



Co-funded by
the European Union

Co-funded by Swedish
Development Cooperation



Sweden
Sverige

GENDER-BASED DISCRIMINATION AND LABOUR IN SERBIA



Implemented by:



Gender Alliance for Development Center
Qendra Aleanca Gjimore për Zhvillim



KVINNA
KVINNA

REAC-OR
research in action



WOMEN'S RIGHTS CENTER
CENTAR ZA ŽENSKA PRAVA

GENDER-BASED DISCRIMINATION AND LABOUR IN SERBIA

By Aurelija Đan and Sofija Vrbaški

2019

© The Kvinna till Kvinna Foundation, 2019

All rights reserved. Licensed to the European Union under conditions.

Authors: Aurelija Đan, Sofija Vrbaški

Editor: Sofija Vrbaški

This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of the Kvinna till Kvinna Foundation and do not necessarily reflect the views of the European Union.

Printed by Print Stop in Belgrade, Serbia.

<https://kvinnatillkvinna.org/>

Acknowledgements

The Kvinna till Kvinna Foundation would like to express its gratitude to the people that were involved in this research and contributed to this analysis of gender-based discrimination in the labour force. This includes citizens and institutions who offered their thoughts and time. Without them, this research could not exist: thank you to all who shared their personal stories, experiences, and knowledge. The Kvinna till Kvinna Foundation would like to especially thank Aurelija Đan (Gender Consultant, MA), for her hard work and tireless dedication to this project, for all of the conducted interviews, and for analysing the data in order to write this final research report that gave life to the research findings and a voice to all those who were interviewed or completed the online survey. A special thanks goes out to Vaska Leshoska from REACTOR in Macedonia for launching the online survey, collecting the data, and for her hard work in statistical analyses of the data that was used in this report. We would like to acknowledge David Ryan (Legal Advisor, Kosovo Women's Network, BCL, LL.M) for reviewing the Legal Analysis section and bringing it together. Thank you as well to Sofija Vrbaški (Project Coordinator, the Kvinna till Kvinna Foundation, MA) for overseeing the research, contributing to, and editing the final report.

This project would not be possible without the Kosovo Women's Network, and without their initiative to bring together the six regional Partner Organisations from Albania, Bosnia and Herzegovina, Kosovo*, Macedonia, Montenegro, and Serbia. By supporting each other, the organisations worked in solidarity to create a unique and important project on women's labour rights in South Eastern Europe. This research report is the first step to the combined efforts in an ongoing programme on the gendered analysis of labour issues and gender-based discrimination that takes place in the region's workforce.

Thank you to Bojana Veselinović for translating the report into Serbian, and the peer reviewers who offered their feedback for this report: ASTRA Anti-Trafficking Action, the Commissioner for the Protection of Equality, and Dunja Tasić (Attorney at Law).

* This designation is without prejudice to position on status, and is in line with UNSC 1244 and the ICJ Opinion on Kosovo Declaration of Independence.

CONTENTS

Acronyms	3
Executive summary	4
Introduction	6
Background	6
Aims.....	6
Methodology	7
Legal analysis	8
International Agreements and Instruments.....	8
Constitution of the Republic of Serbia.....	9
Labour Law.....	9
The Employment Contract.....	9
Discrimination	10
Protection of Motherhood, Maternity Leave and Leave for Nursing a Child	10
Law on the Prohibition of Discrimination in the Republic of Serbia	11
Discrimination in the Sphere of Labour	11
Discrimination Based on Sexual Orientation	12
The Role of the Commissioner for the Protection of Equality	12
Law on Equality between Sexes	13
Sex and Gender	13
Sexual Harassment.....	13
The Law on Prevention of Discrimination against Persons with Disabilities	14
Law on Financial Support for Families with Children	14
Strategic Framework.....	14
Institutional Responsibility.....	15
People’s awareness and attitudes towards discrimination.....	17
People’s Awareness about Gender-based Discrimination	17
Prevalence and experiences with discrimination	19
Overall Prevalence of GBD.....	19
Types of Discrimination.....	20
Different Forms of Gender-based Discrimination.....	24
Contracts and Pay	28
Working Conditions	32
The institutional response to discrimination	40
Civil Courts	40
The Commissioner	40
Labour Inspectorate	42
Labour Unions.....	43
CSOs.....	44
Recommendations.....	46
Ministry of Labour, Employment, Veteran and Social Policy	46
Labour Inspectorate	46
Civil Courts	46
Other Governmental Bodies.....	47
Labour Unions.....	47
CSOs.....	48

Bibliography	49
Annexes	51
Annex 1: Methodology	51
Annex 2: Demographic Information about the Sample	55
Annex 3. Survey Instrument.....	58
Annex 4: Sample interview guide.....	69

ACRONYMS

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CED	International Convention for the Protection of All Persons from Enforced Disappearance
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil society organisation
EU	European Union
GBD	Gender-based discrimination
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBTQIA+	Lesbian, Gay, Bisexual, Trans*, Queer, Intersex, Asexual
PWD	People with different abilities
UN	United Nations

EXECUTIVE SUMMARY

The aim of this research study is to explore the nature of gender-based discrimination (GBD) in the labour market, the extent to which discrimination claims are being filed and to gather additional information as to how institutions treat such cases. The research involved mixed research methods: desk research, in-depth interviews, and online quantitative survey.

GBD in Serbia in relation to labour is prohibited by various laws, such as the Labour Law¹, Law on Equality between Sexes² and Law on the Prohibition of Discrimination in the Republic of Serbia³. Although the legal framework is generally comprehensive, Serbia still lacks proper implementation in order to prevent and address GBD at work.

One common challenge that arose throughout the duration of the research project was that many participants were unable to recognise GBD. There are a number of structural factors that contribute to this lack of knowledge and information. In some instances, participants did not differentiate it from mobbing, which is a different form of discrimination that may also include GBD and sexual harassment, however it requires a different legal approach. On occasion, people also normalised discrimination, demonstrating that they were unaware of this phenomenon and how it was a violation of their rights. According to the survey, women are more susceptible to GBD at work. Findings also suggest prejudice against people with different abilities (PWD) during job interviews, especially towards women. PWDs thus may face double or even triple discrimination when entering (and remaining in) the labour market. Lesbian, gay, bisexual, trans*, queer/questioning, intersex, asexual and persons of other sexualities, sexes and genders (LGBTQIA+) face discrimination, as well as difficulties proving discrimination at in relation to labour since discrimination is usually indirect, hidden or even invisible. Further, Roma women are seemingly among the most disadvantaged and discriminated against in the Serbian labour market. The barriers that Roma women face intersect: they are vulnerable both due to their gender and their ethnicity.

GBD in relation to labour starts during the hiring process, when women tend to encounter questions about their marital status and family planning more frequently than men. In general, 47% of women and 28% of men respondents had experienced GBD in their previous or current workplaces. More than half the survey respondents experienced discrimination in promotion. Despite statistically insignificant differences between women and men regarding promotion, more surveyed women described experiences with sexual allusions and advances from their employers. Regarding employment contracts, almost half of the survey participants employed in the last ten years have been asked to work regularly without a contract. Workers without employment contracts, on average, have smaller monthly salaries. Many employers reportedly seem reluctant to hire young women due to their potential of becoming pregnant and mothers, thus being less available for work. Some women returning from parental leave are demoted. This is not only a risk that women in the labour force face, but also a serious breach of legal rights. Another seemingly common form of discrimination is sexual harassment. Almost half of the women surveyed stated that that they have experienced at least one form of sexual harassment at work, and every fifth woman was subjected to sexual harassment more than once.

Unfortunately, most institutions responsible for addressing GBD in the labour market did not respond to multiple interview requests, which hindered an independent assessment of

¹ Labour Law (*Official Gazette of Republic of Serbia, no. 24/2005, 61/2005, 54/2009, 32/2013, 75/2014, 13/2017 – Constitutional Court decision and 113/2017*)

² Law on Equality between Sexes (*Official Gazette of the Republic of Serbia, 2009-12-11, No. 104/09*)

³ Law on the Prohibition of Discrimination in the Republic of Serbia (*Official Gazette of the Republic of Serbia No 22/2009*)

the institutional response to GBD. Very few cases of GBD have entered the Serbian judicial system. Civil courts were unable to provide data on GBD, as they do not collect and process case data by gender; therefore, they have no gender-disaggregated data. Generally, relevant government institutions have not taken a lead in fighting and addressing GBD in the labour market and workplace. Labour unions are not very active in tackling GBD at work. The Commissioner for the Protection of Equality (hereafter the Commissioner) and civil society organisations (CSOs) raise awareness on GBD in relation to labour, but relevant government institutions do not sufficiently recognise their expertise.

INTRODUCTION

Background

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.⁴ GBD can affect women and men. However, as evidence in this report suggests, it tends to affect women more than men. Therefore, the report focuses on GBD affecting women. The terms 'discrimination against women' and 'discrimination against men' clarify who GBD has affected.

While comprehensive research exists on women's participation in the labour market⁵, GBD in labour has not been thoroughly studied by civil society and governmental representatives in Serbia. The last research on discrimination against women in the labour market in Serbia was conducted in 2012 by the Victimology Society of Serbia.⁶ Since then, no other known research was conducted. Thus, little current information is available to provide the evidence needed to effectively tackle GBD in the labour market. This research seeks to address this and to inform future advocacy and outreach towards decreasing the prevalence of GBD in the labour market. The Kvinna till Kvinna Foundation (hereafter 'Kvinna till Kvinna') conducted this research in close cooperation with women's rights civil society organisations (WCSOs) from five other Western Balkan countries, as part of a European Union-supported Action that seeks to address GBD in labour.

Aims

The research aimed to explore the nature of GBD in the labour market, the extent to which discrimination claims are being filed and to gather additional information as to how institutions treat such cases. More specifically, it aimed to answer the following research questions:

- I. To what extent is the legal framework complete? Where are the gaps?
- II. How many work-related discrimination cases have been reported to different types of institutions from 2008-2017, by year?
- III. For what reasons have few discrimination cases been reported and/or filed?
- IV. How have relevant institutions treated discrimination cases to date?

⁴ This research study 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.

⁵ In Serbia, there are several research studies conducted in relation to women's participation in the labour market. For example, a research study in 2012 examining the scope, structure, and characteristics of discrimination against women in the labour market and the social response to it. The research encompassed both discrimination against women in attaining employment as well as discrimination in the workplace. (Nikolić-Ristanović V. et al. (2012). *Discrimination against women at the labour market in Serbia*, Belgrade, Serbia: Victimology Society of Serbia). Similarly, in the same year, research by the World Bank examined the issue of employment, entrepreneurship and career advancement as well as the earnings between women and men in Serbia (Reva, A. (2012). *Gender inequality in the labour market in Serbia*. The World Bank). A research study from 2015 focused on Roma women and barriers they face in the labour market (Marjanović, D. (2015). *Assessment of the structural barriers that hinder the employment of Roma women*. UN Women).

⁶ Nikolić-Ristanović V. et al. (2012). *Discrimination against women at the labour market in Serbia*, Belgrade, Serbia: Victimology Society of Serbia.

Methodology

In order to answer the aforementioned research questions, Kvinna till Kvinna conducted research from March to December 2018. The research involved mixed research methods. First, a legal analysis examined and assessed current anti-discrimination legislation in place in Serbia, including any shortcomings in aligning national legislation with the European Union (EU) gender *acquis communautaire*, focusing on gender equality related legislation. It examines international laws, treaties and conventions, the Constitution of the Republic of Serbia, Serbia's relevant national laws and secondary laws. The legal analysis also served to identify the relevant institutions, their roles and responsibilities.

Second, existing literature on discrimination 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, in total 19 representatives from institutions and CSOs, selected using variation sampling, were interviewed using a semi-structured interview guide to measure their knowledge of, awareness on and experience with GBD in the labour market. In-depth interviews with six survivors of GBD in relation to labour were carried out in order to fully explore their experiences regarding this issue and to gain a better understanding of the ways GBD operates in the area of work.

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 media, email and Facebook boosts. In total, 1089 people clicked on the questionnaire and 541 completed a minimum of 90% of the survey (86% women and 15% men). All respondents were ages 15 to 64 years old, as legally allowed to work in accordance with Eurostat guidelines. Both quantitative and qualitative data was analysed by a research team, and the research therefore involved triangulation of researchers, methods and sources, towards enhancing validity. For further information about the methodology, please see Annex.

LEGAL ANALYSIS

This section provides a brief overview of the legal framework in relation GBD and labour in Serbia will be presented in response to the research questions: *To what extent is the legal framework in Serbia complete? Where are the gaps?* The Legal Analysis examines and assesses current anti-discrimination legislation. It also examines international laws/treaties/conventions, national Constitution and laws concerning labour rights and gender equality as to define discrimination, mechanisms in place to address or mitigate discrimination, methods for reporting discrimination, gaps in the laws and the relevant institutions and their responsibilities regarding GBD in relation to labour.

International Agreements and Instruments

Serbia has signed and ratified almost all relevant international documents of the United Nations (UN) and the Council of Europe as related to the further development and improvement of anti-discrimination legislation, including:

- European Convention on Human Rights, including Protocol 12;
- International Covenant on Civil and Political Rights (ICCPR), including the Optional Protocol on Individual Complaints Mechanism and the Second Optional Protocol, aiming at the abolition of death penalty;
- International Covenant on Economic, Social and Cultural Rights (ICESCR);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Optional Protocol relating to regular visits of national and international experts to correctional institutions;
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), including the Optional Protocol related to individual complaints and investigation procedures;
- Beijing Declaration and Platform for Action;
- Convention on the Rights of the Child (CRC), including the Optional Protocol on the sale of children, child prostitution and child pornography;
- International Convention for the Protection of All Persons from Enforced Disappearance (CED);
- Convention on the Rights of Persons with Disabilities (CRPD) and the Optional Protocol on individual complaints procedure;
- UN Security Council Resolution 1325 on Women, Peace and Security; and
- Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (also referred to as the Istanbul Convention).

Constitution of the Republic of Serbia⁷

The Constitution came into force in 2006 and is the highest legal act of Serbia. It states that human rights form an integral and important part of constitutional law.⁸ The Constitution prohibits discrimination under Article 21:

All are equal before the Constitution and law.

Everyone shall have the right to equal legal protection, without discrimination.

All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited.

Special measures which the Republic of Serbia may introduce to achieve full equality of individuals or group of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination.

The Constitution, as the highest legal act of the country, sets the basis for the prohibition of discrimination in Article 21, while in Article 15 it guarantees gender equality, and obliges the State to develop its 'equal opportunities policy'.⁹

Labour Law

GBD in relation to employment is prohibited by various laws, including the Labour Law.¹⁰ It aims at regulating the rights and obligations arising from employment relationships (Article 1). The law 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, prohibition of discrimination, maximum working hours, daily rest periods and minimum annual leave.¹¹ The law is only partially aligned with the *acquis communautaire*.

The Employment Contract

An employment contract may be concluded for a definite or an indefinite period of time. Article 31 stipulates that an employment contract with an undetermined period of validity is considered indefinite. Pursuant to Article 37, employees may be engaged under an open-ended contract or a fixed-term contract (for a maximum of twenty-four months and longer in exceptional cases prescribed by the Labour Law). After the expiry of a fixed-term contract, the employer cannot conclude another agreement on the same basis with the same employee for the same or other job position.

However, this does not function in practice. After two years, many employers engage employees outside of the employment relationship with a Contract for Temporary and Periodical Jobs (Article 197) and Contract for the Supply of Services (Article 199).¹²

⁷ Constitution of the Republic of Serbia (Official Gazette of the RS no. 98/2006).

⁸ European Commission for Democracy through Law (Venice Commission). (2007). *Opinion on the Constitution of Serbia*. Strasbourg, France.

⁹ Constitution of the Republic of Serbia (Official Gazette of the RS no. 98/2006).

¹⁰ 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).

¹¹ European Commission. (2016). *Screening report Serbia: Chapter 19: Social policy and employment*. At: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/serbia/screening-reports/screening_report_ch_19_serbia.pdf.

¹² Interview with a woman lawyer held in October 2018.

Discrimination

According to the Labour Law, any direct or indirect discrimination against persons seeking 'employment, as well as employees, on the grounds of sex, birth, language, race, colour of skin, age, pregnancy, state of health and/or disability, ethnic affiliation, marital status, family commitments, religion, sexual orientation, political or some other conviction, social background, financial standing, membership in political organisations or trade unions or some other personal traits,' is prohibited. More precisely, in Article 20, discrimination is prohibited in relation to:

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;*
5. *Termination of the employment contract.*

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

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 to the Commissioner, whose task is to prevent all forms, types and cases of discrimination, monitor the implementation of anti-discrimination legislation and improve fulfilment and protection of equality.
- 2) File a claim to the competent court.

According to the Labour Law and the Law on the Prohibition of Discrimination in the Republic of Serbia, an employee can file complaints immediately after they perceive they have been discriminated against, without fulfilling an internal procedure.

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

Pregnant women are protected from dismissal on the grounds of pregnancy or maternity leave non-performance courtesy. Women may begin maternity leave forty-five days before the envisaged childbirth (Article 94). It is legally mandatory to begin maternity leave twenty-eight days prior to the expected date of birth (Article 94). Maternity leave lasts three months from the day of delivery, after which the woman is entitled to leave to 'nurse a child' for a total of one year for the first and second children, and two years for the third and fourth children. The father may exercise the initial three-month entitlement in certain extreme circumstances. These are:

... in case when the mother abandons the child, dies, or is prevented due to other justified reasons to exercise that right (serving a prison term, serious illness and the like). Father of the child has that right even when the mother is not employed.

The one-year period to 'nurse a child' may be exercised by the father with no specific conditions (Article 94.6). This one year is transferrable to the father after the child turns three months and cannot be practiced simultaneously.

Workers are compensated in full during maternity leave by the government depending on the wage that they are earning at the time of the leave and the consecutive months worked (see Law on Financial Support for Families with Children) Maternity leave count as pensionable services. One of the parents of a child in need of special care is entitled, upon expiry of the maternity leave and the leave for nursing a child, to be absent from work or to work half of the full working hours, until the child becomes five years old.

Upon returning from maternity 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 contract of employment. 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. It should be noted that during the writing of this report, the Law on Financial Support for Families with Children was introduced, adding new stipulations on maternity leave.¹³

Law on the Prohibition of Discrimination in the Republic of Serbia

The adoption of this Law¹⁴ gives effect to the prohibition of discrimination that exists in the Constitution. Serbian anti-discrimination legislation is satisfactory, although there is always room for improvement. The Law prohibits discrimination on the grounds of race, skin colour, ancestors, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, gender, gender identity, sexual orientation, financial position, birth, genetic characteristics, health, disability, marital and family status, previous convictions, age, appearance, membership in political, trade union and other organisations and other real or presumed personal characteristic (Article 2).

Discrimination in the Sphere of Labour

According to Article 16 of the Law on the Prohibition of Discrimination in the Republic of Serbia, it is forbidden to exercise discrimination in the sphere of labour. In other words, it is forbidden to violate principles of equal opportunity for gaining employment or equal conditions for enjoying all rights pertaining to labour, such as:

- The right to employment;
- Free choice of employment;
- Promotion;
- Professional training;
- Professional rehabilitation;
- Equal pay for work of equal value;
- Fair and satisfactory working conditions;
- Paid vacation;
- Joining a trade union; and

¹³ Though pregnant and nursing women in Serbia are still entitled to maternity leave, for a fuller understanding of recent policy changes and their limitations, please refer to the Law on Financial Support for Families with Children later in this section.

¹⁴ Law on the Prohibition of Discrimination in the Republic of Serbia (Official Gazette of the Republic of Serbia No 22/2009).

- Protection from unemployment.

The right to protection is applicable to all persons who are: employed, doing temporary or occasional work, working on the basis of a contract of service or some other contract, doing additional work, performing a public function, members of the army, seeking employment, students or pupils doing a work placement and/or undergoing training without a formal contract of employment, undergoing professional training and advanced training without a contract of employment, a volunteer or any other person who works on any grounds whatsoever. The prohibition of discrimination is applied to all public authorities as well as to all civil and legal persons in public and private sectors in all areas. Therefore, this law adopts a much broader scope as to what it applies to, meaning it does not solely apply to the persons employed by definition of the Serbian Labour Law (persons who have concluded an employment agreement).

Discrimination Based on Sexual Orientation

Mario Reljanovic argues that the notion of discrimination based on sexual orientation in Article 21 of the Law on the Prohibition of Discrimination should be amended to provide more holistic protection as it only covers the declaration of sexual orientation and not equal treatment regardless of declared or presumed sexual orientation, or its public expression. The Article 21 states: 'Sexual orientation shall be a private matter, and no one may be called to publicly declare his/her sexual orientation. Everyone shall have the right to declare his/her sexual orientation, and discriminatory treatment on account of such a declaration shall be forbidden.'¹⁵

The Role of the Commissioner for the Protection of Equality

The Law on the Prohibition of Discrimination in the Republic of Serbia established the Commissioner as an independent state organ. The Commissioner receives and considers complaints of discrimination against any individuals, legal entities, organisations that deal with protecting human rights, or groups that feel that they have been discriminated against; the state organ issues opinions and recommendations in concrete discrimination cases, instructs measures to be carried out as defined by the law, files misdemeanour and criminal offense charges, and can initiate litigation proceedings for protection against discrimination. One key role is monitoring laws and regulations, in which the Commissioner can initiate the adoption of amendments to regulations that focus on promoting anti-discrimination measures.¹⁶ The Commissioner is also authorised to initiate strategic litigation, with approval from the discriminated person. Recommendations made are legally binding, though they are not enforceable in that the Commissioner has no powers to penalise perpetrators of discrimination if they fail to comply by the given recommendations.

¹⁵ Reljanović, M. (2018). *Study on implementation of anti-discrimination law in Serbia*. Yucom. Belgrade, Serbia, pg. 16.

¹⁶ The Commissioner for Protection of Equality, *Background information*. Retrieved from: <http://ravnopravnost.gov.rs/en/background-information/>.

Law on Equality between Sexes¹⁷

When the Law on Equality between Sexes was adopted in 2009, public authorities were obliged to develop equal opportunities policies in all areas of public life. This means that anyone who is discriminated against on the grounds of sex has the right to bring the case before a court and to seek legal remedies and/or compensation.¹⁸

Sex and Gender

Article 10 defines both sex and gender and distinguishes between the two: 'sex' relates to biological features of a person, whereas 'gender' means socially established roles, position and status of women and men in public and private lives from which, due to social, cultural and historic differences, discrimination ensues on the basis of biologically belonging to a sex. The law is limited by its definitions of both 'sex' and 'gender', in that it does not recognise gender non-conforming individuals who fall outside the gender binary. As such, it fails to provide those individuals with sufficient protection from all forms of discrimination.

Regarding labour, the Law on Equality between Sexes prohibits differential and preferential treatment between genders in: advertising vacancies; requirements for job performance; deciding on an applicant with whom an employment agreement will be concluded; or who will be engaged otherwise. The employer is responsible for ensuring that all employees have equal opportunities and treatment, regardless of gender, in relation to the fulfilment of their labour rights (Article 11). Further, employers who employ more than fifty individuals for an indefinite period are required to adopt a plan of measures to eliminate or mitigate unequal gender representation each calendar year and to submit the plan no later than by January 31st of each year (Article 13). Additionally, Article 16 stipulates that absence from work due to pregnancy and parenthood must not be a barrier to promotion, advancement, professional training, a ground for assigning a person an inadequate job or for termination of the employment contract.

Sexual Harassment

Sexual harassment is explicitly prohibited in the Law on Equality between Sexes, defined as 'any unwanted verbal, non-verbal or physical act of a sexual nature, committed with the aim or with the purpose to violate personal dignity, establishment of intimidating, hostile, humiliating, degrading or offensive environment, which is based on sex' (Article 10). Notably, paragraph 8 of this Article prohibits sexual blackmail, outlining it as: 'conduct of the harasser who blackmails another person with intent to obtain services of a sexual nature, or indicates that sensitive data will be disclosed against said person in a way that harms their honour or reputation if they reject to render the requested services.'

A new Law on Gender Equality has been drafted, however its adoption is still ambiguous since many groups are against it, claiming that it will not be possible to implement many provisions of the law. Namely, the Employers Association of Serbia dismissed the new draft of the law due to their disagreement with the new requirement that a minimum of 40% of women employees be represented in the structure of all employees.¹⁹ The new law is important because it furthers the rights of women in Serbia and complies with Serbian legal

¹⁷ Law on Equality between Sexes (Official Gazette of the Republic of Serbia, 2009-12-11, No. 104/09).

¹⁸ Dokmanović, M. (2016). *Gender analysis for Serbia*. European Delegation in Serbia. Belgrade, Serbia.

¹⁹ Interview with a woman lawyer held in October, 2018.

framework on gender equality with EU Directive No. 2006/54/EC on taking concrete steps towards the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

The Law on Prevention of Discrimination against Persons with Disabilities²⁰

This law prohibits discrimination on the ground of disability or different abilities and aims to promote the inclusion of persons with disabilities in all spheres of society. The law was preceded by the Law on Professional Rehabilitation and Employment of Persons with Disabilities, adopted with the aim to create opportunities for more persons with disabilities to be included in the labour market and to improve the quality of their employability and/or employment.

Law on Financial Support for Families with Children²¹

This law was introduced on 1 July 2018. It regulates the following forms of financial support: 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.²² For employed and self-employed women, the calculation of the benefit is based on earnings in the last eighteen months, where the pay will be equal to the sum of past earnings divided by eighteen.²³

Women that did not work for more than 18 consecutive months before going on maternity leave will receive significantly smaller compensation than women who have worked more than 18 consecutive months. This Law puts women who have worked less than the aforementioned period in a disadvantaged position. Maternity leave will no longer factor in the time that a woman was pregnant, and compensation will only be given for the period following the birth of the baby. This means pregnant women will work as long as possible before going on maternity leave, at the risk of her health and/or the baby's. Women on indefinite work contracts who are giving birth to a third (or any number thereafter) child will have a two-year maternity leave as with the previous law, but women who are on temporary contracts will receive only a one-year maternity leave for their third child or any child after their third.²⁴

Strategic Framework

The current gender equality strategic framework consists of the National Strategy for Gender Equality 2016 - 2020 and the Action Plan for its implementation in the period 2016 – 2018. In the Strategy, there is no specific focus on GBD in relation to labour. However, this

²⁰ The Law on Prevention of Discrimination against Persons with Disabilities (Official Gazette of the Republic of Serbia, No. 36/2009, 32/2013).

²¹ Law on Financial Support for Families with Children (Official Gazette of the Republic of Serbia, No. 113/2017 i 50/2018).

²² Ibid.

²³ Pejin-Stokić, L. & Bajec, J. (2018). *Effects of the new Law on Financial Support for Families with Children*. ESPN Flash Report, European Commission.

²⁴ Law on Financial Support for Families with Children (Official Gazette of the Republic of Serbia, No. 113/2017 i 50/2018).

document commits to fulfil the aims for better economic status of women in general, but especially in the labour market. Therefore, there are many added measures for achieving this goal, and special attention is paid to marginalised women and their protection in the workplace.

The Strategy of Prevention and Protection against Discrimination and its Action Plan 2014-2018 provides for measures aimed at improving the position of women, identified as one of the groups vulnerable to discrimination. Other groups include: children, persons with different abilities, older persons, LGBTQIA+, national minorities, refugees, internally displaced persons, persons with medical conditions that may constitute a basis for discrimination and members of religious communities. At the time of writing this report, the Strategy was coming to an end, and there was neither information that a new one is being drafted, nor that the Working Group in charge of drafting the new Strategy is gathering and holding meetings.²⁵

The National Action Plan on Employment in 2017 and the National Youth Strategy for the period 2015-2025 with the supporting Action Plan contain measures aimed at:

promoting female entrepreneurship and employing women from vulnerable groups; improving the employability, employment and social inclusion of young persons, including in particular those who are at-risk of social exclusion; promoting gender equality and an inclusive society; educating the young in the vulnerable groups and increasing outreach to young persons who dropped out of (or were not included in) formal education; support to young parents, in particular young mothers, for continuing education; reducing the marked gender inequalities in the refugee population; and other measures intended to improve the position of vulnerable groups.²⁶

Institutional Responsibility

Several institutions have responsibilities related to addressing GBD as it pertains to labour, including the following.

The **Ministry of Labour, Employment, Veteran and Social Affairs** is in charge of the relevant legislative and strategic framework.

The **Labour Inspectorate** is under the jurisdiction of the Ministry of Labour, Employment Veteran and Social Affairs, and is tasked with inspecting workplaces on the territory of Serbia to ensure that health and safety guidelines are being met, by monitoring in the form of regular, extraordinary, and supplementary controls and worksite visits. The Labour Inspectorate also ensures that all relevant workplace legislation is in place to protect the health and safety of all workers. The institution has the power to submit filings to the authorities in cases where criminal offenses have been committed, and in cases of incorrect termination of employment contracts, its role is to issue a decision on the termination through postponing the termination and returning the employee to work until the dispute is resolved in the judicial system.

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

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

²⁵ Interview with a woman CSO representative held in November, 2018.

²⁶ Dokmanović, M. (2016). *Gender analysis for Serbia*. European Delegation in Serbia. Belgrade, Serbia, pg. 26.

The **Commissioner for Protection of Equality**, as an independent body, addresses the issue of gender equality within its jurisdiction, as its authorities specialise it in the prevention and suppression of all forms of discrimination, including combating discrimination on the grounds of gender and improvement of gender equality.

The **Office for Human and Minority Rights** monitors the compliance of national legislation with international treaties and other international instruments on human and minority rights.

The **Office for Cooperation with Civil Society** has been established as an institutional mechanism to support dialogue between the Government and CSOs.

The **Unit for Justice and Gender Statistics** collects gender-disaggregated data and produces gender statistics including statistics related to labour.

The **Social Inclusion and Poverty Reduction Unit**, established by the Government of Serbia in July 2009, is mandated to strengthen the Government's capacities to develop and implement social inclusion policies based on good practices in Europe.

The **Employers' Association of Serbia**, founded in 1994, is the only representative employers' organisation, gathering employers from private and public sectors on a voluntary basis. As a non-partisan organisation, it seeks to determine common interests of employers related to their economic, social and other needs, as well as to advocate their interests to state institutions, government and trade unions.

Civil courts - institutions in which legal proceedings for the protection against GBD in employment (and elsewhere) are conducted.

The role of **police** has not been included in this research study as it is not directly related to discrimination that occurs in the field of labour. In other words, there are only two articles in relation to labour in the Criminal Code²⁷ - Violation of Labour Rights and Social Security Rights (Article 163) and Violation of the Right to Employment and during Unemployment (Article 164) and police acts according to them police. GBD in the labour market would fall under other jurisdictions and would not be reported to the police.

²⁷ 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 i 94/2016))

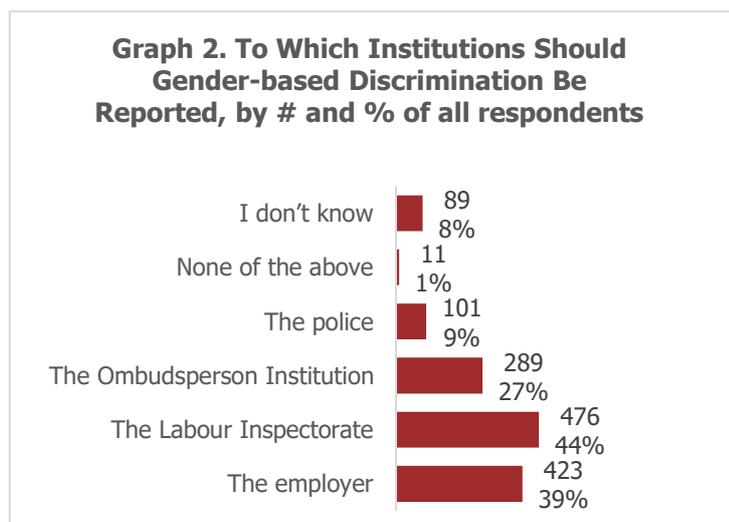
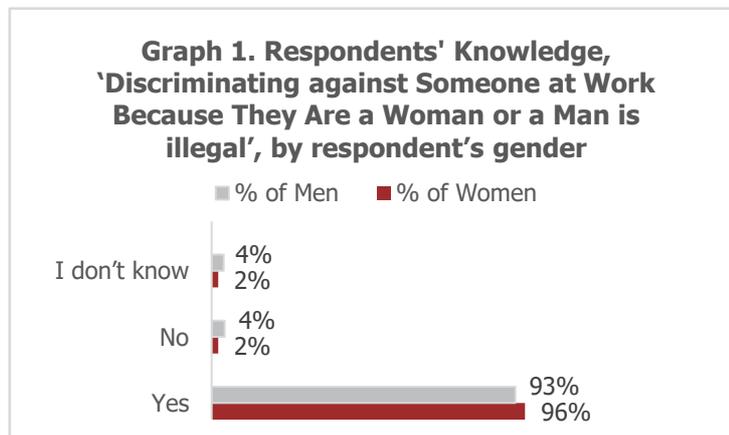
PEOPLE'S AWARENESS AND ATTITUDES TOWARDS DISCRIMINATION

The purpose and the content of this chapter is to examine people's awareness about discrimination and how relevant the legal framework is. It also looks at the reasons behind reporting discrimination at work as well as who is responsible for tackling those cases. Moreover, it explores people's attitudes towards discrimination and reasons why few discrimination cases have been reported.

People's Awareness about Gender-based Discrimination

Online survey respondents tended to be aware that GBD is illegal in Serbia (96% of women and 93% of men, see graph 1). However, follow-up interviews suggest that people may not be able to recognise forms of GBD. For example, interviewed persons who said they had experienced GBD in the labour market did not always differentiate it from mobbing. Discrimination is an unequal or different treatment of an individual based on their personal characteristics whereas mobbing is long-term, repeated mistreatment of an employee which is not necessarily based on the personal characteristics of an individual but rather on power relations that exist in the hierarchical structure of the workplace.²⁸

When it comes to reporting discrimination, 44% of survey respondents indicated that it should be reported to the Labour Inspectorate, 39% said to the employer and 27% identified the Commissioner. Only 1% indicated that none of these institutions or persons are responsible for handling GBD at work; 8% said they do not know where to report GBD if it happens. (see Graph 2). There were no statistically significant differences between the answers of men and women. As this



²⁸ Interview with a woman legal analyst held in November, 2018.

research did not involve a random sample, the level of knowledge within the general population may differ.

The normalisation of discrimination also was a recurring trend, suggesting insufficient awareness about GBD and related rights violations. In some instances, people claiming that they faced discrimination in the labour market could not differentiate between discrimination based on: gender, other characteristics or other forms of mistreatment, or mobbing. For example, interview findings suggest that there are some cases in which people understand discrimination or unequal treatment based on gender as something that is a part of working life and therefore they have no intention to do something about it or report it. Interviews suggest that respondents who live in rural areas, have less education and a lower social status²⁹ tend to normalise discrimination. They also tend to lack knowledge regarding which institutions are responsible for handling GBD cases. In general, most interview respondents tended to lack trust in institutions, which led to their unwillingness to report cases.

“ *The institutions in Serbia are weak and adherence to rule of law is seriously hindered. That is why I am reluctant to get in touch with them because I am not sure that they will do anything when it comes to reporting.*

- Woman, urban, 37

Respondents hesitated to file complaints, concerned that it would take substantial time and money. They also feared that institutions would not respond appropriately as one interview stated: 'I do not trust institutions and I am afraid that they would not take my complaints into consideration. I know that there is a lot of corruption and that is my big concern as well'.³⁰

²⁹ A person's standing or importance in relation to other people within a society.

³⁰ Interview with a woman survivor of GBD held in October, 2018.

PREVALENCE AND EXPERIENCES WITH DISCRIMINATION

This chapter examines the overall prevalence of GBD in Serbia, with a special focus on PWD, LGBTQIA+ persons and ethnic minorities. In this research project, researchers were interested in examining various forms of discrimination and how they may or may not intersect with GBD. Furthermore, this section analyses GBD practices in relation to promotion, hiring and contracts and pay. It also provides an overview of study findings regarding working conditions, pregnancy and maternity leave and sexual harassment at work as possible sources of GBD in the labour market.

Overall Prevalence of GBD

The precise prevalence of GBD cannot be known, given that many cases are never reported. At the state level, it was not possible to gather data or case law on reported GBD cases. It also was difficult to obtain data from relevant institutions, as the Civil Courts and Labour Inspectorates country-wide, and the Ministry of Labour, Employment, Veteran and Social Affairs did not respond to Kvinna till Kvinna interview requests.

Table 1: Predicting the experience of gender-based discrimination in the workplace

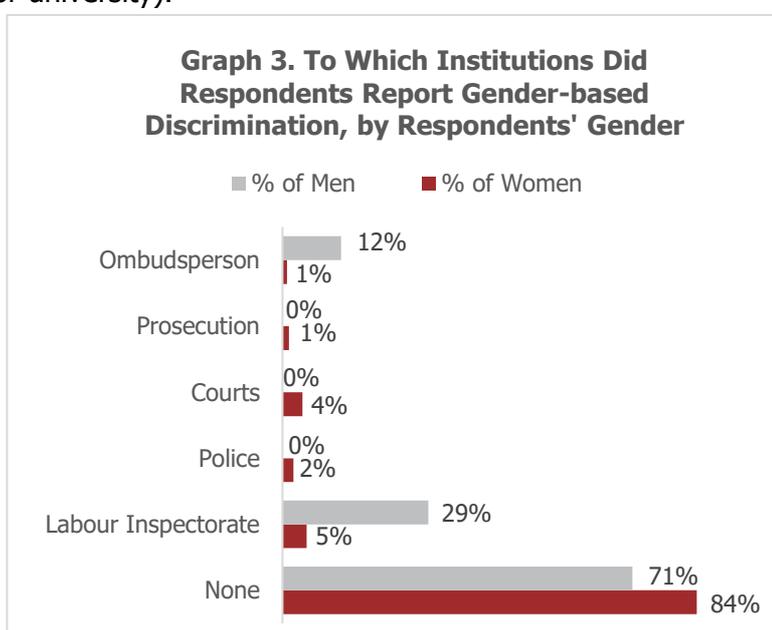
	B	S.E.	Sig.	O.R.	95% C.I. for O.R.	
					Lower	Upper
Constant	*-.927	.319	.004	.396		
Gender (men)	.884	.402	.028	2.421	1.100	5.327
Age (30-39)			.929			
• Under 30	-.189	.322	.556	.827	.440	1.554
• Between 40-49	.005	.280	.987	1.005	.581	1.738
• 50+	.036	.455	.937	1.037	.425	2.529
Education (Secondary education)			.704			
• Bachelor degree or vocational higher education	.000	.315	.999	1.000	.539	1.855
• Master's degree or PHD	.214	.345	.535	1.239	.630	2.435
Place of residence (Belgrade)			.036			
• Other city in Serbia	*.676	.270	.012	1.966	1.158	3.337
• Rural place	.103	.764	.893	1.109	.248	4.957
Monthly net salary (301-400)			.355			
• Less than 200 EUR	-.047	.421	.912	.955	.419	2.177
• 201-300	-.064	.366	.862	.938	.458	1.922
• 401-500	.032	.331	.923	1.032	.540	1.975
• More than 500 EUR	.643	.369	.081	1.901	.923	3.916
Employment sector (Public sector)			.254			
• Private sector	.447	.277	.106	1.563	.909	2.688
• Civil society or other	.141	.371	.704	1.152	.557	2.383
Employment position (Senior-level position)			.292			
• Entry-level position	.642	.417	.123	1.901	.840	4.302
• Mid-level position	.401	.391	.306	1.493	.693	3.216

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

When controlled for other demographic characteristics, sector of employment, working position and monthly net salary, women have nearly two and half times (2.4) greater odds of experiencing GBD at the workplace than men do (see Table 1). The assessment of multivariate relations also suggests that, when compared with those that are living in Belgrade, the odds of experiencing GBD are nearly two times (1.97) higher for those that live in other cities in Serbia.

The survey suggested that 47% of women and 28% of men respondents had experienced GBD in their previous or current workplaces. Overall, compared to 38% of workers living in Belgrade, 49% of workers living in another city in Serbia reported that they have experienced GBD in the workplace. Although the disproportion between the samples of men and women who responded is large (481 women and 60 men), it could be observed that women are more susceptible to GBD at work. More than half of those who experienced discrimination in the labour market (53%) were working in the private sector when GBD occurred, and 35% were working in the public administration (including ministry, municipality, health institution, public school or university).

When asked which institutions they contacted regarding what happened to them, 84% of the women and 71% of the men said that they did not contact any of the relevant institutions listed in the survey. Only 5% of the women and 30% of the men contacted the Labour Inspectorate, and 4% (9) of the women were involved in court actions. None of the men were involved in a court action. (See Graph 3). Although the sample of men respondents is too small to be conclusive, it is interesting that the proportion



of men who contacted the Labour Inspectorate and the Commissioner is significantly higher, compared to that of women who contacted these institutions.

Only 16 participants contacted a relevant institution when they felt that they were discriminated against at work. Of them, 69% (11) stated that the institutions listened but said they could not do anything; 18% (3) said that the institutions would not hear their case; and 13% (2) said that the institutions were very helpful. Only 12 participants (5% of those who experienced GBD) were involved in court action related to (GDB) at work. Eleven were women.

Types of Discrimination

Gender-based Discrimination against Persons with Different Abilities

In Serbia, approximately 13% of all persons with different abilities (PWD) are employed.³¹ Around 10% of them are employed in the civil society sector, whereas only 1%

³¹ United Nations Committee on the Rights of Persons with Disabilities. (2014). *Consideration of reports submitted by States parties under article 35 of the Convention: Initial reports of States parties due in 2011: Serbia*. At: <https://www.refworld.org/docid/57038a7a4.html>.

work in the private and public sector. Despite improvements in the legal framework with Serbia's adoption of the Law on Professional Rehabilitation and Employment of Persons with Disabilities,³² as well as anti-discrimination legislation, the employability of PWD remains very low.³³ Women with different abilities face additional challenges, including persisting negative stereotypes and attitudes linked to differences in ability that make women with different abilities more vulnerable to GBD in the labour market.³⁴

PWD with higher educational levels face fewer challenges when entering the labour market than those who have a secondary education or lower.³⁵ There is a weak social support system dedicated to making entry into employment more accessible for PWD. In other words, support services for PWD in a form of nurturance, advice, financial assistance are rarely available.

Further, interviews suggest that prejudices against PWD are highly visible in job interviews, especially towards women.

Triple discrimination may occur when a third factor intersects, contributing to marginalisation. For example, a Roma woman with different abilities may face discrimination due to her gender, ethnicity and different abilities. Interviews suggest that PWD who face direct or indirect discrimination are unable to recognise discriminatory acts as forms of discrimination. Therefore, they are unlikely to report violations of their human rights. PWD

“ A woman PWD applied for a management position. As men traditionally hold higher-level, decision-making positions in Serbia, women are less likely to get such positions. A woman with different abilities could thus face double discrimination on account of her gender and her different abilities.

- Interview with a woman CSO representative

living in rural environments seem especially vulnerable, as discrimination in such locations often remains invisible.³⁶ Employers seem unaware of the potential for prejudice, such as unwillingness to employ PWD.³⁷ Interview findings suggest that rather than abiding by the law that requires employers with more than 20 employees to hire at least one PWD or pay a fine, employers tend to opt to pay the fine instead of hire PWD.³⁸

In conclusion, considering the aforementioned intersections of gender, abilities, educational levels, employment accessibility and support in securing employment, women PWD may face double or even triple discrimination when it comes to entering and remaining in the labour market in Serbia.

Gender-Based Discrimination against LGBTQIA+ Persons

The Law on the Prohibition of Discrimination prohibits discrimination in employment and promotes equal conditions for enjoying all labour rights, including promotion, professional training and fair, satisfactory working conditions. However, widespread discrimination against LGBTQIA+ persons continues within the labour market. Recent research on this topic in Serbia

³² Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of RS, br. 36/2009).

³³ European Commission's Annual Report on Serbia 2018, Strasbourg, 2018.

³⁴ Interview with woman CSO representative held in November, 2018.

³⁵ Ibid.

³⁶ Interview with a woman CSO representative held in November, 2018.

³⁷ Ibid.

³⁸ According to the Law on Professional Rehabilitation and Employment of Persons with Disability, every employer who employs more than 20 people is obliged to employ at least one PWD or to pay a monthly fee that goes to the Budget Fund for PWD.

indicates that 38% of LGBTQIA+ survey respondents believe that they were discriminated against at their workplace in the last five years.³⁹

Serbia has little official data on discrimination against LGBTQIA+ people in the labour market. There was only one court decision related to workplace discrimination based on sexual orientation, back in 2009.⁴⁰ A major problem that LGBTQIA+ persons face is proving perceived discrimination in the workplace due to the fact that discrimination is usually indirect, hidden or even invisible.⁴¹ LGBTQIA+ people are afraid to come out at work because they believe that keeping their sexual orientation in the closet will prevent potential problems.⁴²

In one case, an LGBTQIA+ person was subjected to differential treatment by the employer after coming out in the workplace.⁴³ Evidence for such differential treatment is difficult to obtain, and such cases are difficult to prove in the court of law. The person who brought the complaint decided to quit their job rather than to proceed with the complaint.

Further, this research suggests that trans*⁴⁴ people are especially discriminated against at work and in the process of seeking and applying for jobs.⁴⁵ More specifically, trans* women seemingly face added discrimination, as their gender non-conformity can be noticeable and 'read' by their physical appearance.⁴⁶ Trans* men generally can hide their trans* identity, and therefore seemingly face less discrimination. Most trans* people struggle with job interviews because they have to hide their gender identity from the potential employer. A very problematic situation occurs when a person is transitioning, or when they are outside the gender binary because their gender does not 'fit' their physical appearance, according to socialised gender norms. This presents a psychological burden for trans* persons, especially individuals who can be 'read' as trans* and cannot hide their gender non-conformity.

“ When I started the transition process I dropped out from university and I quit my job because I did not want to explain that I am changing my gender. Prior to my transition I was working as a bartender and I did not have any problems at my work. I know several people who were fired after starting their transition. Even though the official reason for getting fired was redundancy, everyone was sure that decision was made because of the transition.

- Trans*, 30, urban

As this quotation illustrates, in some cases, during the process of transition, trans* people put their education and work on hold in order to undergo surgical procedures and obtain legal recognition, such as changes to their sex and name in official documents. Before obtaining new documents, however, it is very difficult for them to find work. They may only be able to get temporary jobs in the grey economy. This jeopardises their livelihoods and economic security.

A bureaucratic obstacle for trans* persons entering employment is their personal documents. If changes to their sex and name are not legally recognised, they do not fit with their perceived gender. Having official documents unaligned with their gender identity may present problems in gaining or securing employment. Further, difficulties in obtaining work

³⁹ Study findings about the status of LGBT+ person in the labour market, Factsheet. Finding are available here: <https://www.dijalog.net/wp-content/uploads/2018/10/LGBT-na-radu-.pdf> (Accessed December 2018).

⁴⁰ Stopić, J., Tadžić, J., Petković, N. (2017). *Being LGBTI in Eastern Europe: Serbia country report*. United Nations Development Programme.

⁴¹ Interview with a woman lawyer held in October, 2018.

⁴² Interview with trans* LGBTQIA+ CSO representative held in October, 2018.

⁴³ Ibid.

⁴⁴ An umbrella term that includes people who identify outside of the gender binary as transgender, transsexual, and any other non-binary identity where a person does not identify with the gender they were assigned at birth.

⁴⁵ Interview with trans* LGBTQIA+ CSO representative held in October, 2018.

⁴⁶ Ibid.

can spread to other areas of their lives. When undergoing a transitional surgery, there are certain criteria that the person needs to fulfil in order to be eligible for the procedure. A criterium that a psychiatrist requires in order to give permission to proceed with the transitional procedure is that the person must be employed. This is difficult for trans* persons, given that they are among the most vulnerable groups in Serbian society and at risk of discrimination in obtaining and maintaining work.⁴⁷

Gender-based Discrimination against Minority Ethnic Groups

Literature and qualitative interviews indicate that Roma women are considered among the most disadvantaged and discriminated against persons in the Serbian labour market. The barriers that Roma women face are intersectional: not only are they vulnerable due to their gender but also as a result of their ethnicity. As a minority ethnic group, they are more likely to live in poverty.⁴⁸ Their low socio-economic standing affects their livelihoods; Roma often have to focus on survival and getting by with whatever little means they have. Therefore, it is much more difficult for them to access education. The low educational rates among Roma are reflected and paralleled in low employment rates. Low educational levels also affect their earnings, which are much lower than average earnings.⁴⁹ Literature on the topic indicates that only one in five Roma are employed in Serbia.⁵⁰ They are significantly underrepresented from the public sector, which suggests potential exists for discrimination against Roma women.⁵¹

“ A Roma woman applied for a job in bakery when she saw a job advertisement in which it was written that that the bakery was looking for a female worker. When the Roma woman applied for the job, the manager answered that they were no longer looking for a worker and that they found one. However, the ad was hanging on the window of the bakery even two weeks after the incident occurred.

- Interview with woman, Roma CSO activist, October 2018

Roma women face double stigma as stereotypes and prejudice towards them are still extremely widespread among general population.⁵² Deeply embedded social stigmas surround Roma people's hygiene, in that they are viewed as 'unclean' or 'dirty'. One interview respondent stated that women are openly rejected by potential employers in the food industry, as they are perceived as too 'non-hygienic' to serve customers.

Roma women also have traditional roles as mothers and statistically have higher birth rates.⁵³ In Roma settlements in Serbia, the birth rate for women between 15 to 49 years of age is 19%, compared to 8% in the rest of Serbia.⁵⁴ Further, the average household size in 2014 in Roma communities was 5%, compared to 3% in the rest of the country.⁵⁵ As such, family obligations present a barrier to entering and staying in the workforce. Interviews also indicate that Roma women are likely to be involved in the informal sector, doing unreported and thus illegal work, due to difficulties in entering mainstream formal employment. This puts

⁴⁷ Ibid.

⁴⁸ Kurtić, V. (2013). *Džuvljarka: Roma lesbian existence*. European Roma Rights Centre. Niš, Serbia.

⁴⁹ Ibid.

⁵⁰ Marjanović, D. (2015). *Assessment of the structural barriers that hinder the employment of Roma women*. UN Women.

⁵¹ Ibid.

⁵² Kurtić, V. (2013). *Džuvljarka: Roma lesbian existence*. European Roma Rights Centre. Niš, Serbia.

⁵³ Statistical Office of the Republic of Serbia & UNICEF. (2014). *2014 Serbia Multiple Indicator Cluster Survey and 2014 Serbia Roma settlements Multiple Indicator Cluster Survey, key findings*. Belgrade, Serbia. At: http://www.stat.gov.rs/media/3480/mics5-2014-key-findings_serbiaplusserbia-roma-settlements.pdf.

⁵⁴ Ibid.

⁵⁵ Ibid.

Roma women in vulnerable social positions that perpetuate their precarious status in the labour market and society more broadly.

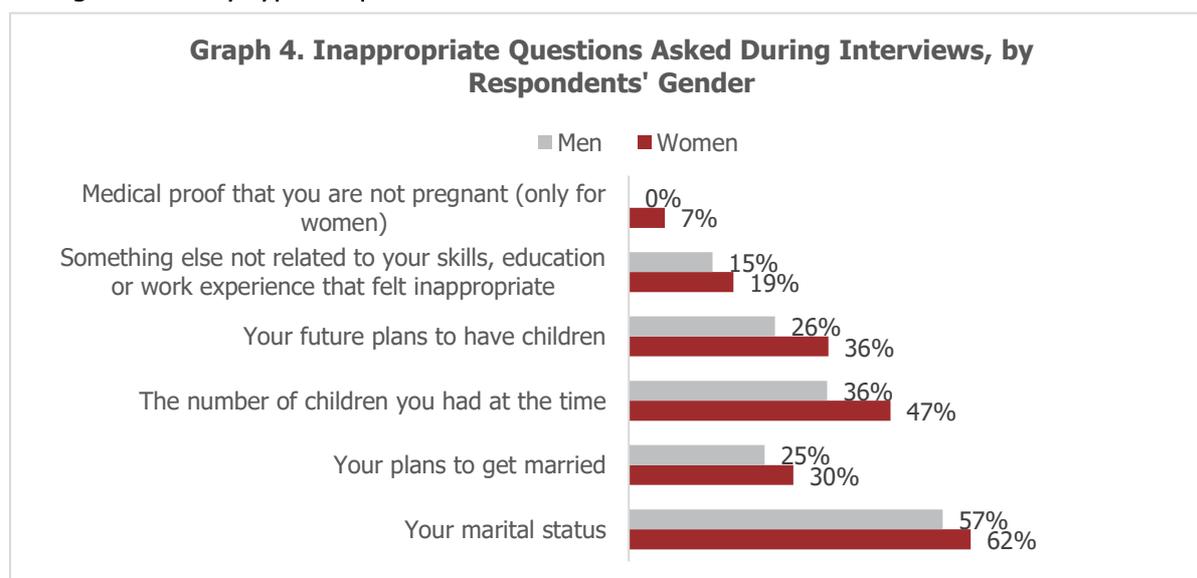
Although the number of Roma women lacking official identification documents has decreased in recent years, this remains a constraint in accessing institutional support and services, such as registering with the National Employment Service, as well as exercising basic rights.⁵⁶ Moreover, Roma women without government-issued documents cannot file official complaints (with the exception of filing a complaint to the Commissioner) related to perceived discrimination or file cases with the justice system.

Different Forms of Gender-based Discrimination

Discrimination in Hiring

Of the 81% of all survey respondents that have experience with job interviews, 32% have had two to five interviews since 2008 and 32% have had more than five interviews. No statistically significant differences exist between men and women. However, it can be observed that a higher percentage of women than men respondents attended more than five interviews (32% women and 29% of men). This may indicate that women may be more likely change jobs, or they may have to undergo more interviews than men when seeking employment.

Among the workers who have had at least one job interview in the last ten years, as Graph 4 illustrates, the most frequently encountered are the questions about the marital status of the applicant and 62% of the women and 57% of the men reported that faced this kind of questions in a job interview. A significant portion of the participants were asked about children, in the form of whether or not they have children (47% of women and 36% of men), whether or not they plan to have children (36% of women and 26% of men), and approximately 7% of the women were asked for medical proof that they are not pregnant. Although we could not establish statistically significant differences between men and women, we can observe that the percentage of women who faced potentially discriminatory question is larger for every type of question.



Of the survey respondents that had undergone at least one job interview, 68% had been asked questions that might imply discrimination. These questions were more likely to

⁵⁶ Marjanović, D. (2015). *Assessment of the structural barriers that hinder the employment of Roma women*. UN Women.

occur in cities outside of Belgrade, as 76% of respondents from urban areas other than the capital city indicated that they had been asked such questions during an interview, compared to 54% of respondents who had been asked such questions in Belgrade. Seventy percent of the respondents from rural communities also indicated coming into contact with questions that are discriminatory or inappropriate. Most frequently, job interviewers asked applicants about their marital status (41% of the women and 34% of the men). Potential employers also asked if job applicants had children (31% of women and 22% of men), or if they planned to have children (24% of women and 16% of men). For 4% of the women, a potential employer had asked for medical proof that they were not pregnant. Although statistically significant differences do not seem to exist between men and women, a higher percentage of women survey respondents faced potentially discriminatory questions during job interviews than did the men respondents. This suggests that during job interviews women may be more likely than men to be asked inappropriate questions that do not correspond with the job position or workplace. This can be interpreted as a form of GBD during the hiring process.

Several respondents asserted that age-based discrimination (26% of women and 27% of men), and/or gender-based discrimination (20% of women and 21% of men) occur during the hiring process. Although women and men do not seem to differ statistically in their vulnerability to discrimination in hiring, more women felt they were discriminated against on the basis of having children (9%) than men (2%). The survey thus suggests a recurring trend of gender-related discrimination in hiring.

Although employers are forbidden to ask about family status and family planning, this practice persists in Serbia. One of the interviewees shared the following:

“ I believe that employers are more and more aware that [it] is illegal to ask about family status and planning to have children, so they are trying different ways to find out about it. I heard that they look for the status of the person through social media and that is something that is done in secrecy. My personal experience was with an international employer that I had already collaborated with. Before scheduling an official interview, he asked me to have dinner, which I believed was a good way to informally find out about job conditions. However, it turned out that he was questioning about my marital status and plans to have children. He even emphasised that he wants to be sure that a person who gets a job will be 100% available. After that conversation I decided not to go to the official interview, and I withdrew my application.

- Woman, 33, urban

Moreover, GBD remains visible in job postings, when employers announce that positions require only female or male candidates. In recent years, the Commissioner has released reactions and recommendations regarding this issue, contributing to a decrease in this practice.

Many surveyed women described other discriminatory interview questions that employers asked during job interviews:

“ Each time I had an interview for a job as an architect, they asked me if I plan to have children. I was always answering honestly: that I would love to have children, and no one wanted to hire me. I was working all of the time under the table with no contract in order to make ends meet.

- Woman, 45, urban

“ When I went to the job interview, the interviewer commented on my looks: Why [do] I have an ear piercing? Why do I not look smarter? And why my picture differs from my real look? Then they asked about my private life: who I live with and [my] marital status.

- Woman, 36, urban

When it comes to choosing qualified candidates for the position, interview respondents discussed how it seems that male candidates are still preferred in job interviews.⁵⁷ Survey results said much the same thing, and many respondents identified how their male colleagues were chosen for positions that they applied to when seeking promotion, or that they heard through word-of-mouth that a male candidate was hired for a position that they interviewed for. The possible explanation for that can be found in persisting prejudices and stereotypes about women and the perception of their weaker performance and limited availability.⁵⁸

Another interviewee emphasised:

“ I was asked about my political affiliation, my weight.

- Woman, 41, urban

“ At the job interview I was asked to oblige to not to having another child in order to get a permanent contract.

- Woman, 35, rural

“ I was at six job interviews. Actually, everyone invited me to the interview, but no one gave me a job. At the last job interview, I applied together with my ex-colleague that I worked with in the previous company. Clearly, he had no sufficient job experience regarding what they were looking for and I had. Despite this, he got the job and I believe that it is because he is a male.

- Woman, 31, urban

⁵⁷ Interview with woman survivor of GBD held in December, 2018.

⁵⁸ Ibid.

Discrimination in Promotion

While 14% of survey respondents believed that all employees at their workplace had an equal opportunity to be promoted, 71.1% declared that some employees are treated differently than others. The remaining 10.2% of respondents believed that their employers' behaviour was mixed, depending on the employer they had. Men and women did not differ statistically in their perceptions.

Regarding their experience with discrimination in promotion, 42.8% of women and 48.4% of men survey respondents indicated that their employer had a personal preference, so they did not receive a promotion. Additionally, 14.2% of the women and 14.1% of the men stated that they had been discriminated against on the basis of their gender, and a similar percentage indicated age-based discrimination in promotion (14% of women and 10.9% of men).

Overall, 55.6% of the survey respondents that are currently employed or have been employed in the last ten years indicated that they experienced discrimination in promotion. Again, men and women did not differ significantly. However, more surveyed women than men described their experiences related to sexual allusions and advances towards their employers:

“The employer tried to kiss me when he got drunk, and he made sexual advances. Another colleague had openly called me ‘a bitch’ in front of other colleagues, and the employer defended him acting patronising towards me. Everyone got promoted, and at the end he managed to nullify my position and fired me. Later I found out that someone else was hired for the same position.

- Woman, 30, urban

“The head of the company wanted to sleep with me in order to be promoted.

- Woman, 30, urban

“When an employer offered for me to be promoted to the position of manager, he also asked me to go with him to dinner. When I refused, he did not allow for my promotion and not long after that incident I quit.

- Woman, 47, urban

Interview data suggest that women still perform the traditionally socialised gender role of caregiver, usually delegated to private life. Their work performance or ability to obtain employment may be undermined by their socially-constructed 'biological predisposition' to be a mother, often presented as the 'duty of every woman'.⁵⁹ Moreover, it seems that those attitudes about women as mother and nurturers prevail everywhere and the data indicated that is no difference between the public and private sector. To illustrate, one woman stated:

“When I wanted to climb the career ladder, I applied for a certain position within the government institution [where I worked]. There was no regular open call, [...] it was an internal process. When the selection, which was not transparent, passed, I received information that a male colleague of mine was selected for that position. When I realised that this person did not fit the requirements of the position, I filed a complaint to the manager. I had a face-to-face meeting with him, and he explained that I did fulfil all the criteria for the promotion. However, he believed that biologically I don't fit the position and that it is more difficult for women than men to take the pressure of the job. Even though I said I can take the pressure, he said that it is better for me to think about forming a family because I already reached 40.

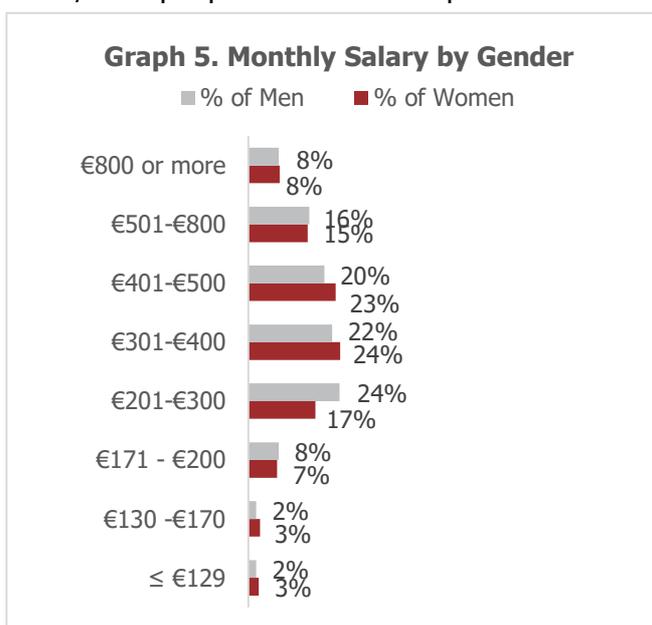
- Women, 44, urban

⁵⁹ Interview with woman survivor of GBD held in December, 2018.

Contracts and Pay

Almost half of the survey respondents who have been employed in the last 10 years (44.8%) have been asked to work regularly without a contract, including for a family business. These percentages do not differ between women and men. Additionally, of the currently employed respondents, 10% do not have an employment contract. These findings suggest that working illegally remains an ongoing practice in the Serbian labour market. Most surveyed workers (61.1%) with no employment contract work in the private sector. More than half (51.3%) of those who do not have a contract are employed in entry-level positions, 33.3% are in mid-level position and 15.4% stated that they are their own boss. None of the survey participants employed at a senior-level work without a contract. This suggests that persons working in lower-level positions are in a more precarious position, as they are more likely to be unregistered and to work without a contract, than people in senior-level positions.

Precariousness in lower-level positions is compounded by earnings. Workers who do not have an employment contract on average have a smaller monthly salary; 45% of them have a monthly net salary of less than €200, compared to 10% of those who work without a contract but earn more than €200 monthly. Overall, only 3% of the employed survey respondents receive the minimum salary or less than the minimum salary (€ 129); 13% have a net monthly salary of less than €200; 64% receive between €201 and €500; and 24% receive more than €500. On average, men and women in the sample do not differ significantly in terms of the monthly salary they receive.



Regarding contracts and pay, it is important to emphasise that women and men usually work in “female” and “male-dominated” professions in Serbia. Across different sectors, gender segregation is very visible. For example, women hold positions that are traditionally related to their roles as caregivers such as in the health or education sectors, whereas tend to work in sectors that require more physical strength, for example construction, mining and quarrying and manufacturing, to name a few. Men also are more likely to hold positions of power, both in decision-making and status.⁶⁰

⁶⁰ Statistical Office of the Republic of Serbia. (2017). *Labour force survey in the republic of Serbia, 2016*. At: <http://publikacije.stat.gov.rs/G2017/PdfE/G20175623.pdf>.

	Sex		
	Total	Male	Female
Aged 15 and over	2719.4	1531.6	1187.8
No response	/	/	-
Agriculture, forestry and fishing	506.1	314.2	192.0
Mining and quarrying	29.4	24.9	8.5
Manufacturing	448.7	287.2	161.5
Electricity and gas supply	33.3	24.9	8.5
Water supply, waste management	36.9	29.0	7.9
Construction	115.9	105.1	10.8
Wholesale and retail trade; repair and motor vehicles	376.4	179.1	197.3
Transportation and storage	132.0	105.8	26.2
Accommodation and food service activities	87.4	44.8	42.6
Information and communication	61.7	40.9	20.8
Financial and insurance activities	45.1	16.6	28.4
Real estate activities	3.5	1.7	1.7
Professional, scientific and technical activities	89.0	41.7	47.4
Administrative and support service activities	52.3	30.0	22.4
Public administration and defence; compulsory social security	143.1	84.0	59.1
Education	163.4	43.5	119.9
Human health and social work activities	160.3	38.9	121.4
Arts, entertainment and recreation	46.7	27.6	19.0
Other service activities	46.9	22.7	24.2
Activities of households as employers	139.9	68.7	71.3
Act of extraterritorial organisations and bodies	1.3	8	/

(Source: Labour Force Survey in the Republic of Serbia, 2016)

In relation to this, the latest Gender Equality Index for Serbia released in 2018 and prepared by the Social Inclusion and Poverty Reduction Unit of the Republic of Serbia, both the Index and qualitative data from this research suggest that women earn less than men and that a wage gap exists between women's and men's wages.⁶¹ In 2016, the World Bank reported that, in Serbia, when it is adjusted for relevant wage determinants, the gender wage gap was large and amounted to almost 14%.⁶² The Foundation for the Advancement of Economics also cites that the gender gap in men's and women's wages continues to affect women negatively in Serbia.⁶³ Further, if earnings are observed according to educational attainment or occupation, the difference in earnings between women and men is significantly higher than the average gender pay gap, most often favouring men. The Global Wage Report for 2018/19 indicates that factors that contribute to gender pay gaps may not necessarily be associated with differences in educational levels, rather, occupational segregation and the polarisation of gendered industries or sectors generally leads to wage gaps between men and women.⁶⁴ The Serbian Gender Equality Index for 2018 identifies much the same thing: concentrations of women in certain sectors (education, health, social work, for example) that often have lower wages than generally male-concentrated sectors.⁶⁵ The qualitative research

⁶¹ Babović, M. (2018). *Gender equality index for the Republic of Serbia*. Social Inclusion and Poverty Reduction Unit, Government of the Republic of Serbia.

⁶² World Bank. (2016). *Women's access to economic opportunities in Serbia*. S.l.: The World Bank. At: <http://ebooks.iien.bg.ac.rs/1139/1/Womens-Access-to-Economic-Opportunities-in-Serbia.pdf>

⁶³ Foundation for the Advancement of Economics. *Rodni jaz u platama u zemljama Zapadnog Balkana: Nalazi iz Srbije, Crne Gore i Makedonije*. At: https://www.fren.org.rs/sites/default/files/projects/attachments/Policy%20briefs_GPG_ser.pdf.

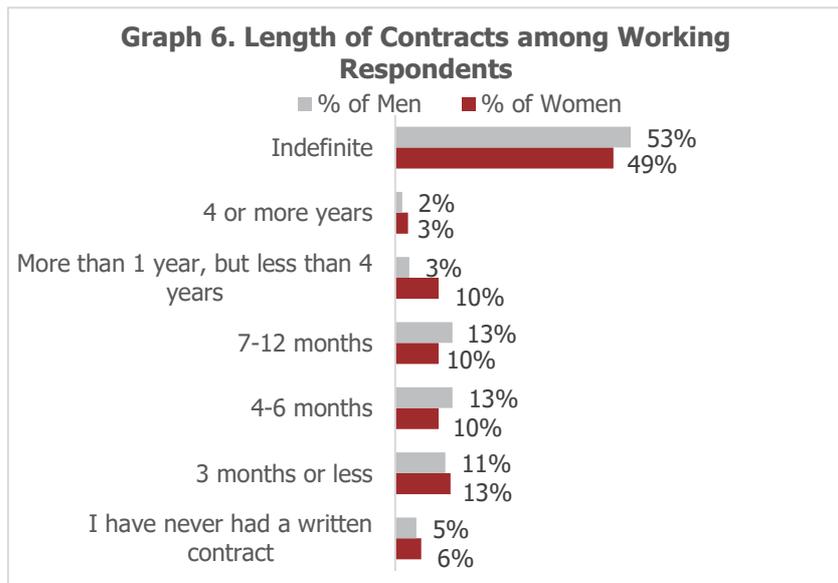
⁶⁴ International Labour Organisation. (2018). *Global wage report 2018/19: What lies behind gender pay gaps*. PRODOC. Geneva, Switzerland.

⁶⁵ Babović, M. (2018). *Gender equality index for the Republic of Serbia*. Social Inclusion and Poverty Reduction Unit, Government of the Republic of Serbia.

from this project's Literature Review indicates that the gender pay gap also exists due to the added factor of women's historically underpaid, under-valued work. Since women tend to perform the socially-ascribed role of caregivers, they may miss work more or be unable to seek employment because of family obligations at home. Family obligations may mean that women tend to get jobs that allow them to be absent and such jobs usually are underpaid. All of this can be critical for women who experience GBD in the labour market as society tends to value male dominated fields of work more than women's which could be a cause of systematic discrimination against women.

Length of current contract

Of the survey respondents that have/had an employment contract (in some period between 2008 and 2018), 50% signed an indefinite contract (50% of women and 53% of men), 9% are/were on a contract for one to four years (10% of women and 3% of men), and 3% have/had a contract for four or more years (3% of women and 2% of men). The rest of the participants, have/had employment contracts with



a duration of less than one year: 12% for three months or less (13% of women and 11% of men), 10% for four to six months (10% of women and 13% of men), and 10% (10% of women and 13% of men) for seven to 12 months. Of the participants with work experience, 6% never had a written contract. Some women perceived that men have longer contracts (7% of women, 0% of men), while some men perceived that women have longer contracts (3% of women, 10% of men). Interviews suggested that in some cases, women may be more likely to stay in a job without a contract, or to continuously sign temporary or periodical contracts. This hinders them from realising their full labour rights. One interviewee noted:

“ In the beginning I received a contract for a definite period of time. This contract was changed to a year, six months, three months. Finally, I was offered a contract for the supply of services even though I was already employed at that company for three years. I also noticed that my male colleagues did not have the same experience.

- Woman, 30, urban

As shown above, contracts can be a form of discrimination against women or other groups of people who are vulnerable in the labour market. A recurring trend is that indefinite contracts are offered to employees as a sort of award according to their merits, a conclusion could be drawn from this in a way that women are not valued enough at the workplace and therefore they are offered less favourable contracts in comparison to men. Men are overrepresented in positions of power, and as such, have higher rates of access to indefinite contracts than women.

Experience signing unread/misunderstood employment contracts

Of the survey respondents that have worked in some capacity in the last ten years, 39% indicated that they had been asked to sign an employment contract without being allowed to read and understand the terms of the contract at least once. These findings were corroborated by qualitative data. Interviewees shared that there is an unwritten rule in which employment is offered with a contract that contains an additional annex; this annex is given to a new employee to sign without reading, so as not to notice that the annex is actually a *blanco* firing unemployed notice, which is a notice of termination of employment that has not been dated. This practice is becoming increasingly common, and employers are forcing new employees to sign these *blanco* termination of employment notices as an annex to their employment contracts.⁶⁶

“ It is a common practice for both women and men to sign a *blanco* firing unemployed notice together with a contract for a definite period of time. However, for women, there is one clause which says that women are not allowed to get pregnant throughout the duration of the contract.

- Interview with a woman CSO representative, November 2018

In most cases women do not notice that they have signed a *blanco* termination of employment notice together with their employment contract. This is very problematic as it is not only a clear sign of GBD but also a violation of their rights in general.

Experience with mis-declared salary

Reportedly, in Western Balkan countries sometimes employers fail to report any or actual salaries in order to avoid paying taxes and other contributions. When asked about their experiences with mis-declared salaries, 13% of the survey respondents who had worked in the last 10 years indicated that their employer does not declare to state authorities their actual salary, and 17% do not know if their real salary is being reported. Most (70%), however, stated that their employer declares their salary correctly to the authorities. For this result, the women's sample did not significantly differ from the men's sample.

More than every fifth respondent employed in an entry-level position does not know if their employer declares their actual, received salary, compared to 13% of those employed in a mid-level position and 2% of those employed in a senior-level position. Some of the employed sample (12%) have at some point been asked to return part of their salary to their employer. There are no statistically significant differences between men and women in the sample in terms of experience with mis-declared salary.

Types of compensation for overtime

More than half (56%) of the survey respondents who worked overtime hours were not compensated for their overtime work. More men (23%) tended to receive time off as compensation for overtime than did women (12%). Additionally, men were more likely to be paid for their overtime; 31% of men compared to 16% of women indicated that they are paid for their overtime at the same or a higher rate than their usual wage.

⁶⁶ Stjelja, B. (2012, December 25). Uz ugovor za posao i potpis za otkaz. *Novosti Online*, <http://www.novosti.rs/vesti/naslovna/aktuelno.290.html:412183-Uz-ugovor-za-posao-i-potpis-za-otkaz>.

Working Conditions

Field research conducted by the Clean Clothes Campaign in Serbia assessed the working conditions of the Serbian textile and shoe industry, which is an almost entirely women-dominated sector.⁶⁷ Their findings demonstrate that the working conditions for women in this sector are very poor. The research found that the use of toilets seems generally problematic in this sector. For example, women reportedly have been required to use diapers in order to avoid going to the toilet.⁶⁸ Such cases show that poor working conditions are not only confined to the conditions of the factory, but they extend to human rights abuses that undermine women's dignity and integrity. Further, women interviewees said that managers and supervisors acted disrespectfully towards them, as well as used intimidation tactics. Factories also had poor air quality, as interviewees shared that the ventilation systems did not work or were inadequate. Moreover, many workers mentioned excessive heat in summer, which caused some of them to faint at work.⁶⁹

The survey launched by Kvinna till Kvinna and its partners revealed research findings that are similar to the Clean Clothes Campaign's findings: more than half (60%) of the survey respondents that have been employed in the last ten years perceive that their health or safety is at risk because of their workplace. Correspondingly, interviews indicated that women and men are treated differently in terms of health in the workplace. More specifically, an interviewed woman shared:

“ While I was employed in that factory, only men had regular check-ups due to unhealthy working conditions. The manager said that women do not need the check-ups. Throughout the 17-year period of working in that factory I had only one visit to the doctor, in spite of the fact that we all work with acetone and diluent. One worker complained to the Labour Inspectorate, but they said that we were not working with poisonous chemicals.

- Woman, 48, urban

That men at the same factory have access to check-ups and women do not suggests a clear form of GBD at work.

Regarding the right to take days off, 49% of surveyed persons (59% men and 47% woman) who had worked had been denied the right to take off work for sick leave, national holidays, or annual leave at least once. Qualitative interviews confirmed survey data, as illustrated by a woman who signed a contract for temporary and periodic work:

“ I know some people working in the public sector who have had contracts for temporary and periodical jobs for over 10 years. They did not have a proper annual leave because that contract does not include any rights that are recognised under Labour Law. Therefore, these people couldn't take days off, sick leave and all of these rights are arbitrary, which means that everything depends on the will of the employer.

- Woman, 31, urban

Another respondent said:

Experience with denied right to take off work for sick leave, national holidays or annual leave seem to be evident for both men and women from the above presented research

⁶⁷ Tamindžija B., Aleksić S., Musiolek B. (2017). *Country profile: Serbia*. Clean Clothes Campaign. At: <https://cleanclothes.org/livingwage/europe/country-profiles/serbia>. Field research was conducted between June and September 2017. The methodology involved 48 interviews with textile workers across the country.

⁶⁸ Ibid.

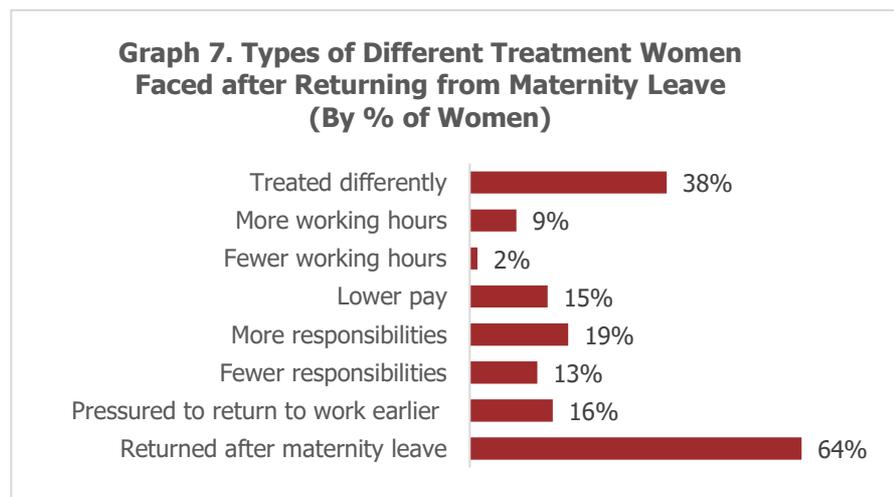
⁶⁹ Ibid.

findings. Albeit, women seem to be additionally vulnerable to those incidents, suggesting that GBD is present in relation to the infringement of these particular labour rights in Serbia as well.

Pregnancy and Maternity Leave

As mentioned, many employers are reluctant to hire young women due to potential pregnancy and motherhood, but motherhood also may contribute to other obstacles for women in their careers. Data shows that 22% of women who participated in the survey had experienced pregnancy while employed. Of them, 28% had been denied their right to paid maternity leave; they were neither paid nor received a government benefit. Among them, 13 (46%) were working in the private sector, 13 (46%) in public administration, one (4%) in a publicly owned enterprise and one (4%) in an international CSO.

After their maternity leave, 64% of the women who had taken maternity leave at some point in their career returned to their previous place of employment, and 16% indicated that they were pressured to return to work earlier than planned. After their maternity leave, 38% felt that they were treated



differently by their peers or boss because they took the leave. When asked specifically about the 'before and after treatment' 13% believed that they had fewer responsibilities when they returned to work, and 19% felt that they had more (See Graph 7).

Further, 15% said that they had lower pay upon returning from maternity leave, and 9% said that they had more working hours when they returned. The survey results indicate that some employers in Serbia continue to breach the law when it comes to maternity leave.

Qualitative data suggest that in some cases, maternity leave can be a factor in women losing their jobs. Alternatively, a woman may return from parental leave to a lower position, with the explanation that she is no longer able to perform the previous job:

“ I was employed through a contract for temporary and periodic jobs, which was constantly being prolonged by three months at a time. When I got pregnant, I realised that my contract will not be prolonged any more. According to that contract there is no maternity leave, so some employers allow women to go on maternity and some don't.

- Woman, 31, rural

As these experiences suggest, findings indicate that employers can be creative in navigating the legal framework in order to avoid the legal obligation to allow their staff to take a maternity leave. For example, one employer had two registered firms in order to operate within legal loopholes. When one staff member became pregnant, her employer had already had her sign a contract with the employer's other firm, to which the pregnant employee was 'transferred'.⁷⁰ By transferring her to another company, the employer was able to close her original place of work, leaving her with a contract for a fictional position but without her original job.⁷¹

“ I had a friend who used to work in a bakery. She was 50 and the conditions at her workplace were good, as she mentioned. Then she got sick and needed to take a longer sick leave. When she went to the general practitioner, they said to her that she does not have an insurance. She was so confused and the accountant at her workplace explained that she actually got fired two months ago without knowing about that. This situation implies that she signed blanco firing unemployed notice without knowing [it], and once the management realised that she will be on sick leave, they used it to fire her.

- Interview with a woman CSO representative held in October, 2018

Though this is only one example of how employers circumnavigate the law identified through this research. Another practice used by employers is to require employees to sign contracts for a definite period of time, thereby avoiding giving the employee a permanent position and a contract for an indefinite period. According to the law, after a certain period, the short-term contract for a definite period of time should be replaced with a contract for an indefinite period. In order to avoid this, after the definite contract expires, some employers ask employees to sign a contract with another firm. This can be interpreted as a form of discrimination, particularly against women, in order to avoid maternity leave.

“ My friend had a high managerial position in a big company. After she left for maternity leave, another person replaced her. When she returned, they fired her by saying that her position is no longer needed. In order to hire someone for the same position they created a new position with similar tasks and that is how they bypass the law. They immediately employed another person for that position, which was practically hers. She has been suing the company for gender-based discrimination and unlawful termination of contract. She is still in that process, which already lasted more than four years.

- Interview with a woman CSO representative, September 2018

Paternity Leave

Although the Labour Law⁷² allows fathers 100% compensation to be provided by the state during paternity leave, qualitative data suggests that this practice remains uncommon in Serbia as men are not taking it. Most men survey respondents (80%) who answered questions on paternity leave agree that men should have more paid time off for paternity leave. When asked about permission to take paid paternity leave, more than half (60%) of the surveyed employed men responded that their employer would give them paid paternity

⁷⁰ Interview with woman lawyer held in October, 2018.

⁷¹ Ibid.

⁷² Article 94 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)

leave. Further, 60% said that their employer allowed them to take off five days, and 13.3% said that they had one week off. When asked how they were treated after the leave 93.3% said that they were treated the same.

Sexual Harassment at Work

Although sexual harassment is forbidden by the Serbian legal framework, it remains widespread. Research by the Autonomous Women's Centre found that one third of young women experienced some form of sexual harassment, ranging from unwanted touching to more explicit forms.⁷³ The most common type of sexual harassment faced by every second young woman in Serbia was unwanted cat-calling, sending kisses and simulating licking.⁷⁴

When it comes to sexual harassment at work, more women experience sexual harassment than men. Of the women surveyed through this research, 40% indicated that they had experienced at least one form of sexual harassment at work, and every fifth woman (21%) was subjected to it more than once. The sample of men subjected to sexual harassment at work is significantly smaller: only 12 men survey participants had experienced some form of sexual harassment.

Table 2 presents the regression coefficients, odd ratio values and their 95% confidence intervals. The reference group of every variable is in brackets.

Table 2: Predicting the experience of sexual harassment in the workplace

	B	S.E.	O.R.	95% C.I. for O.R.	
				Lower	Upper
Constant	*** 1.323	.351	.266		
Gender (men)	*.955	.426	2.598	1.129	5.983
Age (30-39)					
• Under 30	.328	.318	1.388	.744	2.590
• Between 40-49	.176	.279	1.193	.690	2.063
• 50+	.421	.441	1.524	.642	3.614
Education (Secondary education)					
• Bachelor degree or vocational higher education	-.041	.307	.960	.526	1.753
• Master's degree or PHD	-.058	.341	.943	.484	1.840
Place of residence (Belgrade)					
• Other city in Serbia	.298	.267	1.348	.799	2.273
• Rural place	-.773	.833	.461	.090	2.362
Monthly net salary (301-400)					
• Less than 200 EUR	.339	.400	1.403	.641	3.070
• 201-300	-.161	.362	.852	.419	1.732
• 401-500	-.157	.337	.855	.442	1.654
• More than 500 EUR	.455	.360	1.577	.778	3.194
Employment sector (Public sector)					
• Private sector	.423	.272	1.527	.896	2.603
• Civil society or other	.184	.372	1.201	.580	2.490
Employment position (Senior-level position)					
• Entry-level position	.495	.432	1.640	.703	3.823
• Mid-level position	.465	.410	1.591	.713	3.551

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

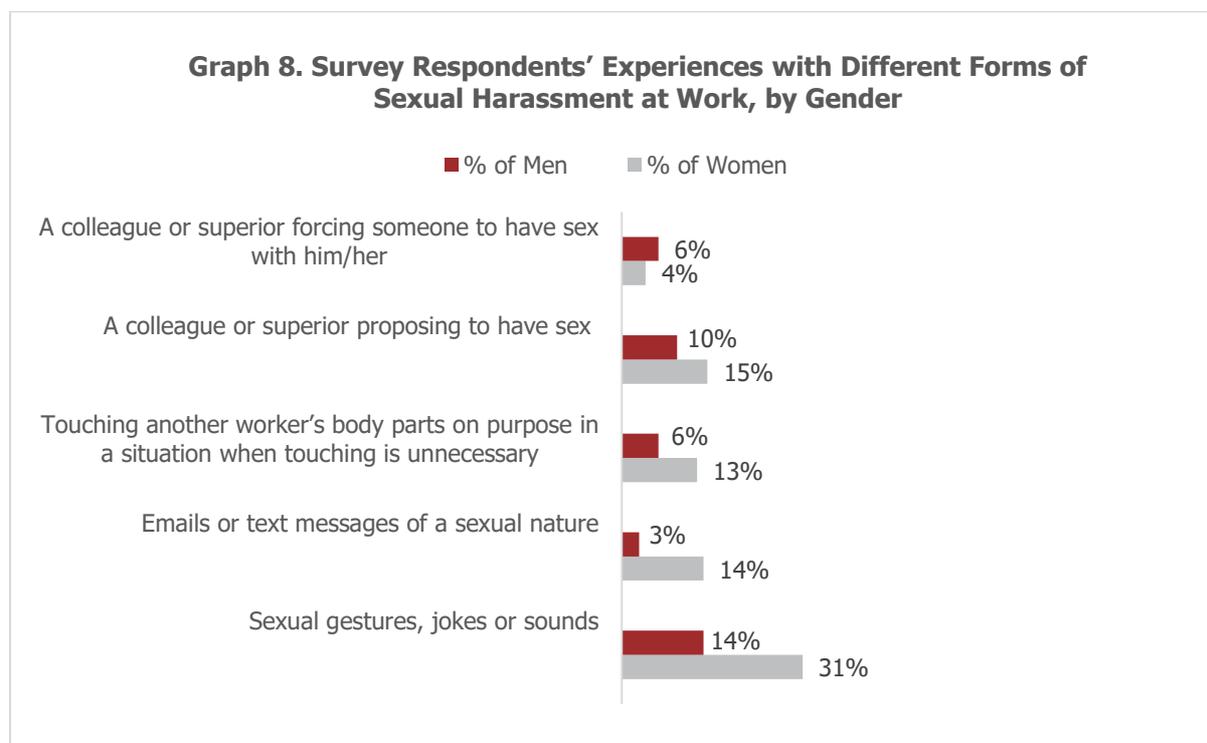
⁷³ Autonomous Women's Centre. (2018). *Perception and experience of sexual harassment by youth: Field research*. Belgrade, Serbia. At: https://www.womenngo.org.rs/images/publikacije-nasilje/Percepcija_i_iskustvo_mladih_u_vezi_sa_seksualnim_uznemiravanjem_2018.pdf.

The research was conducted on a sample of 602 participants in Novi Sad, Niš and Belgrade.

⁷⁴ Ibid.

The assessment of multivariate relations indicates that gender is the only significant predictor of the probability of experiencing sexual harassment. When controlled for other demographic characteristics, such as their sector of employment, working position and monthly net salary, women have more than two and half times (2.6) greater odds of experiencing sexual harassment in the workplace.

Regarding specific forms of sexual harassment at work, 31% of surveyed women (compared to 14% of men) had been subjected to sexual gestures, jokes, or sounds, and 14% had received emails or text messages of a sexual nature from a colleague or superior (compared to 3% of men). In total, 13% had been subjected to unwanted touching of private parts, their bottom or breasts (compared to 6% of men). Moreover, 15% of women received a proposal for sex from a colleague or superior (compared to 10% of men). The only instance in which more men had experienced sexual harassment at work was in the form of a colleague or superior forcing them to have sex: 4% of women indicated that this had happened to them at work, compared to 6% of men (See Graph 8).



Some respondents shared their experiences:

“ That was going on in the private firm with a small number of employees with an informal atmosphere. There were no explicit invitations, but there were comments like, 'I was thinking of you last night,' [and] 'When are we going to go to Hawaii?' There were hugs I was not prepared for and an attempt to kiss me.

- Woman, 33, urban

“ I experienced mobbing and discrimination in the workplace. I refused to answer to my employer's invitation after working hours. For example, he invited me to the cinema. Because I was not responsive towards him, I was subjected to critique, workload and inquiries to stay longer after working hours. Eventually I quit because everything was not bearable.

- Woman, 39, urban

“ In the first company I was sexually and politically blackmailed in order not to be on the blacklist. Finally, I got fired because I was not a compromising type. In the second company I felt discriminated against because the employer was envious of my looks.

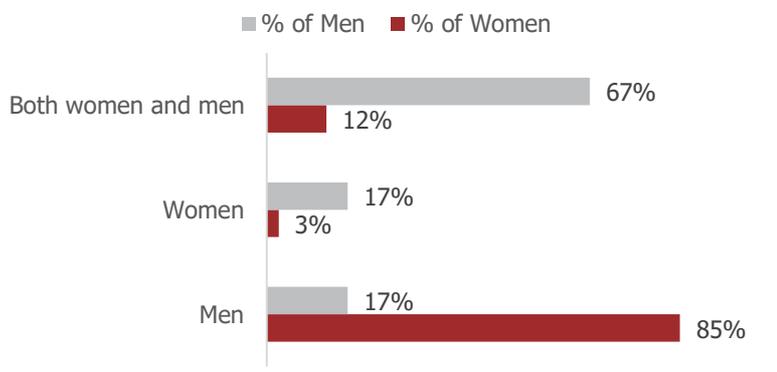
- Woman, 46, urban

“ The manager and his colleagues were frequently teasing me with sexual connotations and tried to have sex with me. I was handling that for more than a couple of years.

- Woman, 28, rural

Of the women who reported experiencing sexual harassment at work, 85% stated that the perpetrator was a man and 12% had experienced harassment from both men and women. Only 3% of the victimised women said that the perpetrator was a woman. The sample of men subjected to sexual harassment at work was significantly smaller (only 12 participants) but more than half (8 participants, 67%)

Graph 9. Gender of Perpetrators of Sexual Harassment, by Gender of respondent



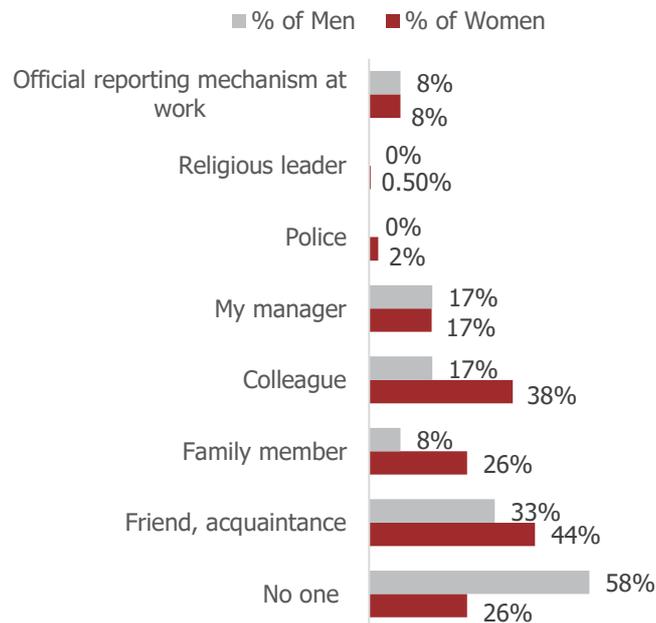
stated that they had been a victim to both women and men perpetrators (See Graph 9).

In total 34% of respondents who were subjected to at least one form of sexual harassment were employed in the public administration, whereas 44% of respondents were employed in the private sector. Thus, survey responses suggest that harassment may occur more often in the private sector, however, the sector in which a person works is still not a statistically significant determinant of the probability of experiencing sexual harassment.

When asked about the position of perpetrators, 74% stated that they have been harassed by persons who work in higher positions than them. Although the sample of men who experienced sexual harassment is very small, from the observed proportions it is evident that they may be equally susceptible to harassment by persons working at the same level in the workplace hierarchy, as well as by people in higher positions. In contrast, for women most perpetrators are superiors or persons above them in the hierarchy.

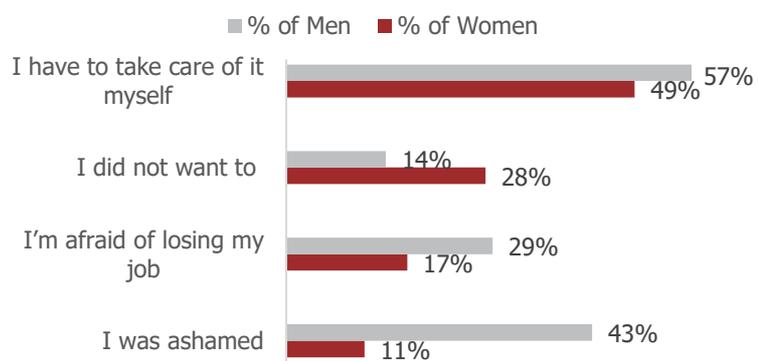
More than every fourth woman (26%) who survived sexual harassment in their workplace had not shared or reported their experience; 44% told a friend or acquaintance; 38% told a colleague; and 26% shared the experience with a family member. Few women formally reported the experience: 17% told their manager, 8% used an official reporting mechanism at their workplace and 2% reported the sexual harassment to the police. Although the sample of victimised man is too small to be conclusive, it's interesting to point out that more than half (7 participant out of 12) told no one about the experienced sexual harassment (See Graph 10).

Graph 10. To Whom Did Respondents Report Sexual Harassment



Nearly half of the women (49%) who did not report the experience of sexual harassment said that they wanted to take care of it by themselves, and 28% said that they did not want to report it at all. In total, 17% were afraid that they would lose their job if they reported the incident(s), and 11% were ashamed (See Graph 11).

Graph 11. Reasons Why Sexual Harassment at Work Was Not Reported



Interviews with women who experienced sexual harassment also shared that rather than reporting incidents, they quit their jobs where the harassment took place. For example, some interview respondents said:

“

I did confront my employer with his sexual behaviour towards me, and I told him that he cannot act like that anymore. As a consequence, I could not obtain permission to get unpaid leave.

- Woman, 44, urban

“

Instead of reporting sexual harassment, I quit the job. I am certain that none of the institutions will respond to my complaint, and I have no trust in them.

- Woman, 29, urban

“

I am afraid to report all these incidents related to sexual harassment because I need this job, so it is better to be quiet in order not to lose it.

- Woman, 32, urban

The sample of women and men is too small to draw conclusions regarding the reasons why they did not report harassment. Having in mind that the survey sample is a non-probability sample and that the participants are self-selected, we cannot draw any concrete conclusions, however, the survey respondents shared that many believe that harassment should be handled personally, by themselves. It seems that another reason for not reporting sexual harassment is similar to what women answered, in that interviewed women believed that they would not see justice and/or that they would be subjected to even more severe treatment at work after reporting. This rationale may also be applicable to men.

THE INSTITUTIONAL RESPONSE TO DISCRIMINATION

This chapter examines knowledge, attitudes, and treatment of discrimination cases by the relevant institutions in Serbia. Therefore, the data that informs this section draws from the Literature Review, Legal Analysis, qualitative semi-structured interviews and responses to the online survey regarding individuals' experiences when interacting with institutions. Data was also gathered through Freedom of Information requests sent to relevant institutions, in accordance with Serbia's Law on Free Access to Information of Public Importance, some information on GBD in the labour market was obtained.

The institutions responsible for addressing GBD in the labour market in Serbia did not respond to multiple requests for interviews or data related to this research. Nor were they willing to share knowledge and best practices regarding this issue. For instance, the Ministry of Labour, Employment, Veteran and Social Policy was contacted more than four times, via e-mail and telephone correspondence, and none of the Ministry staff that the researcher contacted were willing to schedule an interview. Interview requests and follow-up requests were sent country-wide to Prosecutors' Offices as well as Civil Courts, and no responses were received. The EU Delegation to Serbia office in Belgrade wrote a Letter of Support, which also was sent to these institutions, but to no avail. Similarly, the Labour Inspectorate offices were unwilling to schedule interviews. While some institutions, and all CSOs, were responsive to interview requests, the main institutions that address GBD in the labour market did not respond to multiple interview requests. Their lack of cooperation made it difficult to explore how relevant institutions have treated discrimination cases to date.

Civil Courts

According to data received from Civil Courts throughout Serbia, the number of cases they have processed regarding GBD in the labour force between 2008 and 2017 cannot be disaggregated by gender or types of violations, including sexual harassment because the program that is called AVP cannot retrieve these data. Rather, courts file cases only in general as discrimination/mobbing. The only possible solution is for courts to analyse each case manually and see if there were elements of discrimination at work based on gender and/or sexual orientation. Therefore, it is difficult to analyse or conclude whether any GBD has occurred.

The Commissioner

The Commissioner provided information related to several labour-related cases filed by citizens. It is clear if the discrimination cases involved GBD (see Table 3), having in mind that the Commissioner collects the numbers of cases of GBD in the area of labour and employment, disaggregated by gender. These cases can be divided by the nature of discrimination and the gender of the claimant.

Table 3: Number of labour-related complaints received by the Commissioner

	2010	2011	2012	2013	2014	2015	2016	2017
1.1 Number of cases of discrimination based on gender - Cases filed by women	3	16	9	20	20	97	29	23
1.2 Number of cases of discrimination based on gender - Cases filed by men	0	2	3	2	1	14	15	10
2. Number of cases of discrimination based on sexual orientation	0	3	1	2	4	0	2	4
3. Number of cases of discrimination based on gender identity	0	1	0	0	2	2	2	0

It is noticeable that more women file complaints involving discrimination in the labour market with the Commissioner than do men. Such a difference in reporting may indicate that women tend to face higher rates of GBD in the labour market than men. This finding would parallel the findings from the interviews, the online survey, and the Literature Review.

Data from the Commissioner suggest that very few LGBTQIA+ persons have filed complaints regarding GBD at work. In Serbia, there is still an issue of not reporting discrimination based on sexual orientation or gender identity. LGBTQIA+ people may not lodge complaints because it is difficult to prove that discrimination was based on their sexual orientation or gender identity.⁷⁵

Table 4: Number of discrimination-related recommendations issued by the Commissioner

	2010	2011	2012	2013	2014	2015	2016	2017
In instances when complainant was a woman	1	0	0	3	6	5	3	4
In instances when complainant was a man	0	0	0	0	0	1	1	2

Table 4 shows that the Commissioner issued more recommendations in labour-related cases for women than for men. This may suggest that women may be more likely to experience discrimination in the labour market. Similar to what was previously mentioned, the fact that more women have filed discrimination cases does not necessarily mean that these cases were on the grounds of GBD. In only one case did the Commissioner issue a recommendation related to a case involving a trans* person.

The Commissioner has created an Equality Code of Practice, which are guidelines for developing an Anti-discrimination Policy for Serbian employers,⁷⁶ following the findings of the project 'Support to the Advancement of Human Rights and Zero Tolerance to Discrimination'.⁷⁷ Under the project, the office of the Commissioner conducted various activities with the Chamber of Commerce and Industry of Serbia and promoted the guidelines. The Commissioner also collaborated with the Association of Business Women in Serbia, and in 2018, over 40 women-owned businesses signed the *Partnership for Equality* in the promotion of equality and prevention of discrimination in the labour market. This Equality Code of Practice is an example of how the institution has sought to prevent violations and GBD in relation to labour.

⁷⁵ Interview with woman CSO representative held in November, 2018.

⁷⁶ The Commissioner for the Protection of Equality. (2017). *Equality code of practice: Guidelines for developing the Anti-discrimination Policy for employers in Serbia*. Belgrade, Serbia.

⁷⁷ The EU Twinning project 'Support to the advancement of human rights and zero tolerance to discrimination' started in 2014 with the aim to support Serbia's continuing efforts to align its legislation with the *acquis* and establish an efficient and effective system for combating discrimination.

While useful, the Commissioner's work on this issue and the guidelines themselves have lacked significance in practice. Interview findings suggest that the Commissioner still needs to be better recognised as an authority in this field by providing recommendations, acting upon complaints of discrimination according to the provisions in Article 2 of the Law on the Prohibition of Discrimination, and initiating court procedures. Further, the Commissioner's recommendations made to date must be put to practice by employers throughout Serbia. Recommendations made by the Commissioner are legally binding, though it does not have power to penalise perpetrators if they fail to observe the recommendations. Additionally, the Commissioner can also inform the public if the perpetrator did not abide by the recommendations, but is not authorised to force someone to implement recommendations which represents an obstacle in fighting against GBD in the labour market.⁷⁸

Labour Inspectorate

The role of the Labour Inspectorate is to supervise the implementation of laws and other provisions in the field of labour, labour relations and health and safety at work.⁷⁹ Activities of the Labour Inspectorate in the field of labour relations and safety and health at work aim at suppressing illegal work, reducing the number of work-related injuries and legal protection of employed persons in cases of unpaid wages, non-payment of wages, discrimination or overtime work.⁸⁰

Bearing in mind that since the establishment of the Commissioner, discrimination has been the most prevalent in the field of labour and employment. In 2017 and 2018 Commissioner conducted trainings for Labour Inspectors under the title "Application of Anti-Discrimination Regulations". The trainings took place in Belgrade, Novi Sad, Kragujevac, Niš, Subotica, Pirot and Čačak and included all Labour Inspectors. Despite this official role of the Labour Inspectorate and capacity-building trainings initiated by the Commissioner, interviews suggest that the capacities of this institution are very low, which affects their effectiveness:

"The situation is not good with the Labour Inspectorate. There is a lot of corruption. What is more, they lack human resource capacity and therefore are not able to do their job properly. People who work there also do not possess sufficient knowledge that is required in order to tackle issues related to gender-based discrimination.

- Interview with woman CSO representative, November 2018

"Inspectors have their check-up visits to companies, factories and other workplaces. These visits need to be unannounced. However, this is not the case. Everyone knows when the visit will happen, which allows for the directors and managers to prepare in advance and create working conditions that are aligned to rights of the workers. If someone takes a stand against such a way of acting, that person will suffer consequences usually in terms of losing the job.

- Interview with woman CSO representative, November 2018

On the other hand, interview findings with one CSO suggest that Labour Inspectorate works efficiently well when it comes to their reports regarding suspicious companies or illegal

⁷⁸ Interview with woman representative from governmental institution held in October, 2018.

⁷⁹ Official website representation of the Ministry of Labour, Employment, Veteran and Social Policy of the Republic of Serbia, at: <https://www.minrzs.gov.rs/lat/inspektorat-za-rad.html>. (Accessed November 2018).

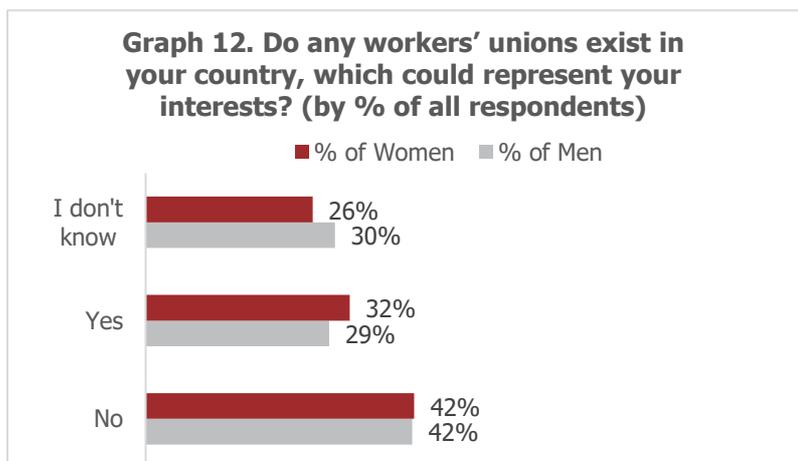
⁸⁰ Ibid.

activities, as they become aware to them through their watchdog role. In other words, the Labour Inspectorate is active in shutting down severe violations of the Constitution or International law, when it comes to illegal operations, but it may have a slower response rate, according to other interviews and survey results, when it comes to legal workplaces and labour violations committed there.

Labour Unions

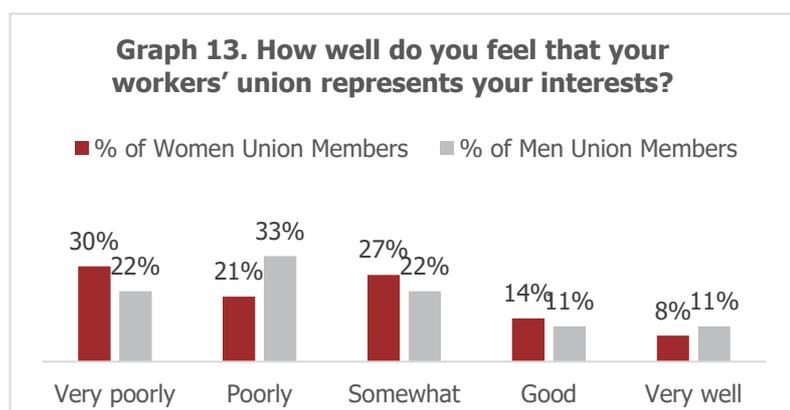
Labour unions in Serbia are organisations of members and representatives that, through collective bargaining with employers, seek to protect and improve the incomes of their members, provide job security, protect labour rights, and represent labourers and advocate on their behalf when their labour rights are violated. In Serbia within the 25 years of trade union pluralism that followed socialism, over 20 000 unions were formed.⁸¹

The quantitative research indicates that 42% of survey respondents believe that there are no labour unions that represent their interests. A significant portion of the survey sample (30%) did not know if unions exist. This may indicate that labourers are uninformed and disconnected from labour unions. Meanwhile, 29% believed that there are workers' unions in Serbia that



represents their interests. Although most survey respondents do not believe in workers' unions or know if they exist, nearly half (47%) of the sample said they are union members (See Graph 12). Still, half of the participants (51%) think that unions represent poorly or very poorly their interests. There is no significant difference between samples of women and men (See graph 13).

Interviews with union representatives suggest that labour unions do not see GBD in the labour market as an issue that needs to be seriously addressed or even investigated. Although an interviewed union representative noted the importance of gender equality in employment rights, it seemed that no major steps



have been taken in this direction. For example, the union had organised various seminars and presentations (for example for International Women's Day), but no concrete actions had been taken. Further, no cases of GBD had been reported to the union regarding discrimination, and

⁸¹ G.V. (2017, March 21). U Srbiji ima 20000 sindikata. *Danas*, at: <https://www.danas.rs/ekonomija/usrbiji-ima-20-000-sindikata/>.

it had no unified system for collecting data concerning discrimination at work. Therefore, it also was not possible to segregate data by the nature of discrimination or gender.

Similar to the above-mentioned findings, recent research on labour rights in Serbia, conducted by the Centre for Syndicate Development with a sample of 2000 respondents,⁸² research findings showed that many respondents did not trust unions. Only 9% of the workers surveyed indicated that they had trust in unions, 32% had little trust in unions, whereas 59% had no trust.⁸³ This general lack of trust may partially explain why respondents in this research project were also unwilling to reach out to unions or union representatives about their working conditions or labour rights infringements. The Centre for Syndicate Development research found that unions are more focused on workers who have indefinite contracts, while the majority of those with short-term contracts, or contracts for temporary or periodical work, are not prioritised.⁸⁴ By prioritising in a way that does not treat all labourers equally, unions in Serbia are losing membership and therefore their power as major stakeholders in protecting workers and upholding Serbian labour laws. The authors of the Centre for Syndicate Development study raise concern about the way unions are functioning and being organised as well. The findings suggest that many union members, especially those in top positions, are affiliated with political parties.⁸⁵

CSOs

The civil society sector is rich in Serbia, and many organisations deal with discrimination in its various forms, in all facets of society. Organisations are primarily working with LGBTQIA+ persons, PWD, ethnic minorities and/or persons who have experienced gender-based violence. However, very few CSOs in Serbia focus specifically on tackling GBD in the labour market.

The latest research of the Centre for Syndicate Development suggests that individuals in the labour force do not sufficiently trust the work of CSOs dealing with workers' rights.⁸⁶ Interviews conducted with CSOs working in the field of labour rights as part of the Kvinna till Kvinna research indicate that they lack institutional data. Therefore, their work is limited. Similarly, many organisations seem to be project-based, dealing with issues according to

“

Some CSOs are not that efficient in tackling the topic of GBD. The situation is not good. CSOs have similar problems to those of public institutions. Corruption is widespread everywhere. For example, you have organisations that are dealing with human rights, and if you look deeper, they are not respecting the human rights of their own employees. Many workers in CSOs work illegally, which means that they do not have a contract, or they have service contracts. And then you have a situation where these organisations are conducting a project to improve labour rights. It's like a vicious circle.

- Interview with a woman CSO representative, November 2018

⁸² Mihailović, S., et al. (2018). *The activity of workers and Civil Society: Protecting and strengthening labour rights*. Centar za razvoj sindikalizma. Belgrade, Serbia. The qualitative research was conducted with a sample of 2000 respondents (500 workers with indefinite contracts, 500 with definitive contracts, 500 with service contracts and 500 with no contract).

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Mihailović, S., et al. (2018). *The activity of workers and Civil Society: Protecting and strengthening labour rights*. Centar za razvoj sindikalizma. Belgrade, Serbia. At: http://sindikalizam.org/wp-content/uploads/2019/03/Radna_prava_Istra%C5%BEiva%C4%8Dki_izve%C5%A1taj.pdf.

donors' priorities. This may explain in part why few Serbian CSOs focus on GBD in the labour market. One interviewee said:

Even though there are CSOs that fit into the mainstream model of not respecting labour rights of their own employees, there are still many do respect and that should be kept in mind, one interviewee explained.⁸⁷ Another challenge highlighted in interviews regarding CSOs' work in Serbia is that very few CSOs have ongoing collaboration with governmental institutions. One interview respondent stated:

“ *If they (government institutions) are not willing to act transparently and responsively to the work of CSOs, not much can be done to address GBD and improve the situation in the labour market.*

- Interview with a woman CSO representative, November 2018

Generally speaking, the institutional response to discrimination is weak in Serbia. Furthermore, tackling GBD in the labour market can be hindered by government's unwillingness to collect and share data. Such a lack of data collection can have an impact on monitoring relevant institutions when observing whether they are working transparently and whether they are implementing all of the applicable anti-discrimination legislation.

⁸⁷ Interview with woman CSO representative held in November, 2018.

RECOMMENDATIONS

Ministry of Labour, Employment, Veteran and Social Policy

Access to information of public importance must be improved, as well as the quality of cooperation between CSOs and the Ministry of Labour, Employment, Veteran and Social Policy in regards to sharing information related to labour rights and GBD. This would include proactive and regular publishing of documents and reports of their achieved work results, especially those referring to marginalised groups in the field of labour rights. Additionally, it is recommended that the Ministry of Labour, Employment, Veteran and Social Policy engages in ongoing communication with the CSO sector, identifying the CSOs that work on issues of labour rights as field experts and working to maintain those relationships. They should, further, look to CSOs working with marginalised and at-risk groups in order to better understand the intersectionality that exists in the topic of GBD in labour. The Ministry ought to share their research findings and relevant gender-disaggregated statistics with CSOs, as well as be up-to-date with new research that is being published on the topic of labour rights in Serbia. Government institutions, in general, need to be aware of, and engaged in, gendered issues when it comes to the labour market, and especially when it comes to GBD.

The recommendations proposed for the Ministry of Labour, Employment, Veteran and Social Policy are especially important when introducing new measures for addressing unemployment. Following the publication of this research project, it is advised that all new measures, including affirmative action strategies, take special consideration when addressing gendered differences in the labour market, as well as gendered differences that intersect with other forms of added marginalisation. such as ethnicity, age, and ability. This would ensure that the measures or affirmative actions are properly addressing the needs of those who are members of more vulnerable populations.

Labour Inspectorate

It is recommended for the Labour Inspectorate to increase their capacities and employ more inspectors working in this institution, in order to be able to address all the issues concerning labour rights.⁸⁸ It is also vital to make sure that their work is conducted independently with no political bias. Therefore, it is of utmost importance to ensure an effective mechanism of internal control. Regarding the issue of GBD, it is essential to build capacities of the Inspectorate in addressing discrimination related to gender through undertaking gender trainings, so as to better recognise and address it at a structural level.

Civil Courts

It is recommended for courts to improve their data collection and segregate cases they have processed by gender and types of violations that include sexual harassment. This means that data collection has to be systematised and gender-disaggregated. In this way, it will be

⁸⁸ In relation to this recommendation to, is important to note that the Serbian Parliament passed a new Law on Reduction of Net Wages for Public Sector Employees. The ban on public sector employment will be in force until December 31, 2019.

possible to follow the trends and draw conclusions from the cases that have been processed which could be useful for policy-making.

It is recommended for the professionals working in the justice system go beyond simply understanding the law and undertake training on GBD in the labour market in order to better understand it, its structural causes, the systems that keep it in place, and to address it effectively in court proceedings. This would contribute to increased trust in the public and governmental institutions that are responsible for tackling this problem. It is important that the law is put into practice and that the courts are setting examples of legal praxis for cases of GBD, which is prohibited by law, but which is rarely addressed at the court level or in the Serbian legal system.

Other Governmental Bodies (Ombudsperson, Commissioner for the Protection of Equality)

The role of other government bodies, outside of Ministries, is to support projects in researching and monitoring labour rights, and especially women's labour rights, in Serbia. This means on-the-ground support of groups and organisations already doing this type of work in this field. Rather than supporting government organised CSOs, government bodies must branch out to empower CSOs and women's CSOs in carrying out their research and monitoring role. Government institutions ought to be introducing specific policies, projects, and strategies for women who are part of marginalised communities. It is also recommended that all government institutions introduce gender responsive budgeting into their frameworks and budgeting. All relevant government institutions that do not do so already should also be keeping gender disaggregated data in their databases, so as to better inform future research and policy-making for women's unique needs or barriers, where applicable. This is especially important for budget categories that, over time, may not increase; rather than waiting for budgetary increases, government institutions ought to be restructuring how the money that they do have is being spent in applicable budget categories.

Labour Unions

It is recommended for Labour unions to advocate for labour rights more prominently in order for workers to recognise them as a major stakeholder in the domain of labour rights. Unions must focus on rebuilding relationships with the Serbian labour force; workers need to feel empowered and know that their rights are not only being protected, but that a monitoring system is in place for instances of discrimination, as well as a reliable institutional framework that will advocate for their rights on their behalf. It is also highly recommended for the labour unions to not only focus on those who have contracts for indefinite period of time, but also on those with short-term contracts for a definite period, or contracts for temporary or periodical work. It is of the utmost importance for labour representatives to protect all labourers equally. Further, they must raise their capacities on gender equality and GBD in order to better identify and collect cases of GBD in the labour market and address them appropriately.

CSOs

It is of utmost importance to raise awareness and improve the knowledge of general population on issues of GBD in the labour market, especially for more vulnerable groups that are marginalised in Serbian society. This is important so that those who have experienced discrimination can recognise the nature of GBD and be empowered in filing a complaint to the responsible institution. Serbian society as a whole must be aware of what GBD in the labour market is, what their rights are, and what their options are if they have lived experience in it.

It is recommended to disseminate the information on support services for GBD in the workplace, and other violations of rights in the labour market. This could be done through different media channels such as leaflets, commercials, posters, websites. Information must be more accessible than it is, and in instances when the governmental institutions are not providing the information that civilians require, CSOs will have to address those gaps. CSOs are also encouraged to conduct court monitoring of workplace GBD cases: monitoring relevant institutions to observe whether they are working transparently and whether they are implementing all of the pertinent anti-discrimination legislation, as outlined in the Legal Analysis of this report.

It is essential to implement projects that raise awareness of the employers on GBD in the labour market in order to recognise cases of GBD and properly respond to them in a way that empowers those who are most often discriminated against in the workplace.

BIBLIOGRAPHY

Laws

- Constitution of the Republic of Serbia (Official Gazette of the RS no. 98/2006)
- 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 i 94/2016)
- 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)
- Law on Equality between Sexes (Official Gazette of the Republic of Serbia, 2009-12-11, No. 104/09)
- Law on Financial Support for Families with Children (Official Gazette of the Republic of Serbia, No. 113/2017 and 50/2018)
- Law on Prevention of Discrimination against Persons with Disabilities (Official Gazette of the Republic of Serbia, No. 36/2009, 32/2013)
- Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of RS, br. 36/2009).
- Law on the Prohibition of Discrimination in the Republic of Serbia (Official Gazette of the Republic of Serbia No 22/2009)

Work Cited

- Autonomous Women's Centre. (2018). *Perception and experience of sexual harassment by youth: Field research*. Belgrade, Serbia. At: https://www.womenngo.org.rs/images/publikacije-nasilje/Percepcija_i_iskustvo_mladih_u_vezi_sa_seksualnim_uznemiravanjem_2018.pdf.
- Babović, M. (2018). *Gender equality index for the Republic of Serbia*. Social Inclusion and Poverty Reduction Unit, Government of the Republic of Serbia.
- Bebac.com. (2018, July 3). Imaš platu – Ne rađaj!. *Bebac.com*. At: <https://www.bebac.com/vesti/imas-platu-ne-radaj>.
- Dokmanović, M. (2016). *Gender analysis for Serbia*. European Delegation in Serbia. Belgrade, Serbia.
- European Commission. (2016). *Screening report Serbia: Chapter 19: Social policy and employment*. At: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/serbia/screening-reports/screening_report_ch_19_serbia.pdf.
- European Commission. (2018). *Commission staff working document: Serbia 2018 report*. Strasbourg, France. At: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf>.
- European Commission for Democracy through Law (Venice Commission). (2007). *Opinion on the Constitution of Serbia*. Strasbourg, France.
- Foundation for the Advancement of Economics. *Rodni jaz u platama u zemljama Zapadnog Balkana: Nalazi iz Srbije, Crne Gore i Makedonije*. At: https://www.fren.org.rs/sites/default/files/projects/attachments/Policy%20briefs_GPG_ser.pdf
- G.V. (2017, March 21). U Srbiji ima 20000 sindikata. *Danas*, at: <https://www.danas.rs/ekonomija/usrbiji-ima-20-000-sindikata/>.
- International Labour Organisation. (2018). *Global wage report 2018/19: What lies behind gender pay gaps*. PRODOC. Geneva, Switzerland.
- Kurtić, V. (2013). *Džuvljarke: Roma lesbian existence*. European Roma Rights Centre. Niš, Serbia.
- Marjanović, D. (2015). *Assessment of the structural barriers that hinder the employment of Roma women*. UN Women.
- Mihailović, S., et al. (2018). *The activity of workers and Civil Society: Protecting and strengthening labour rights*. Centar za razvoj sindikalizma. Belgrade, Serbia. At: http://sindikalizam.org/wp-content/uploads/2019/03/Radna_prava_Istra%C5%BEiva%C4%8Dki_izve%C5%A1taj.pdf.

- Pejin-Stokić, L. & Bajec, J. (2018). *Effects of the new Law on Financial Support for Families with Children*. ESPN Flash Report, European Commission.
- Reljanović, M. (2018). *Study on implementation of anti-discrimination law in Serbia*. Yucom. Belgrade, Serbia.
- Reva, A. (2012). *Gender inequality in the labour market in Serbia*. The World Bank.
- Statistical Office of the Republic of Serbia. (2017). *Labour force survey in the republic of Serbia, 2016*. At: <http://publikacije.stat.gov.rs/G2017/PdfE/G20175623.pdf>.
- Statistical Office of the Republic of Serbia & UNICEF. (2014). *2014 Serbia Multiple Indicator Cluster Survey and 2014 Serbia Roma settlements Multiple Indicator Cluster Survey, key findings*. Belgrade, Serbia. At: http://www.stat.gov.rs/media/3480/mics5-2014-key-findings_serbiaplusserbia-roma-settlements.pdf.
- Stjelja, B. (2012, December 25). Uz ugovor za posao i potpis za otkaz. *Novosti Online*, <http://www.novosti.rs/vesti/naslovna/aktuelno.290.html:412183-Uz-ugovor-za-posao-i-potpis-za-otkaz>.
- Stopić, J., Tadžić, J., Petković, N. (2017). *Being LGBTI in Eastern Europe: Serbia country report*. United Nations Development Programme.
- Tamindžija B., Aleksić S., Musiolek B. (2017). *Country profile: Serbia*. Clean Clothes Campaign, at: <https://cleanclothes.org/livingwage/europe/country-profiles/serbia>.
- The Commissioner for the Protection of Equality. (2017). *Equality code of practice: Guidelines for developing the Anti-discrimination Policy for employers in Serbia*. Belgrade, Serbia.
- United Nations Committee on the Rights of Persons with Disabilities. (2014). *Consideration of reports submitted by States parties under article 35 of the Convention: Initial reports of States parties due in 2011: Serbia*. At: <https://www.refworld.org/docid/57038a7a4.html>.

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 analysis 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 GBD 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. This section provides further details about the methodology.

Key Terms and Delimitation

The research focused on GBD in relation to labour. It did not examine all forms GBD that occur outside the workplace. The key research terms were defined and operationalised as follows. Discrimination was defined to include GBD, as defined by law. The term “labour” was used rather than “employment” in order 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 Analysis

The Legal Analysis 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.

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 Analysis and Literature Review, as mentioned, and through semi-structured interviews of relevant stakeholders. Additionally, researchers sought to collect data related to discrimination cases at the workplace for the period of 2008 – 2017, disaggregated by gender, from: Civil Courts in six geographic regions

(Niš, Novi Sad, Smederevo, Subotica, Užice, Belgrade), the Commissioner, the Ombudsperson, the Ministry of Labour, Employment, Veteran and Social Policy, and the Labour Inspectorate. This involved sending official Freedom of Information data requests to institutions for further access to additional qualitative data. Of the contacted institutions, the Labour Inspectorate was the only that did not reply to the data request.

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 (Macedonia) to create the online survey in two languages, using LimeSurvey. The survey was promoted broadly, including through email and boosting on Facebook through Kvinna till Kvinna's existing Partner Organisation ASTRA in Belgrade. The survey was open from November 2nd through December 3rd of 2018.

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 GBD, by using the aggregated answers of those interviewed.

In total, 26 representatives from eight relevant government institutions and eleven CSOs were interviewed to assess their knowledge of, awareness on and experience with GBD in the labour market. In addition, seven survivors of GBD in the labour market were interviewed as well. In a few instances, the methodology had to be adjusted because of practical considerations. Interviews lasted approximately 45 minutes in length and were done face-to-face. A Consent Form was signed by all interviewees who were interviewed in-person. In a few instances, interviewees outlined that they felt more safe speaking about their experience over the telephone rather than in-person. For these participants, researchers followed research ethics principles and conducted interviews over the telephone in order to establish a safe environment for the participant to speak about their experiences, and the Consent Form in these cases 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.

No prosecutors were interviewed. Kvinna till Kvinna aimed to interview judges or those within the judicial system, but none of the Civil Courts responded to interview requests. One Civil Court in each of the following geographic regions received an interview request: capital city (central Serbia), northern Serbia (Vojvodina), southern Serbia, eastern Serbia, and western Serbia. Also, the process of setting the interviews with Civil Courts was a challenge because during the research process because no response was received, even after follow-up requests were sent.

The Ministry of Labour, Employment, Veteran and Social Policy, and the Labour Inspectorate did not reply to any interview requests sent via email. Researchers obtained numerous phone numbers for staff within the Ministry, and each one passed on information to other staff members, or provided other telephone numbers. After countless phone calls, no interview was successfully scheduled, as no one in the Ministry would commit to being

interviewed for this research project. Additionally, of the Labour Inspectorate offices contacted, no response was received regarding interview requests, thus, researchers were unable to interview anyone in this institution.

In all instances, follow-up requests were sent accompanying a Letter of Support from the EU Delegation to Serbia office. Regardless, such efforts were not met with success for the aforementioned institutions that did not respond to interview requests.

Data Analysis

The quantitative data analysis of the online survey was conducted by Reactor. 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 4.

Qualitative data was analysed by the researchers. Interviews that were conducted were analysed using the analytical process of Coding. All interviews were Coded 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. However, where indicative, 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, 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.

Fifth, the researchers faced major barriers in interviewing institutional representatives, in that interview requests were ignored, phone calls were either ignored or redirected, and emails were unanswered. Of the six countries involved in this regional research, the Serbian research is the only one that lacks interviews from judges or Civil Court representatives. The inability to reach some key stakeholders such as judicial system or 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.

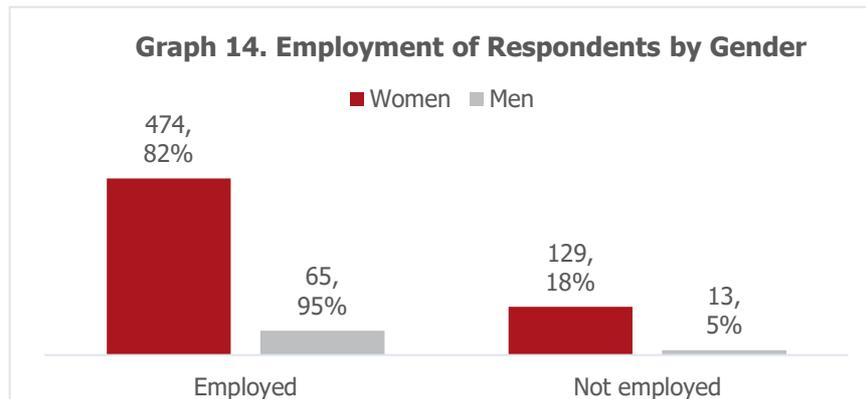
Reflexivity

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 paper, 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.

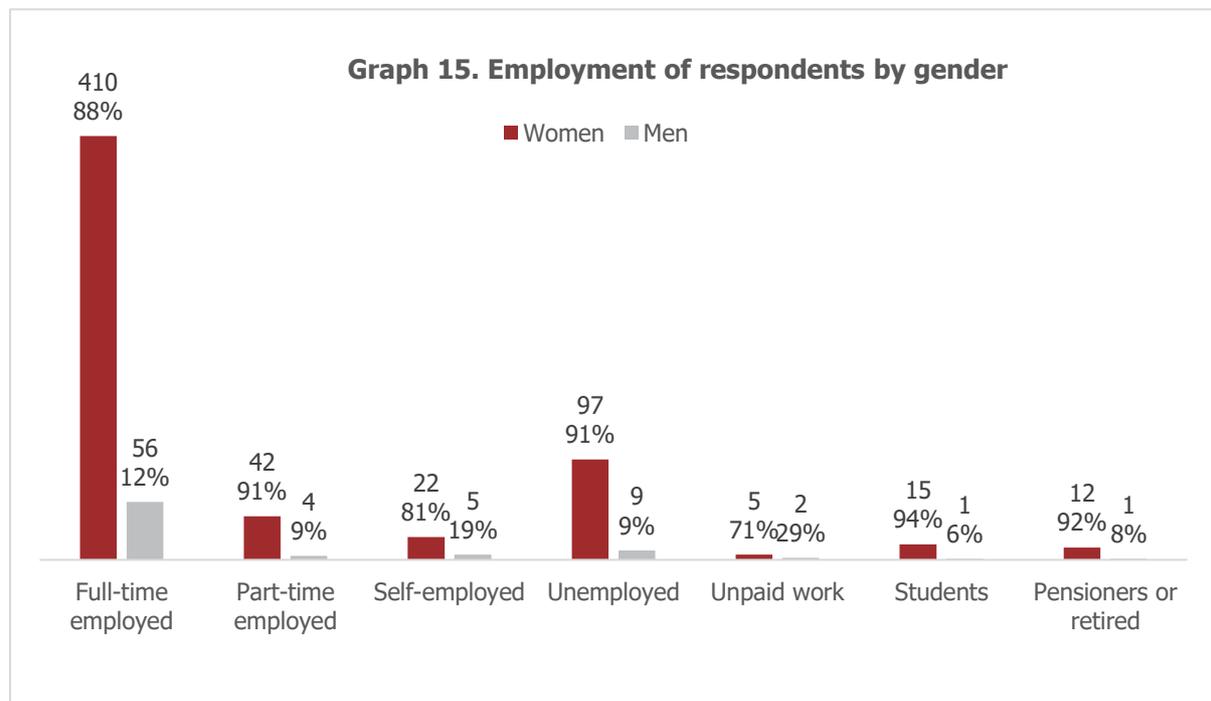
Annex 2: Demographic Information about the Sample

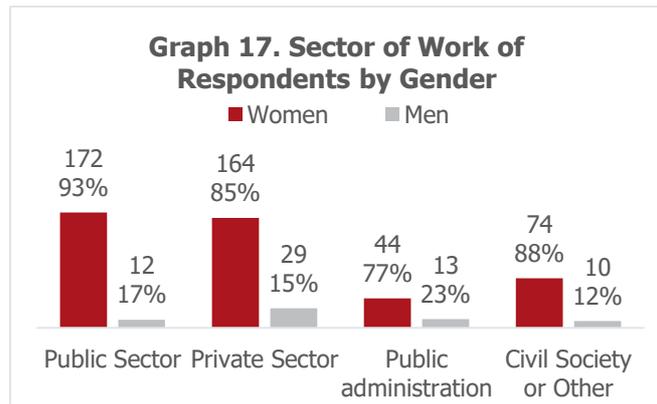
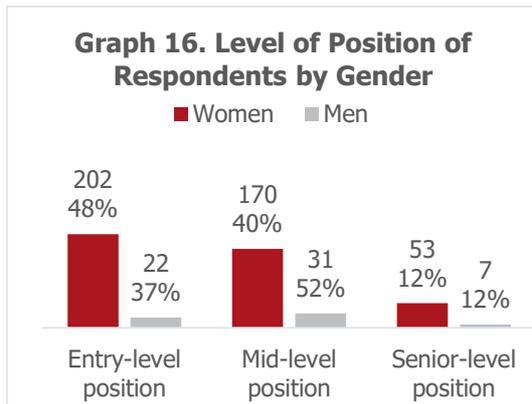
A total of 1089 participants clicked on the online questionnaire and 541 participants (49.7%) completed approximately 90% of the questionnaire. In terms of the key socio-demographic variables, the sample of participants that completed approximately 90% of the questionnaire does not differ significantly 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.

In total 67.1% of respondents were employed full-time, 18.6% were unemployed, 3.1% were employed part-time, and 5.6% were self-employed. Additionally, 2.5% were students, 1.2% were pensioners or retired, and 1.9% did unpaid work

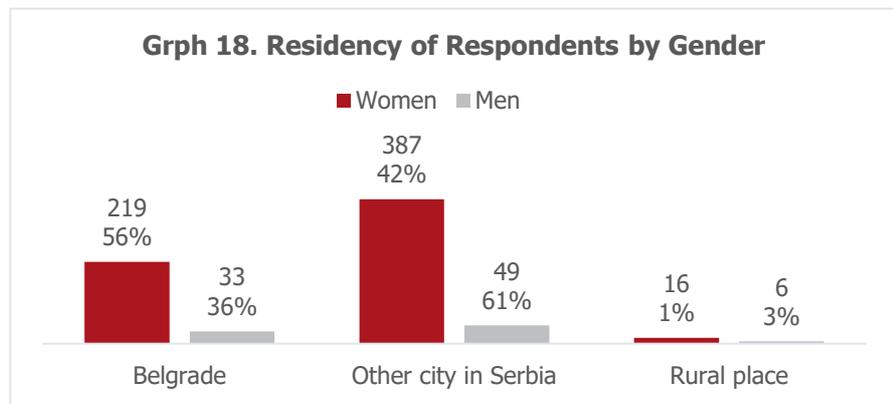


(unemployed officially). Of the sample that was employed at the time of filling out the survey, 38.4% worked in the private sector, 35.6% were employed in public administration, 10.1% worked in publicly owned enterprises in the public sector, 13.4% worked in CSOs.





The vast majority of respondents were urban-based at the time of answering the questionnaire: slightly more than every third survey participant lives in Belgrade (35%), more than half live in another city in Serbia, 3% live in a rural place, and the remaining 3% filled out the survey from abroad. Of the female survey respondents, 35% lived in the capital city, 62% lived in an urban place other than the capital city, and 3% lived in a rural community. An additional 3% of the women who responded to the survey lived abroad, and where possible, their answers were separated out of the



sample so as not to be included in the data analysis. Of the male survey respondents, approximately 37% lived in the capital city, 56% lived in an urban place other than the capital city, and 7% lived in urban communities. None of the male respondents lived abroad.

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 (85.9%), aged between 30-49 years old (62.6%) and had a high level of education, with 49% 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.

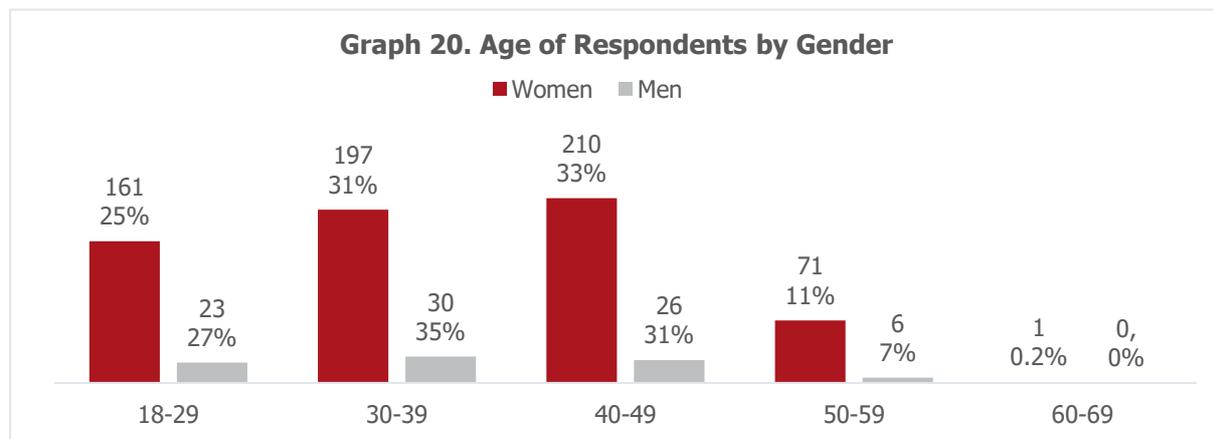
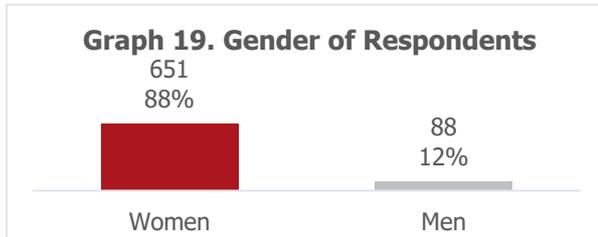
All variables were cross-tabulated with gender, not only because this is a key variable but also because the sample is highly imbalanced in terms of gender: 86% of the total sample, and 88% of the sample that completed 90% of the questionnaires were women. This means that the observed distributions of answers in the sample reflect mainly women's responses.

The huge disproportion of men and women 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.

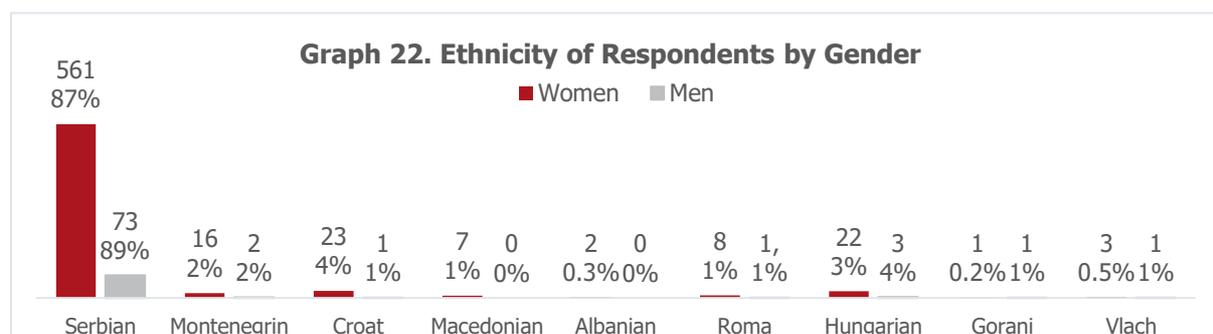
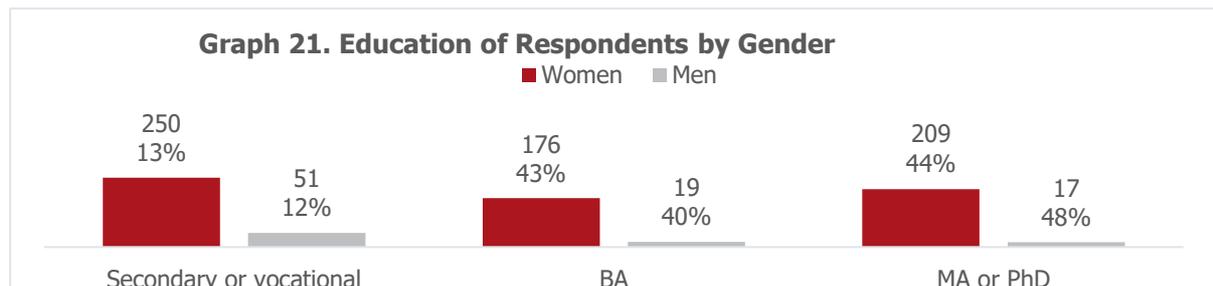
Demographics of total sample

The majority of the participants are female (88.1%). 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.

More than half of the respondents (63%) were between 30 to 49 years of age.



More than half of the sample (55.2%) had a high level of education. Every fourth respondent had obtained no higher than a secondary education, and 13.1% had higher vocational education.



Annex 3. Survey Instrument

Serbia 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 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: Kvinna till Kvinna [<http://thekvinnatillkvinnafoundation.org/>]. By clicking "Next", you consent to participate in this important research. Thank you!

There are 72 questions in this survey.

GENERAL INFORMATION

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

Please write your answer here:

2. What is your gender? *

Please choose **only one** of the following:

Woman

Man

Other:

3. In which year were you born? *

Please write your answer here:

4. With which ethnic group do you identify? *

Please choose **all** that apply:

Albanian

Serbian

Bosniak

Montenegrin

Croat

Macedonian

Roma

Gorani

Hungarian

Vlach

Other:

If more than one, please check all that apply.

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

Please choose **only one** of the following:

Primary or incomplete primary education

Secondary education

Vocational education on the basis of secondary education

Vocational higher education

Bachelor degree

Master's degree

PhD

6. What is your current marital status? *

Please choose **only one** of the following:

- Single
- Engaged
- Married
- Divorced
- Co-habiting
- Widowed
- Other

7. Do you consider yourself to have a disability? *

Please choose **only one** of the following:

- Yes
- No

EMPLOYMENT INFORMATION

8. Are you currently: *

Please choose **only one** of the following:

- Employed full-time
- Employed part-time
- Self-employed
- Unemployed, looking for work
- Unemployed, not looking for work
- Unemployed, still studying
- Unemployed officially, but I do unpaid work outside the home such as farming, caring for animals like cows or chickens, etc.
- On pension
- Other

9. In the last 10 years (so since 2008), has any of the following been true for you?

Please check all that apply:*

Please choose **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

10. Where do you work? *

Please choose **only one** of the following:

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

11. In which field do you work? *

Please choose **only one** of the following:

- Accommodation and food service (hotel, restaurant)
- Administrative and support services
- Agriculture, forestry or fishing
- Arts and Entertainment
- Civil society / human rights activism
- Construction
- Education
- Electricity, gas, steam and air conditioning supply
- Financial and insurance activities (including banks)
- Health
- Information and communication, including media
- Manufacturing clothes and shoes
- Manufacturing other
- Mining and quarrying
- Police, military, or security
- Professional, scientific and technical activities
- Public administration or governance
- Real estate
- Repair of motor vehicles and motorcycles
- Research
- Social work
- Transportation and storage
- Water supply, sewage, waste management
- Wholesale and retail trade (shops, stores)
- Other

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

Please choose **only one** of the following:

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

13. Which of the following best describes your current position? *

Please choose **only one** of the following:

- 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

YOUR VIEWS

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

Please choose **only one** of the following:

- Yes
- No
- I don't know

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

Please choose **all** that apply:

- The employer
- The Labour Inspectorate
- The Ombudsperson Institution
- The police
- None of the above
- I don't know

HIRING

Now we have some questions about your experiences with hiring processes.

16. How many times have you been in a job interview since 2008? *

Please choose **only one** of the following:

- Never
- Once
- 2-5 times
- More than 5 times
- Don't remember

17. Since 2008, in a job interview have you ever been asked questions concerning: *

Please choose the appropriate response for each item:

- | | Yes | No |
|---|-----|----|
| Your marital status | | |
| Your plans to get married | | |
| The number of children you had at the time | | |
| Your future plans to have children | | |
| Medical proof that you are not pregnant | | |
| Something else not related to your skills, education or work experience that felt inappropriate | | |

18. Since 2008, in a job interview have you ever been asked questions concerning: *

Please choose the appropriate response for each item:

- | | Yes | No |
|---|-----|----|
| Your marital status | | |
| Your plans to get married | | |
| The number of children you had at the time | | |
| Your future plans to have children | | |
| Something else not related to your skills, education or work experience that felt inappropriate | | |

19. Please elaborate what felt inappropriate: *

Only answer this question if the following conditions are met:

Please write your answer here:

20. Since 2008, in your opinion, have you ever not gotten a job that you applied for because: *

Please choose the appropriate response for each item:

- | | Yes | No |
|---|-----|----|
| You are a woman | | |
| You were pregnant | | |
| You have children | | |
| You shared that you are planning to have children | | |
| Your age | | |
| Your appearance | | |
| Your political preference | | |
| Other criteria not related to skills, education or experience | | |

21. Please elaborate what other criteria: *

Please write your answer here:

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

*

Please choose the appropriate response for each item:

Yes No

- You are a man
- You are expecting a baby
- You have children
- You shared that you are planning to have children
- Your age
- Your appearance
- Your political preference
- Other criteria not related to skills, education or experience

23. Please elaborate what other criteria: *

Only answer this question if the following conditions are met:

Please write your answer here:

PROMOTION

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

Please choose **only one** of the following:

- 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

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

Please choose **all** that apply:

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

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

Please choose **only one** of the following:

- Yes
- No

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

Please choose **only one** of the following:

- Yes
- No

UNIONS

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

Please choose **only one** of the following:

- Yes
- No
- Don't know

29. Are you a member of any workers' union? *

Please choose **only one** of the following:

- Yes
- No

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

Please choose **only one** of the following:

- Very well
- Good
- Somewhat
- Poorly
- Very poorly

PREGNANCY AND MATERNITY LEAVE

31. Since 2008, have you ever been pregnant when you were employed? *

Please choose **only one** of the following:

- Yes
- No
- I am currently pregnant but haven't taken up maternity leave yet

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

Please choose **only one** of the following:

- Yes
- No

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

Please choose **only one** of the following:

- Yes
- No
- I am still on maternity leave

34. Why not? Please mark all that apply. *

Please choose **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:

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

Please choose **only one** of the following:

- Yes
- No

36. When you returned to work, did you have: *

Please choose **only one** of the following:

- More responsibilities
- Fewer responsibilities
- The same responsibilities

37. Did you have: *

Please choose **only one** of the following:

- Higher pay
- Lower pay
- The same pay

38. Did you have: *

Please choose **only one** of the following:

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

39. When you returned, were you:

Please choose **only one** of the following:

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

PATERNITY LEAVE

40. Would your employer give you paternity leave? *

Please choose **only one** of the following:

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

41. Since 2008, have you ever had a new born child while being employed? *

Please choose **only one** of the following:

- Yes
- No

42. How many days did your employer allow you to take off? *

Please write your answer here:

43. When you returned from leave, were you: *

Please choose **only one** of the following:

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

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

Please choose **only one** of the following:

- Yes
- No
- I don't know

CONTRACTS AND PAY

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

Please choose **only one** of the following:

- Yes
- No

Do you currently have a contract? *

Please choose **only one** of the following:

- Yes
- No

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

Please choose **only one** of the following:

- Three months or less
- 4-6 months
- 7-12 months
- More than a year, but less than 4 years
- 4 or more years
- Indefinite
- I have never had a written contract

48. In your workplace, who tends to have longer contracts? *

Please choose **only one** of the following:

- Women
- Men
- It's the same for both
- Not applicable (only men or only women work here)
- I don't know

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

Please choose **only one** of the following:

- 1-20
- 21-40
- 41-60
- More than 61

50. Since 2008, 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? *

Please choose **only one** of the following:

- Yes
- No

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

Please choose **only one** of the following:

- Less than or equal to 129
- 130 – 170
- 171 - 200

- 201-300
- 301-400
- 401-500
- 501-800
- 801 or more

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

Please choose only one of the following:

- Yes
- No, my employer tells the authorities something else
- I don't know

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

Please choose only one of the following:

- Yes
- No

Usually, how are you compensated for overtime worked? *

Please choose **only one** of the following:

- 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

SEXUAL HARASSMENT AT WORK

55. The following is a list of situations that reflect certain behaviors. Please indicate if it ever happened to you at work. Your identity will remain anonymous.*

Please choose the appropriate response for each item:

- | | 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 another worker's body parts on purpose (bottom, breasts, hand, shoulder, back, etc.) in a situation in when 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 | | | |

56. Were the persons who did this to you: *

Please choose **only one** of the following:

- Women
- Men
- Both

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

Please choose **all** that apply:

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

58. Who did you tell? Please check all that apply. *

Please choose **all** that apply:

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

OVERALL REFLECTIONS

60. (women) 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? *

Please choose **only one** of the following:

- Yes
- No

61. (man) 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 man? *

Please choose **only one** of the following:

- Yes
- No

62. 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.

Please write your answer here:

63. Please, can you describe in detail any experience(s) that you have had with discrimination at work since 2008? We greatly appreciate any information you can share. Your identity will remain anonymous. *

Please write your answer here:

64. In which sector were you working when this occurred? *

Please choose **only one** of the following:

- 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

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

Please choose **all** that apply:

- None
- Labour Inspectorate
- Police
- Courts
- Prosecution
- Ombudsman
- Other:

66. What happened when you reported discrimination to the relevant authorities? *

Please choose **only one** of the following:

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 (please write)

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

Only answer this question if the following conditions are met:

Please choose **only one** of the following:

Yes

No

FOLLOW-UP

68. 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? *

Please choose **only one** of the following:

Yes

No

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

Please write your answer here:

71. Email:

Please write your answer here:

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

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

01.01.1970 – 00:00

Submit your survey.

Thank you for completing this survey

Annex 4: Sample interview guide

(For Lawyers, Legal Aid and Mediation)

1. Interview code number: S __ __ __
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 Kvinna till Kvinna, 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 you personally define "discrimination"?
14. What types of acts, for example, would you consider to be "gender-based discrimination"?
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?
16. Based on your opinion and experience, to what extent is this legal framework related to gender-based discrimination complete or incomplete? Please elaborate.
17. In your view, what impact or influence does the Ombudsperson institution have in relation to discrimination cases at work, based on gender? Please can you elaborate.

Attitudes and Perceptions

18. Generally speaking, what do your colleagues (including from other institutions that have a mandate to deal with this issue) think about discrimination against women related to labour?
19. If a woman believes that she has been discriminated against at work *because she is a woman*, what should she do?

Training

20. 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]

Filter: Gender-based discrimination cases reported

21. Have you ever dealt with a discrimination case against a woman or man because of their gender, related to labour since 2008?
 - 21.1.1 Yes
 - 21.1.2 No

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

22. For what reason do you think few discrimination cases been reported and/or filed?

Gender-based discrimination cases reported Cases

23. Please tell me about the cases you have dealt with?
 - 23.1 If yes, how many approximately?
 - 23.2 What was the gender of persons who suffered discrimination [women, men, both]?
 - 23.3 What was the gender of the alleged perpetrator?
 - 23.4 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
 - 23.5 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?
 - 23.6 What types of discrimination did you encounter?
 - 23.7 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.
 - 23.8 How long does it approximately take for cases of discrimination based on gender in the labour market to be dealt with (including the verdict)?
 - 23.9 What decision does the court usually take? [Probe: what punishments have been given, if any]

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

- 23.10 Did the court ever rule to prohibit the performance of activities which violate the right of the applicant, or compel the elimination of all discriminatory actions?
- 23.11 Did the court ever rule for compensation for material or non-material damage caused? What was the ruling?
- 23.12 Did the court ever order temporary measures in accordance with the Law on Contested Procedure?
- 23.13 Did the court ever order a shorter deadline of execution than defined in the Law on Enforcement Procedure?

Data Collection Practices

24. What are the current practices of collecting and tracking data related to gender-based discrimination in your institution?
 - 24.1 [Probe] What are the strengths and weaknesses of data collection practices related to logging these cases?
25. Do you have any other comments or things you'd like to add?
26. [Researcher notes (reflexivity)]

