigation regarding the labour gender-based discrimination and overall passive approach of most stakeholders and relevant institutions. With this in mind, it is important to recognise that gender-based discrimination represents only one aspect of challenges that women encounter daily in labour, and it cannot be researched fully without taking into account that the general state of economic and social rights in Serbia has been poor and degrading over several decades.

For example, even though almost all interviewees highlighted the passive attitude of women towards breaches of their rights and their unwillingness to report violations, this conclusion would be incomplete without acknowledging the general position of women in Serbian society and the lack of institutional will and support in creating conditions in which proactive reporting of gender-based discrimination in labour would be acceptable, safe, and encouraged. This research draws several conclusions that can be summarised as:

Inadequate implementation of the law: Respondents tended to agree that Serbia has a sufficiently developed legal framework that should provide for adequate protection to women's labour rights, including protection from discrimination. The latest changes in legislation should contribute to even better protection of gender equality at work. Statistics, survey data, interviews, and desk research all led to the conclusion that the existing legal framework can provide adequate protection for gender-based discrimination related to work and that it is in accordance with *acquis*. The literature, complemented by the data collected, all indicate that discrimination based on gender clearly exists, disproportionately affecting women in all areas of labour, both formal and informal. Inadequate implementation of the relevant legal framework can be attributed to inadequate institutional capacities, lack of knowledge, weak coordination, and ubiquitous and systematic gender discrimination in Serbian society. Representatives of the judiciary, independent bodies, labour unions, and CSOs supported the conclusion that opportunities provided by law are not sufficiently used.

Lack of comprehensive understanding of the legal framework: Regarding gender-based discrimination, all relevant institutions declare that they are aware of their duties. When it comes to implementation, however, a gap exists between the reporting of gender-based discrimination and the protection provided. For example, the LI Annual Report in several consecutive editions states the important role that the institution has related to gender-based discrimination. Nevertheless, when it comes to implementation and practice, there is little documented evidence and data to suggest that the LI has played a significant role in addressing or mitigating gender-based discrimination in labour and hiring. In 2019, the LI did not issue any decisions to eliminate irregularities related to the prohibition of discrimination provisions of the Labour Law. In contrast, the Commissioner for the Protection of the Equality was recognised by respondents as the leading institution in providing protection against gender-based discrimination.

The report also identifies the lack of adequate training on recognising discrimination on the grounds of gender within the judiciary, which has led to inconsistent legal protection and weak implementation of the right to legal remedy. Additionally, other stakeholders that are supposed to provide protection like Labour Unions and CSOs do not use opportunities to lead and develop strategic litigation cases. When it comes to protection by courts or other institutions, data showed that women more often file cases individually or choose not to enter judicial systems at all. To the best of the researchers' knowledge, there have been no strategic litigation cases on gender-based discrimination in labour in Serbia.

As a result of the lack of proactive institutional approach, the Serbian society is not aware of all the legal possibilities and opportunities, especially in the case of workers in informal economy. Having in mind the size of informal economy in Serbia it is of greatest importance to send the message that they are not excluded from legal protection and that regarding discrimination they have the same rights.

Lack of systematic data collection and monitoring of laws and policies on labour-related gender equality: Relevant institutions lack systematic data collection methods, including disaggregating by gender, as well as awareness of its importance. For example, without accurate information on the plaintiff's gender, it is impossible to truly assess judicial protection of women. Employers already have a legal obligation to collect and segregate data by gender, which they are persistently failing to do. Furthermore, they are not being held accountable regarding these failures. To make progress related to gender-based discrimination, all stakeholders, especially independent bodies and CSOs must continue to insist on monitoring and consistent law enforcement. As monitoring is key for holding stakeholders accountable, continuously following laws and policies implementation is central to future developments.

RECOMMENDATIONS

Judiciary

- Institutionalise comprehensive, continuous, and obligatory education on gender-based discrimination for judges, judges' assistants, and Judicial Academy trainees, based on a needs assessment.
- Encourage peer learning and develop tools for systematic exchange of information on relevant national and international jurisprudence on gender-based discrimination related to labour throughout the court network.
- Ensure that both national and international decisions on gender-based discrimination are included and searchable in existing case law databases.

Labour Inspectorates

- Ensure full implementation of their legal duties and use of legal powers.
- Continue to increase institutional capacities to recognise and address gender-based discrimination at work.
- Institutionalise comprehensive, continuous, and obligatory education on gender-based discrimination for all staff.
- Ensure attention to gender during inspections, including especially any occurrences of unregistered work.
- Implement obligations regarding the systemic collection of data on all workers, both formally and informally employed, ensuring it is consistently gender disaggregated.
- Engage efforts against gender-based discrimination through outreach and campaigns.
- Monitor implementation and harmonisation of all anti-discrimination laws in relation to labour.

Independent Institutions and Other Government Bodies

- Ensure that there are women representatives available to meet women who have suffered gender-based discrimination.
- Organise regular awareness-raising campaigns in close cooperation with women's CSOs, the LI, and labour unions, on gender-based discrimination towards increasing society's knowledge of what it entails, how they can file claims and what support relevant institutions can provide.
- Update databases to ensure collection and management of data disaggregated by the gender of the victim(s)/survivor(s); the gender of the alleged perpetrator(s); and the type of location where the crime occurred (e.g., work, home, public space).
- Require gender-sensitive training on gender-based discrimination in labour in accordance with the new LGE, organised and designed in close cooperation with women's CSOs and labour unions.
- Implement and streamline across all relevant institutions simplified and accessible processes for name and gender document changes in order to establish legal gender recognition, a prerequisite to the economic livelihood and equity for trans communities.
- Harmonise Serbian legislation with the EU Work-Life Balance Directive. In transposing the Work-Life Balance Directive, the concept of "equivalent second parent" should be adequately defined to ensure that paternity and parental leave rights extend to persons who are in partnerships and recomposed families where such workers exercise parental responsibilities. In order to support one-parent families, consideration should be given to allowing paternity leave to be used by a nominated person.

- Extend to the informal economy all legal and labour protections, including reporting mechanisms for labour violations and gender-based discrimination in the workplace.
- Further research multiple discriminations related to labour, such as based on gender and ethnicity, ability, sexuality, age and other differences, including sectors where women are overrepresented (textile industry) and where women are underrepresented (energy, security).
- Monitor implementation and harmonisation of all anti-discrimination laws in relation to labour.
- Scale up the cooperation with the judiciary, labour unions, and companies from both public and private sector in order to enhance protection mechanisms.
- Use the Commissioner's gender-disaggregated discrimination reporting database as a best practice model for other relevant institutions that collect data regarding different forms of discrimination in labour.
- Increase the capacity of the Republic Agency for Peaceful Settlement of Labour Disputes on gender-based discrimination, including increasing its visibility, for both the formal and informal labour sectors.

Labour Unions

- Strengthen awareness-raising efforts, independently or jointly with women's CSOs, related to different aspects of gender-based discrimination and disseminate information on available legal protection mechanisms among union members and the general public.
- Initiate strategic litigation as a way to expose gender-based discrimination at work, including potentially supporting cases to be taken to the ECtHR.
- Increase women's representation and encourage active participation across all unions' management structures and bodies.
- Monitor and hold both institutions and employers accountable to their duties to collect employment -related data disaggregated by gender.
- Monitor and hold both institutions and employers accountable to their legal obligation to implement equal opportunity policies regarding employment and self-employment.
- Monitor and report annually/bi-annually on the work of the LI to verify if gender-based discrimination at work is being addressed correctly.
- Train lawyers and other legal aid providers on specifics of legislation and case law concerning gender-based discrimination in labour to qualitatively improve services related to addressing gender-based discrimination. Consult with or include women's CSOs in the creation of the training to ensure gender-specific needs are met.
- Contribute to the establishment of case law on gender-based discrimination at work by providing legal aid for such cases and strategic litigation.
- Inform and instruct members of their rights, protection mechanisms, and reporting procedures, as well as how to use them.

CSOs and Legal Aid Providers

- Collaborate through a diverse network of CSOs involved in anti-discrimination activities in order to coordinate efforts, towards efficiency, effectiveness and wise use of limited resources; set a joint strategy for shared work against gender-based discrimination in labour; share information regularly; and exchange best practices.
- Organise awareness-raising campaigns to increase women's and men's knowledge about gender-based discrimination in the labour market, as well as relevant institutions and procedures for seeking recourse for rights violations.

- Specifically target people from minority ethnic groups, LGBTIQ+ persons and persons with different abilities with information about their rights; support them in reporting and seeking justice for gender-based discrimination.
- Contribute to the establishment of case law on gender-based discrimination at work by providing legal aid for such cases and strategic litigation.
- File more official complaints with courts, labour inspectors, or other institutions (as relevant) on behalf of beneficiaries.
- Further research multiple discriminations related to labour, such as based on gender and ethnicity, ability, sexuality, age and other differences.

Employers in Public and Private Sectors

- Post in public areas information about gender-based discrimination and workers' rights under the legal framework, towards ensuring that workers have access to information about their rights.
- Develop and implement policies that will prevent gender-based discrimination in hiring and promotion, as well as harassment and sexual harassment at work.
- Implement clear mechanisms for reporting gender-based discrimination and harassment, as well as ensure that employees are informed of their rights and how to report such discrimination.

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ANNEXES

Annex 1: Methodology

This annex provides further details about the research methodology. In order to address the research questions outlined in the introduction, the research involved mixed methods, involving: an overview of the relevant legal framework; a literature review; review of any existing institutional data related to discrimination cases; semi-structured interviews with representatives of relevant institutions to measure their knowledge of, awareness on and experiences gender-based discrimination in the labour market; and an anonymous online survey of women and men in two languages (Serbian and English) using LimeSurvey. The research project used a mixed methods approach, gathering both quantitative and qualitative data in order to answer the research questions. The key aspect of this second edition of the report is that it uses the same methodology as the first edition. In this way, research findings are more comparable between the two editions. [Research conducted in 2018 and published in 2019](#) can be compared to the findings of this report, which follows the same structure.

Key Terms and Delimitation

The research focused on gender-based discrimination in relation to labour. It did not examine all forms gender-based discrimination that occur outside the workplace. The key research terms were defined and operationalised as follows. Discrimination was defined to include gender-based discrimination, as defined by law. The term “labour” was used rather than “employment” to include unpaid and unregistered forms of labour. Gender involved all gender expressions and gender identities, including but not limited to: women, men, trans, gender non-conforming, gender fluid and intersex. Gender-based discrimination, then, was defined to involve discrimination affecting persons *because of their gender*.

Legal Overview

The Legal Overview examined and assessed current anti-discrimination legislation in place in Serbia, including any shortcomings in aligning national legislation with the *acquis communautaire* (the “Gender Equality Acquis”). It also sought to identify the relevant institutions, their roles and responsibilities. It involved examination of international laws, treaties, conventions, national constitutions, national laws and secondary laws (policies). The topics examined included: How is discrimination defined? What protection measures exist against discrimination? What mechanisms have been put in place to address or mitigate discrimination? What methods exist for reporting discrimination? What gaps exist in the legal framework? What are the relevant institutions and their responsibilities?

Literature Review

The Literature Review examined any existing data on discrimination that was available, so as to ground the report in existing information and avoid duplication of existing research. There is no section dedicated to the Literature Review, rather, consulted literature appears throughout the report and is cited accordingly.

Data Collection: Qualitative Data

This research project required a triangulation of data in a number of data collection methods. Both qualitative and quantitative data was collected through a mixed methods approach. Qualitative data was collected through the Legal Overview and Literature Review, as mentioned, and through semi-structured interviews of relevant stakeholders. Additionally, researchers sought to collect data related to workplace discrimination cases for the period of

2018 – 2020, disaggregated by gender, from: all Civil Courts, the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Policy, the Ministry of Human Rights and Social Dialogue, the Republic Agency for Peaceful Settlement of Labour Disputes, and all Labour Inspectorate field offices. This involved sending official Freedom of Information data requests to institutions for further access to additional qualitative data. Regarding courts specifically, Freedom of Information requests were sent to all 25 Higher Courts in Serbia and interviews were held with 11 judges. In addition, researchers asked courts to provide copies of final judgments related to discrimination in labour between the years of 2018 and 2020. Courts were asked to provide the following information:

- Number of lawsuits filed for discrimination;
- Number of lawsuits filed for discrimination in the field of labour and employment;
- Number of lawsuits for discrimination where the plaintiff or discriminated person is a woman or a group of women;
- Number of lawsuits for discrimination in the field of labour and employment; where the plaintiff or a discriminated person is a woman or a group of women;
- Number of proceedings on discrimination where the plaintiff or a discriminated person is a woman or a group of women;
- Number of proceedings on discrimination in the field of labour and employment where the plaintiff or discriminated person is a woman or a group of women;
- Number of final judicial decisions on discrimination;
- Number of final judicial decisions on discrimination in the field of work and employment;
- Number of final judicial decisions on discrimination where the plaintiff or discriminated person is a woman or a group of women;
- Number of final judicial decisions on discrimination in the field of work and employment where the plaintiff or discriminated person is a woman or a group of women.

Freedom of Information requests sent to Labour Inspectorates focused on obtaining the following information from each internal organisational unit:

- Total number of complaints;
- Number of complaints regarding gender discrimination;
- Number of complaints regarding sexual harassment;
- Number of complaints regarding harassment at work;
- Number of applications submitted by women;
- Number of applications submitted by women on gender discrimination;
- Number of applications submitted by women on sexual harassment;
- Number of applications submitted by women on harassment at work;
- Number of imposed measures;
- Number of misdemeanour proceedings initiated.

Online Survey: Quantitative Data

The research team sought to collect quantitative input from diverse women and men regarding their knowledge of discrimination legislation, personal experiences with discrimination, whether such cases were reported, and the reasons as to why they did not report discrimination when it occurred. Kvinna till Kvinna collaborated with its partner organisation Reactor - Research in Action (North Macedonia) to create the online survey in two languages, using LimeSurvey. The survey was promoted broadly on social media platforms including Facebook Boosts via partner organisations to Kvinna till Kvinna. The

survey link was distributed among email mailing lists, CSO networks, and through the Action's awareness raising campaign. The survey was open from March 28th through May 19th, 2021. The data was processed by Reactor – Research in Action using SPSS. For the most part, the report presents descriptive analysis i.e. the observed distribution of answers by gender. Relationships with gender (differences between women and men in the sample) are tested with Chi-squared (2X2), or contingency coefficient in instances when the other variable has more than two categories. Statistical testing is with a confidence level $\alpha = 0.05$. Given that the survey sample was a non-probability sample, any statistical inferences and generalisation from the sample to the population are constrained.

Interviews with Institutional Representatives: Methodological Deviations and Reflexivity

For the selection of institutional representatives to be interviewed, Kvinna till Kvinna used variation sampling which included a wide range of differences, in this case, based on gender and geographic locations. This means that a varied selection of people were interviewed with the aim of coming close to whole population's answers, in this institutional representatives who have a legal obligation to address gender-based discrimination, by using the aggregated answers of those interviewed.

In total, 31 representatives from relevant government institutions, unions, business associations, CSOs, and survivors of gender-based discrimination in labour were interviewed to assess their knowledge of, awareness on and experience with gender-based discrimination in the labour market. In addition, seven survivors of gender-based discrimination in the labour market were interviewed as well. Due to the COVID-19-related safety measures, the majority of interviews were conducted online rather than face-to-face. In these cases, the Consent Form was in the form of a verbal agreement between the interviewer and interviewee. For participants that consented to audio recordings, all interview recording audio files are to be erased upon publication of this report. Up until publication, audio recordings were only accessible by the Kvinna till Kvinna research team.

As with the first edition of this publication, researchers were unable to secure an interview with the Ministry of Labour, Employment, Veteran and Social Affairs for the second edition. Despite several attempts to obtain approval for the interviews with a representative of the LI, including initiating communication with the Ministers' Cabinet, these attempts remained futile.

Data Analysis

The quantitative data analysis of the online survey was conducted by Reactor – Research in Action. In order to maximise the usage of the gathered data, the data from everyone that completed a particular question is processed and presented. Since the data from complete and incomplete questionnaires is analysed, the number of missing cases differs for different variables. The number of missing cases increases for the questions posed last. The number of responses ('n') is reported in the presentation of findings. For demographic information about the respondents, see Annex 2 and for the survey questionnaire, see Annex 3.

Qualitative data was analysed by the researchers. Interviews that were conducted were analysed using the analytical process of Coding. All interviews were Coded by two researchers and themes, patterns, and overall concepts were identified in relation to the research questions.

Limitations

While methodologically a household survey involving random sampling would enhance validity by reaching more, diverse participants, the cost of such a survey was considered to outweigh its benefits. Therefore, the research team had to find a balance between cost and quality, selecting to use an online survey instead. If well-advertised, online surveys can be a very

efficient means for understanding qualitatively the challenges affiliated with discrimination cases. The research team considered that identifying and understanding qualitatively discrimination cases would be more important than finding the actual extent of discrimination, particularly as the team thought that underreporting of experiences of discrimination likely would be widespread given the general population's hypothesised low level of knowledge regarding which acts could constitute gender-based discrimination. Further, the Partner Organisations considered that the complete anonymity allowed by online surveys may enhance the willingness of people to report their experiences without fear of repercussions, given the sensitivity of the topic. Even so, these methodological choices contribute to some limitations for the research findings.

First, since random sampling was not used, the findings cannot be generalised to the entire population. Statistical inference means to generalise the findings from a sample to a population, usually using significance tests. Considering that the survey sample is a non-probability sample and that statistical inference based on conventions for 'p' values presupposes probability sampling, the findings referred to as 'statistically significant' should be interpreted as suggestive, but not conclusive, and in no way generalisable. Statistical tests were used as heuristics to differentiate 'large enough' differences or correlations on which the research team could comment.

Second and related, since the survey sample is convenient, it is not demographically representative of the national population of Serbia (see Annex 2 for further demographic information). Therefore, the percentages reported do not reflect the prevalence of the phenomena among the general population; and the variability of the 'sampled' experiences may be restricted. All variables were cross-tabulated with gender, not only because this is a key variable, but also because the sample is imbalanced in terms of gender. The observed distributions of answers in the sample are based more on the responses of women participants than on men respondents. This gender disproportion may constrain the possibility of observing gender-based differences. Where indicative, however, researchers acknowledge that established relationships (such as gender-based differences) are interpreted and the conclusions are 'restrained' in terms of generalisability.

Third and related, the survey sample involved more respondents who were educated and living in urban areas. Thus, the level of knowledge and experiences of persons with lower levels of education and of those living in rural areas is underrepresented in the findings (see Annex 2). Considering the experiences of discrimination that existed among persons with higher levels of education and working in urban areas, where additional information and protections may be available, the research team hypothesises that the level of knowledge about discrimination and the experiences with discrimination may be even worse for persons working in rural areas and/or who have lower levels of education.

Fourth, a total of 1380 people clicked on the questionnaire and 484 completed a minimum of 90% of the survey. In comparison, during the first research period in 2018 for the first edition of this report, 1089 people clicked on the questionnaire and 541 completed a minimum of 90% of the survey. Though more people clicked on the survey link for this second edition, fewer people filled out 90% of the survey in comparison to 2018. Though researchers promoted the online survey through various networks, mailing lists, and CSO contacts, social media platforms were also used for the purposes of outreach and increasing survey response rates. Through Facebook Boosts alone, over 32 847 people were reached, yet only 1380 clicked on the survey, and even fewer completed a minimum of 90%. The research team hypothesises that the COVID-19 pandemic contributed greatly to this low response rate and the lowered capacity of participants to be engaged in increased screen-time after stay-at-home restrictions and overall increases in daily screen time. Compounded with a general fatigue from the emotional and physical stressors of the pandemic in addition to "everyday" and "ongoing" stressors, researchers estimate that people did not have the energy or capacity

to complete a 15-minute survey, though the initial number of clicks indicates that there was nonetheless a significant interest in the topic.

Fifth, the risk exists that survey respondents could provide false statements. However, no clear motives or incentives to lie existed, so the research team estimates that the potential for error due to false responses is very low.

Sixth, the wording of one particular question that pertains to different forms of sexual harassment ("The following is a list of situations that reflect certain behaviours. Please indicate if you consider them to be sexual harassment when they occur at work. On the second scale please indicate if it ever happened to you at work"). Within this question there are a list of different forms of sexual harassment, and respondents were asked to identify which ones they had experienced. The last option for respondents, in English, was "a colleague or superior forced you to have sex with him/her" (for the full survey, see Annex 3).

Due to the nature of the Serbian language, there is space for interpretation of the Serbian wording of this option, in that it can be interpreted as rape that was perpetrated by a colleague or a superior, or as ongoing pressure for sexual intercourse but not the act of rape itself (The Serbian version of "A colleague or superior forcing someone to have sex with him/her", as it appeared in the online survey is as follows: "Kolega/inica ili nadređeni/a primorava nekoga na seksualni odnos sa njim/njom"). Despite this unclear formulation, the previous option within that same question was regarding a colleague or superior proposing sex. Therefore, it can be interpreted that respondents were aware that proposed sex was covered in the previous option, and that those who responded that their superior or colleague forced them to have sex did not interpret it as a form of ongoing persuasion, but rather the act of rape. Since the survey was anonymous, there is no way to follow-up with respondents.

Seventh, the researchers faced barriers in interviewing institutional representatives, in that interview requests were ignored, and in some cases, denied. The inability to reach some key stakeholders such as Labour Inspectorate representatives may be a limitation in the data collection, however, researchers hypothesise that there was enough qualitative and quantitative data to answer the research questions and provide recommendations, despite said missing institutional voices.

Reflexivity

Kvinna till Kvinna envisions a society based on gender equity and, based on experience, believes that affirmative measures are necessary in order to further gender equality in Serbia. From this position, the research team conducted research and analysed results from the position of an organisation that seeks to further gender equality. Kvinna till Kvinna, in its work and this report, has taken the perspective that progressive laws are a necessary, albeit insufficient when taken alone, for contributing to social change, namely establishing gender equity. Kvinna till Kvinna acknowledges that education, awareness-raising and penalties for institutional failures must accompany legal changes. As such, the recommendations in this report result from this particular approach to social change.

Validity

Triangulation enhances the validity of research findings. Peer review of findings by diverse experts also sought to identify any potential error prior to finalizing the report. These steps sought to enhance the validity of the findings. Multiple data sources, research methods, and researchers contributed towards triangulation:

- Sources: data collected from a wide variety of sources rather than depending on only one source will increase research validity;
- Researchers: Multiple researchers working on this project. The more researchers that are examining/collecting/analysing data, the less likely it is to encounter researcher

bias in interpreting qualitative data. Data is more valid when multiple researchers reach similar conclusions. Two researchers conducted and coded each interview;

- Research methods: mixed method data collection that included a literature review, survey, interviews, and case studies

Also, researchers should use “reflexivity”, that is reflecting on how their positionality within society may impact the interview responses and including these in the researchers’ notes at the end of every interview. Any believed bias or impact on responses and thus findings should be reported in the methodology of the report, and potentially in the findings where significant enough to affect the research findings.

Annex 2: Demographic Information about the Sample

A total of 1380 people clicked on the online questionnaire and 484 respondents (35%) completed 90% or more of the questionnaire. Comparatively, the survey data collected in 2018 for the first edition, published in 2019, had a total of 1089 participants click on the online questionnaire and 541 respondents (approximately 50%) completed 90% or more. This means that there were more initial clicks on the survey in 2021 than in 2018, though a lower overall completion rate. In terms of the key socio-demographic variables, the sample of participants that completed approximately 90% of the questionnaire does not differ significantly from the sample of the participants that did not complete the questionnaire up until the end. Having in mind that the participants who completed 90% of the questionnaire do not differ demographically from those who did not complete the full questionnaire, and in order to maximise the usage of the gathered data, the data from everyone that completed a particular question was processed and presented.

Approximately 82% (compared to 67% in 2018) of respondents were employed full-time, 3% were employed part-time (no difference from 2018), and 3% (compared to approximately 6% in 2018) were self-employed. Additionally, 1% were students (compared to approximately 3% in 2018) and 1% were pensioners or retired (no difference from 2018). Of the respondents, a total of 10% are unemployed – including both those registered and unregistered – compared to 19% in 2018. Of the sample that was employed at the time of filling out the survey, 43% (38% in 2018) worked in the private sector, 37% (36% in 2018) were employed in public administration, approximately 9% (10% in 2018) worked in publicly owned enterprises in the public sector, and 11% (13% in 2018) worked in CSOs.

Because the data from the complete and incomplete questionnaires was analysed, the number of missing cases is different for different variables.

Statistical inference was used to generalise the findings from a sample of the population using significance tests. Significance tests informed whether relations observed in a sample were simply due to chance, or if had the authority of the findings. Having in mind that the survey sample is a non-probability sample and that the participants were self-selected, we must stress that the findings commented in terms of “statistical significance” should be interpreted as “suggestive” but not conclusive, and in no way generalisable. The statistical tests are used as heuristics to differentiate “large enough” differences or correlations to be commented upon.

The survey sample is convenient and it is not demographically representative for the national population of Serbia. The majority of the participants were: women (91%, compared to approximately 86% in 2018), aged between 30-49 years old (68%, compared to 63% in 2018) and had a high level of education, with 53% (49% in 2018) of the sample holding a Bachelor’s or Master’s degree. This means that: i) the percentages reported do not reflect the prevalence of the phenomena in the general population in Serbia, and ii) that the variability of the “sampled” experiences may be restricted. The possibility to compare and contrast is limited.

All variables were cross-tabulated with gender, not only because this is a key variable but also because the sample is highly imbalanced in terms of gender. This means that the observed distributions of answers in the sample reflect mainly women’s responses. The significant disproportion of women to men respondents obstructs the comparisons and constraints the possibility of observing gender-based differences. If indicative, established relationships (gender-based differences) are interpreted although the inference is “restrained” in terms of generalisability.

Demographics of Total Sample

The majority of the participants, or 91%, were women (compared to 88% in 2018). Despite researchers' outreach to LGBTQIA+ networks and groups, the survey managed only to capture genders within the heteronormative binary. The option to enter a different gender than "woman" or "man" was given but no respondents selected this option, and all identified within the gender binary.

The age of the respondents, as mentioned, is not demographically representative of the Serbian population because the majority of respondents were between 30-49 years of age. In terms of ethnicity, 88% of the sample identified as Serbian, followed by 8% who identified as Hungarian ethnicity, Roma (6%), and Croat (6%). For a full breakdown of respondents, aggregated by ethnicity, see Table 19. Of the 17 respondents who answered "Other" for their ethnicity, it is interesting to highlight that four responded that they continue to identify as Yugoslavian, and six chose not to self-identify at all.

ETHNICITY	COUNT	ROW N%
Albanian	1	0.4%
Serbian	221	88%
Bosniak	3	1.2%
Montenegrin	3	1.2%
Croat	6	2.4%
Macedonian	3	1.2%
Roma	6	2.4%
Gorani	1	0.4%
Hungarian	8	3.2%
Vlach	1	0.4%

Of the total respondents, approximately 10% self-identified as having a different ability. For comparison, of the total respondents who answered the 2018 survey, 9% answered that they had different abilities.

Annex 3: Survey Instrument

NOTE: The survey instrument below shows the questions that were used in both editions of this report. Since there were changes in living conditions since the last three years due to the COVID-19 pandemic, there were questions included to reflect that. The questions that were included only in the 2018 survey are in **grey**; questions that were included only in the 2021 survey are **red**; the questions that were the same for both surveys are in **black**. The structure of the 2021 survey has been maintained in this annex.

SURVEY ON DISCRIMINATION AT WORK

Thank you for taking part in this important survey, which aims to identify ways to better address different forms of discrimination that can occur in relation to work. Understanding your thoughts and experiences can support us in identifying actions that can help prevent discrimination, as well as contribute to improved access to justice for discrimination when it occurs. The survey will take approximately 10/15 minutes. Be assured that all of your answers will be kept strictly confidential. No one will know who you are.

If you have any questions or concerns about this survey, please contact: sofija.vrbaski@kvinnatillkvinna.se. By clicking "Next", you consent to participate in this important research. Thanks so much!

GENERAL INFORMATION

Where do you live?

Serbia
Abroad

If abroad → Thank you for your interest, this questionnaire is for people living and working in Serbia

In which city or town do you currently live or spend most of your time?

Do you live in urban or rural area?

Urban
Rural

What is your gender?

Woman
Man
Other:

In which year were you born?

With which ethnic group do you identify? If more than one, please check all that apply.

Albanian
Serbian
Bosniak
Montenegrin
Croat
Macedonian
Roma
Gorani
Hungarian
Vlach
Other:

What is the highest level of education that you have completed?

Primary or incomplete primary education

Secondary school
Vocational education on the basis of secondary education
Vocational higher education
Bachelor degree
Master's degree
PhD

What is your current marital status?

Single
Engaged
Married
Divorced
Co-habiting
Widowed
Other:

How many children do you have under age 10?

Do you consider yourself to have a disability?

Yes
No

EMPLOYMENT INFORMATION

Are you currently:

Employed full-time
Employed part-time
Self-employed
Unemployed but, registered as unemployed with the employment agency
Unemployed and NOT registered in the employment agency
Unemployed, still studying
Unpaid family worker (working on a farm or small family business)
On pension
Other:

Why are you not registered in the employment agency to look for employment?

You are waiting to be invited to your previous employment
Seasonal type of work
Illness (your personal)
Disability (your personal)
Taking care of children
Taking care of adult disabled person
Other personal or family obligations
School education or training
Retired person
You think that there is no available job
Other:

In the last 10/three years (so since 2018), has any of the following been true for you?

Please check all that apply:

I was unemployed and not looking for work
I was unemployed and looking for work
I was employed part time
I was employed full time
I was in school/university

I was self-employed
I worked without pay for a family business or farm

Where do you work? Please check all that apply.

Private sector (business, including family business or farm)
Government (including ministry, municipality, health institution, public school, university, etc.)
Local civil society organisation
International civil society organisation
Other international body (EU, UN, UN agency, foreign embassy, etc.)
Other:

For how long have you been working in your current position?

Less than 5 months
5-8 months
9-12 months
More than a year, but less than 4 years
4-10 years
10+ years

Which of the following best describes your current position?

Entry-level position (e.g., assistant, worker)
Mid-level position (e.g., coordinator)
Senior-level position (e.g., manager, director)
I'm my own boss
Other:

COVID-19

Since 2018, have you ever been denied the right to take off work for any of the following reasons (please select all that apply)?

When I was sick with COVID-19
When a fellow household member was sick with COVID-19
When I was sick for another reason
For personal leave (e.g., death in family)
For national holidays
For vacation/annual leave
None of the above
Other:

As a result of COVID-19 have you lost your job?

Yes
No

For what reason(s)? Please check all that apply

General layoffs of all workers
I had no contract so employer said to stop working
My employment contract was not renewed
I had to take care of my children and my employer pressured me to quit/fired me
I am a woman
Other:

During COVID-19, for how long were you not working at home or your workplace because your workplace was closed due to isolation or other measures?

0 days (workplace never closed)

1-7 days

8-15 days

16-30 days

30+ days

Not applicable to me

During this period, how were you compensated if at all?

I was not paid

I was paid at reduced salary

I was paid at actual salary

Not applicable to me

Since the COVID-19 outbreak, has your employer allowed you to work from home?

Yes

No

During COVID-19, what challenges did you face in balancing your personal and work life, if any? (Please check all that apply)

Caring for persons who had COVID-19 or other illnesses in my family

Caring for children (e.g., during the lockdown of schools and kindergartens)

Caring for persons with disabilities

Caring for elderly persons

Living and working in a small space with others

Not having enough electronic devices in my household for everyone's needs

Not having strong enough internet for everyone's needs

Difficulties concentrating

Psychological violence at home

Physical violence at home

Difficulties going offline and disconnecting (such as due to work pressure)

Stress

Accessing safe transportation to get to/from work

I did not face any challenges

Other:

Have you had COVID-19?

Yes

No

Were you allowed to take off work when you had COVID-19?

Yes

No

How many days did you take off? _____

How did your employer treat your leave related to COVID-19? (please select all that apply)

Fully paid medical leave

Partially paid medical leave

Unpaid medical leave

Annual vacation days

I don't know

Other:

Did your employer provide a mask, gloves, hand sanitisers and other protection measures against COVID-19?

Yes, always

Yes, sometimes

No

Not applicable as I was not working

As a result of COVID-19, did your employer decrease your salary?

Yes

No

CONTRACTS AND PAY

Since 2008/2018, have you ever been asked to work regularly without a contract (including for a family business)?

Yes

No

Do you currently have a written contract?

Yes

No

What is the length of your current contract (or the last contract that you had)?

Less than 4 months

4-6 months

7-12 months

More than 1 year, but less than 4 years

4 or more years

Indefinite

I have never had a written contract

In your workplace, who tends to have longer contracts?

Women

Men

It's the same for both

Not applicable (only men or only women work here)

I don't know

On average, how many hours do you usually work per week?

1-20

21-40

41-60

More than 61

Since 2008/2018, have you ever been asked to sign an employment contract without being allowed to read and understand the terms of your contract before signing it?

Yes

No

Currently, what salary do you actually receive each month (net in EUR)?

Less than or equal to 129

130 – 170

171 - 200

201-300

301-400

401-500

501-800

801 or more

Does your employer declare to the state authorities the actual, real salary that you received?

Yes

No, my employer tells the authorities something else

I don't know

Has your employer ever asked you to return part of your salary to the employer?

Yes

No

Usually, how are you compensated for overtime worked?

I don't receive anything extra (beyond my regular monthly wage)

I'm paid for the extra time worked at the same rate as my usual wage

I'm paid for the extra time worked with a higher rate than my usual wage

I receive time off

Not applicable: I never work overtime

In your job, are you entitled to any of the following benefits? Please select all that apply.

Health insurance

Social security / pension paid by the employer

Neither of these

YOUR VIEWS

Is discriminating against someone at work because they are a woman or a man illegal in your country?

Yes

No

I don't know

If it happens, this type of discrimination at work should be reported to [please check all that apply]:

The employer

The Labour Inspectorate

The Ombudsperson Institution

The police

None of the above

I don't know

HIRING

How many times have you been in a job interview since 2008/2018?

Never

Once

2-5 times

More than 5 times

Don't remember

Since 2008/2018, in a job interview have you ever been asked questions concerning:

	Yes	No
Your marital status or marriage plans		
Your plans to get married		
The number of children you had at the time/ If you have or plan to have children		
Your future plans to have children		
Medical proof that you are not pregnant		
Your sexual orientation and/or gender identity		
Something else not related to your skills, education or work experience that felt inappropriate (if yes, please elaborate):		

Since 2008/2018, in your opinion, have you ever not gotten a job that you applied for because:

	Yes	No
You are a woman		
You were pregnant		
You have children or are planning to		
You shared that you are planning to have children		
Your ethnicity		
Your age		
Your appearance		
Your political preference		
Your religion		
Your place of residence (for example, rural)		
Your sexual orientation and/or gender identity		
Other criteria not related to skills, education or experience		

PROMOTION

Do you feel that your employer(s) have given both you and other employees an equal opportunity to be promoted?

Yes, all employees have an equal opportunity

No, some employees are treated differently than others

Both - It differs depending on the employer I have had

Don't know

Has it ever happened to you that your employer didn't consider you for a promotion because... (please check all that apply)

Your appearance

Your gender (for example, I was told this is not a job for women/men)

You were pregnant

You have children or were planning to

Your ethnicity

Your sexual orientation **or gender identity**

The employer had a personal preference

Your age

Your religion
Your place of residence (for example, rural)
I don't know
None of the above happened to me
Other:

WORKING CONDITIONS

Have you ever been denied the right to take off work for sick leave, national holidays, or annual leave?

Yes
No

Do you think your health or safety is at risk because of your work?

Yes
No

For what reasons do you feel at risk? Please check all that apply.

COVID-19
Bad air quality
Dangerous chemicals
Lifting heavy objects
Not being allowed to use the toilet
Other:

PREGNANCY AND MATERNITY LEAVE

Since 2008/2018, have you ever been pregnant when you were employed?

Yes
No
I am currently pregnant but am not yet on maternity leave

Has it ever happened that you were neither paid, nor received a government benefit during your maternity leave?

Yes
No

Did you return to your previous place of employment after your most recent maternity leave?

Yes
No
I am still on maternity leave

Why not? Please mark all that apply.

I did not want to work anymore
I started a new job
The employer terminated my contract/fired me
My contract expired while I was on maternity leave
The employer decided to employ my replacement instead
I have no one to take care of my children or childcare is too expensive
I could not find work
Due to illness or injury
Other:

Has any employer ever pressured you to return to work earlier than you had planned to be on maternity leave?

- Yes
- No

When you returned to work, did you have:

- More responsibilities
- Fewer responsibilities
- The same responsibilities

Did you have:

- Higher pay
- Lower pay
- The same pay

Did you have:

- More working hours
- Less working hours
- The same working hours

When you returned, were you:

- Treated the same as before you left
- Treated differently by your peers or boss because you took the leave

PATERNITY LEAVE

Would your employer give you paternity leave?

- Yes, PAID paternity leave
- Yes, UNPAID paternity leave
- No
- Do not know

Since 2008/2018, have you had a new born child while being employed?

- Yes
- No

How many days did your employer allow you to take off? _____

When you returned from leave, were you:

- Treated the same as before you left
- Treated differently by your peers or boss because you took the leave

Do you think that men should have more paid time off for paternity leave?

- Yes
- No
- I don't know

SEXUAL HARASSMENT AT WORK

The following is a list of situations that reflect certain behaviours. Please indicate if you consider them to be sexual harassment when they occur at work. On the second scale please indicate if it ever happened to you at work. Your identity will remain anonymous.

	Yes, this happened to me more than once	Yes, this happened to me once	No, this never happened to me
--	---	-------------------------------	-------------------------------

Making sexual gestures, jokes, or sounds			
Sending emails or text messages of a sexual nature (including after work hours)			
Touching intimate parts of another worker's body (bottom, breasts, etc.)			
Touching body parts on purpose (hand, shoulder, back, etc.) in a situation in which touching is unnecessary			
A colleague or superior proposing to have sex with him/her			
A colleague or superior forcing someone to have sex with him/her			

Were the persons who did this to you:

- Women
- Men
- Both

Were the persons who did this in (please check all that apply):

- Lower positions than you
- Equal positions as you
- Higher positions than you

Who did you tell? Please check all that apply.

- No one
- Friend, acquaintance
- Family member
- Colleague
- My manager
- Police
- Religious leader
- CSO that provides legal help
- Person in an official reporting mechanism at my workplace
- Other:

For what reason(s) did you decide not to tell anybody about this situation? Please check all that apply.

- I was ashamed
- I'm afraid of losing my job
- I did not want to
- I think I have to take care of it myself
- Other:

UNIONS

Do any workers' unions exist in your country, which could represent your interests?

- Yes
- No
- I don't know

Are you a member of any workers' union?

- Yes
- No

How well do you feel that your workers' union represents your interests?

Very well
Good
Somewhat
Poorly
Very poorly

OVERALL REFLECTIONS

Many of the acts we asked about in this survey so far could be considered forms of discrimination. Considering this, would you say that you have ever been treated differently (discriminated against), because you are a woman/man?

Yes
No

- If no: Do you have any comments, stories or examples you want to share, including cases of discrimination that may have happened to someone you know? Please provide details.
- If yes: Please, can you describe in detail any experience(s) that you have had with discrimination at work since 2018? We greatly appreciate any information you can share. Your identity will remain anonymous.

In which sector were you working when this occurred?

Private sector (business, including family business or farm)
Government (including ministry, municipality, health institution, public school, university, etc.)
Local civil society organisation
International civil society organisation
Other international body (EU, UN, UN agency, foreign embassy, etc.)
Other:

With which institutions/entities were you in contact regarding what happened to you? Please select all that apply.

None
Labour Inspectorate
Police
Courts
Prosecution
Ombudsman
Other:

What happened when you reported discrimination to the relevant authorities?

They would not hear my case
They listened, but said they could not do anything
They listened and tried to assist me
They were very helpful and helped me file the case
Other:

Have you been involved in any court action related to discrimination at work?

Yes
No

FOLLOW-UP

The research team may conduct a small number of follow-up interviews lasting up to one hour with respondents this fall. Your identity would be kept confidential and information protected. Such an interview would help us a lot in better understanding what happened, and potentially helping you or others like you in the future. Would you be willing to participate in a follow-up interview?

Yes
No

Please enter your e-mail address and phone number so that we can contact you. This information will remain fully confidential.

Phone:

Email:

Thank you for your time and contribution to this important research.

This survey was created by a network of women's rights organizations in the region, with financial support from the European Union. Its contents are the sole responsibility of these organisations and do not necessarily reflect the views of the European Union.

Annex 4: Sample Interview Guide: Civil Court Judges

[To complete before interview and checked at beginning]

1. Interview code number: __ __ __
2. Name interviewer:
3. Date:
4. Start time of the interview:
5. End time of the interview:
6. Location (city):
7. Name
8. Title
9. Email
10. Phone number

Introduction

Hello, my name is _____ and I am here on behalf of the Kvinna till Kvinna Foundation, thank you for agreeing to be interviewed and to be part of this research. [Read consent form, secure consent, and leave consent form with respondent].

Demographics

11. Year of birth
12. For how long have you been working in this position (years, months)?

Knowledge

13. First, please can you tell me how do you personally define "discrimination"? [RQIV.3.1]
14. What types of acts, for example, would you consider to be "gender-based discrimination"? [RQ4.3]
15. To what extent does the legal framework offer protection if discrimination occurs *because of* a person's gender, meaning *because* they are a woman or a man? [RQI.1, I.2, IV.3.2]
16. Based on your opinion and experience, to what extent is this legal framework related to gender-based discrimination complete or incomplete? Please elaborate. [RQI.1, I.2]
17. To what extent do you think that knowledge about discrimination as a rights violation has improved in the last three years (so since January 2018), if at all? Probe: for what reasons do you believe that it changed? If changed, what do you believe has contributed to this change? Who has contributed to this change?
18. What about within your institution – among civil court judges has it improved, stayed the same, worsened?
19. How capable do you feel to address gender-based discrimination related to labour if it occurs? [RQIV.4.]

Attitudes and Perceptions

20. Generally speaking, what would you say your colleagues' attitudes are towards discrimination against women related to labour? [RQIV.5. Probe: How about other institution' attitudes towards discrimination against women. Probe for examples and which institution.]
21. To what extent do you think that attitudes about discrimination as a rights violation have improved in the last three years (so since January 2018), if at all? Probe: for what reasons do you believe that (examples)? If changed, who do you believe has contributed to this change? If a woman believes that she has been discriminated against at work *because she is a woman*, what should she do? [RQIV.3]

Training

22. What types of training did you receive related to discrimination on the basis of being a woman or a man? [Probe: or on gender equality specifically? When was the last training on each theme, how long, on what themes, by whom] [RQIV.3.1.]

Filter: Gender-based discrimination cases reported

We are looking at different forms of discrimination related to labour. In our research, and in accordance with the legal framework in [country], we are defining discrimination to include: discrimination in hiring, promotion, contracts, sexual harassment, maternity/paternity leave, working conditions; working conditions during COVID-19, gender pay gap, informal economy, breastfeeding rights violations. Based on this definition:

23. Have you ever dealt with a discrimination case against a woman or man because of their gender, related to labour since January 2018?? [RQIV.6]
- 23.1.1 Yes
23.1.2 No

[If the answer is Yes, ask:]

24. Have you witnessed an increase in the number of cases of gender-based discrimination reported to your institution since January 2018?
25. Has there been an increase in the number of reports during the pandemic, of gender discrimination in the workplace?

[Skip the following questions if the answer is No, and ask:]

26. For what reason do you think few discrimination cases been reported and/or filed? [RQIII.1]

RQII. Gender-based discrimination cases reported Cases

[Researcher listen for any potential lack of awareness/knowledge/attitudes]

27. Please tell me about the cases you have dealt with?
- 27.1 If yes, how many approximately? [RQII.1]
- 27.2 Please tell me briefly about each case [who, what, where (location and place of work), when, including alleged crime/violation, how they were treated by the institutions that handled the case, what was the verdict and/or measures, if relevant].
- 27.3 What was the gender of persons who suffered discrimination [women, men, both]? [RQII.2.]
- 27.4 What was the gender of the alleged perpetrator? [RQII.3.]
- 27.5 Have you observed whether discrimination tended to happen more to people in any of the following groups: ethnicity, sexuality, age, ability, geographic location? Please elaborate [RQII.4.]
- 27.6 Have you seen any cases in which multiple discriminations were claimed, such as on the basis of both gender and disability OR gender and ethnicity?
- 27.7 What types of discrimination did you encounter? [RQII.5.]
- 27.8 In your view or experience, how have persons who have experienced discrimination because of the gender been treated by institutions, other than your own? Probe: Please can you provide any specific examples? Please specify the institution. [RQIV.7]
- 27.9 How long does it approximately take for cases of discrimination based on gender in the labour market to be dealt with (including the verdict)? [RQIV.7.1]
- 27.10 What decision does the court usually take? [Probe: what measure have been given, if any] [RQIV.7.2]
- 27.11 Based on your personal experience, how would you say that other institutions responsible for addressing gender-based discrimination in Serbia have treated these cases? What have been good and bad practices? Please be specific [probe for institution, who, what, where, when]

If this is not answered detailed enough, ask following questions and ask for detailed description of the case

Data Collection Practices

28. What are the current practices of collecting and tracking data related to gender-based discrimination in your institution?

28.1 Does your institution disaggregate cases based on gender (the victim and the perpetrator)?
28.2 [Probe] What are the strengths and weaknesses of data collection practices related to logging these cases? [RQII.7]

29. Do you have any other comments or things you'd like to add?

30. [Researcher notes (reflexivity)]

Annex 5: Logistic Regression for Testing Probability of Sexual Harassment

Regarding the survey responses, CSO Reactor – Research in Action from Skopje, North Macedonia, used the logistic regression to test whether the probability of experiencing sexual harassment is determined by gender, age category, educational level, current employment position and monthly salary. The overall model is significant $\chi^2(12) = 22.346$, $p = .034$, and explains only 8 (Nagelkerke $R^2 = .081$) percentage of the variance (pseudo). In the table “Predicting the Experience of Sexual Harassment in the Workplace” are presented the regression coefficients, odds ratio values and their 95% confidence intervals. The reference group of every variable is in brackets.

Table 20: Predicting the Experience of Sexual Harassment in the Workplace

	B	S.E.	O.R.	95% C.I. for O.R.	
				Lower	Upper
Constant	** -1,502	,294	,223		
Gender (men)	* 1,231	,510	3,425	1,260	9,311
Age (30 – 39 years old)					
• Under 30	-,315	,440	,730	,308	1,728
• Between 40-49	-,332	,282	,717	,412	1,247
• 50+	-,333	,333	,717	,373	1,377
Education (Bachelor degree)					
• Secondary or vocational	,352	,307	1,422	,779	2,595
• Master’s degree or PHD	,214	,296	1,239	,694	2,213
Monthly net salary (Between 301-500 EUR)					
• More than 500 EUR	-,084	,280	,920	,532	1,591
• Less than 300 EUR	-,221	,332	,801	,418	1,537
Employment sector (Public sector)					
• Private sector	,139	,273	1,149	,674	1,961
• Civil society or other	-,855	,437	,425	,180	1,003
Employment position (Senior-level position)					
• Entry-level position	-,415	,276	,660	,384	1,134
• Mid-level position	,183	,362	1,201	,591	2,442

*p < .05. **p < .01. ***p < .001.

Assessing the multivariate relations we can conclude that only gender category is a significant predictor i.e. the odds of being sexually harassed for women are 3425 times as large as the odds for men, when all other variables are controlled for.

Reactor – Research in Action also used logistic regression to test whether the probability of experiencing gender-based discrimination (self-reflected) in the workplace could be predicted from gender, age category, educational level, current employment position and monthly salary. The overall model is not significant $\chi^2(12) = 19,884$, $p = ,069$, and explains only 5 (Nagelkerke $R^2 = 075$) percentage of the variance (pseudo).

Table 21: Predicting Gender-Based Discrimination in the Workplace

	B	S.E.	O.R.	95% C.I. for O.R.	
				Lower	Upper
Constant	** -1,276	,289			-1,276
Gender (men)	* 1,112	,513	1,113	8,316	1,112
Age (30 – 39 years old)					
• Under 30	,006	,420	,442	2,293	,006
• Between 40-49	-,577	,285	,321	,982	-,577
• 50+	-,241	,334	,409	1,510	-,241
Education (Bachelor degree)					
• Secondary or vocational	-,334	,307	,392	1,306	-,334
• Master's degree or PHD	-,305	,295	,414	1,314	-,305
Monthly net salary (Between 301-500 EUR)					
• More than 500 EUR	-,015	,280	,569	1,706	-,015
• Less than 300 EUR	,219	,328	,655	2,366	,219
Employment sector (Public sector)					
• Private sector	,155	,275	,682	2,000	,155
• Civil society or other	-,884	,424	,180	,948	-,884
Employment position (Senior-level position)					
• Entry-level position	,042	,275	,609	1,787	,042
• Mid-level position	,119	,373	,542	2,341	,119

*p < .05. **p < .01. ***p < .001.

Although the overall model is not significant, gender significantly predicts the probability of being (or perceiving to be) discriminated in the workplace. The odds of experiencing gender-based discrimination in the workplace for women are 1113 times as large as the odds for men, when all other variables are controlled for.

