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GENDER-BASED DISCRIMINATION AND LABOUR IN ALBANIA



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GENDER-BASED DISCRIMINATION AND LABOUR IN ALBANIA

Second Edition

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Contents

ACRONYMS	7
EXECUTIVE SUMMARY	9
Key Findings.....	10
INTRODUCTION	12
Gender Gaps and Gender-based Discrimination in Labour.....	12
The Impact of COVID-19 on Employment and Gender-based Discrimination.....	14
Methodology.....	16
About This Report.....	17
LEGAL ANALYSIS	18
International Agreements and Instruments.....	18
The National Legal Framework.....	23
The Constitution of the Republic of Albania	23
The Labour Code	24
The Criminal Code	28
The Law on Gender Equality in Society.....	28
Law on Protection against Discrimination.....	30
Strategies and Policies.....	34
Enforcement Mechanisms	35
Conclusion.....	39
PEOPLE’S AWARENESS AND REPORTING OF GENDER-BASED DISCRIMINATION	40
People’s Awareness about Gender-based Discrimination	40
Reporting Gender-based Discrimination	42
Conclusion.....	45
PREVALENCE AND EXPERIENCES WITH DISCRIMINATION	46
Overall Prevalence	46
Discrimination Based on Specific Protected Grounds.....	47
Different Forms of Gender-based Discrimination	53
The Impact of COVID-19 on Respondents	64
Conclusion.....	67
THE INSTITUTIONAL RESPONSE TO DISCRIMINATION	68
Commissioner on Protection from Discrimination.....	68
Police	71
Prosecution	72
Criminal and Civil Courts.....	73
Labour Inspectorate.....	74
Ombudsperson Institution	77
Labour Unions	77
Civil Society Organisations.....	80
Conclusions	82
RECOMMENDATIONS	83
For the Legal Framework.....	83
For the CPD.....	83
For the Labour Inspectorate	84
For Police	84
For Courts	84
For Labour Unions.....	84
For CSOs.....	85
Employers in Public and Private Sectors.....	85
WORKS CITED	86
ANNEXES	88

Annex 1. National Legal Framework on Gender Equality	88
Annex 2. Methodology.....	90
Annex 3. Demographic Information about the Sample.....	94
Annex 4. Survey Instrument	98
Annex 5. Sample Interview Guide	111

ACRONYMS

ADRF	Albanian Disability Rights Foundation
ASP	Albanian State Police
AWEN	Albanian Women Empowerment Network
BSPSH	Union of Independent Trade Unions of Albania
CC	Criminal Code
CCP	Code of Civil Procedures
CPD	Commissioner for Protection from Discrimination
CAT	Convention against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CHR	Commission on Human Rights
CoE	Council of Europe
CoM	Council of Ministers
CPD	Commissioner for Protection from Discrimination
CRPD	Convention on the Rights of Persons with Disabilities
CSO	Civil Society Organisation
CSW	Commission on the Status of Women
DWCP	Decent Work Country Program
EC	European Commission
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
ECJ	European Court of Justice
EU	European Union
ESS	Employment and Skills Strategy
GADC	Gender Alliance for Development Centre
GDP	Gross Domestic Product
GEI	Gender Equality Index
GoA	Government of Albania
HAS	High State Audit
HSE	Health and safety at work
IC	Istanbul Convention
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all Forms of Racial Discrimination
ICESCR	International Convention on Economic, Social and Cultural Rights
ILO	International Labour Organization
KSSh	Trade Unions Confederation of Albania
KWN	Kosovo Women's Network
LGBTQIA+	Lesbian, Gay, Bisexual, Trans, Queer/Questioning, Intersex, Asexual and other differently identifying persons
LGE	Law on Gender Equality
LC	Labour Code
LFLA	Law on Free Legal Aid
LI	Labour Inspectorate
LML	Law on Maternity Leave
LPD	Law on Protection from Discrimination

MIA	Ministry of Internal Affairs
MHSP	Ministry of Health and Social Protection
MoJ	Ministry of Justice
NAPIRE	National Action Plan on integration of Roma and Egyptians
NCL	National Council on Labour
NCGE	National Council on Gender Equality
NESS	National Employment and Skills Strategy
NGO	Non-governmental organisation
NHRI	National Human Rights Institutions
NLC	National Labour Council
NSDI	National Strategy for Development and Integration
NSGE	National Strategy on Gender Equality
NSPC	National Strategy on Protection of Children
OECD	Organisation for Economic Co-operation and Development
OI	Ombudsperson's Institution
PA	People's Advocate
SAA	Stabilization and Association Agreement
SIDA	Swedish International Development Agency
SOGI	Sexual Orientation or Gender Identity
SSI	Social Security Institute
STEM	Science Technology Engineering and Mathematics
TUS	Time Use Survey
UN	United Nations
UNDP	United Nations Development Programme
UPR	Universal Periodic Review
WB	World Bank
WBa	Western Balkans

EXECUTIVE SUMMARY

This report examines gender-based discrimination and labour as part of a regional initiative in six Western Balkan countries, supported by the European Union (EU) and co-funded by the Swedish International Development Agency (Sida). The research aimed to provide information about shortcomings in the relevant legal framework; the prevalence and nature of gender-based discrimination related to labour; the extent to which people have filed claims; how institutions have treated such cases; and how these have changed since 2018, if at all. Conducted in 2018 and 2021, the research involved mixed methods, including a desk review, online survey, and interviews.

Since 2020, Albania's legal framework has provided better protection from discrimination by strengthening the role of the Commissioner on Protection from Discrimination (CPD), improving procedures for preventing discrimination by promoting principles of equality and non-discrimination, and solidifying procedures for reporting and resolving cases presented to relevant institutions. The revised law provides more grounds for protection (including based on sex characteristics, living with HIV, citizenship, and appearance) and expands the definition of discrimination with eight new forms, including multiple and intersectional discrimination. It further includes the addition of severe forms of discrimination, which provides for a doubling of sanctions. The CPD's new responsibilities for ensuring implementation and monitoring of the Law on Gender Equality (LGE) are especially important, clearly linking the promotion of gender equality with combating discrimination in all spheres, including in labour and work relations.

The institutional response to gender-based discrimination in labour has improved in recent years. This is evident from data on cases reported to the CPD and courts. Linkages between these two institutions have strengthened, as evidenced by the significant increase in cases where the CPD has served as a third party or directly referred cases to courts. While it is early to assess the impact of changes, as the law only recently entered into force, there is already progress, especially in terms of cases reported to the CPD whose presence seems to have expanded. In addition, the Ombudsperson and the CPD seem to be collaborating more closely, especially through their regional offices throughout the country, as well as by referring cases to each other. However, gender-based discrimination in labour remains a small portion of their cases, as the majority are related to discrimination on grounds of political affiliation. Even fewer cases have been reported involving sexual harassment in the world of work, which many people still consider taboo. Courts still have little judicial practice, and few judges seemed knowledgeable regarding the relevant legal framework.

One of the most visible changes since 2018 has been in people's awareness of institutions where gender-based discrimination can be reported. More people have shown awareness of the CPD as the institution where gender-based discrimination should be reported and significantly fewer respondents did not know where to report discrimination. This could be attributed to more awareness-raising efforts by the CPD but also to civil society organisations (CSOs) working to make the role of the CPD more visible to workers. However, despite this increased level of awareness, people have remained reluctant to report discrimination. In this second iteration of the online survey more than 70% of the respondents who had experienced gender-based discrimination said that they did not contact any institution. Even so, more women and men have reported their case to each of the relevant institutions compared to 2018 when only three people had reported gender-based discrimination to the Labour Inspectorate (LI). This report contains recommendations for each of the relevant stakeholders for better addressing gender-based discrimination in the future.

Key Findings

- Overall, 20% of men and women survey respondents report to have experienced gender based discrimination at work. More men in the 2021 survey report to have experienced discrimination compared to the 2018 iteration (20% in 2021 compared to 6% in 2018).
- Close to 70% of those who experienced gender-based discrimination did not report it to any institution. While this figure has remained high, it is lower than the 97% of women and 100% of men who said in the 2018 survey that they had not reported their case anywhere.
- A little over 70% of the respondents agreed that gender-based discrimination is illegal in Albania. While slightly more men than women thought gender-based discrimination is illegal, the difference was not significant. However, more men in 2021 survey thought discrimination is illegal compared to the 2018 iteration (74% compared to 62%).

Discrimination in Hiring and Promotion

- More women than men reported experiencing interview questions that might imply discrimination, such as questions about plans to get married (45% of women were asked compared to 35% of men) or plans to have children (where 23% of women faced such questions compared to 12% of men).

Sexual Harassment at Work

- 23% of survey respondents have faced at least one form of sexual harassment at work with no significant differences based on gender.
- Significantly more respondents identified men as perpetrators of sexual harassment. Of those women who suffered sexual harassment, 72% stated that the perpetrator was a man and 24% had experiences with both men and women as perpetrators.

Maternity and Paternity Leave

- For 13% of the women who had been pregnant, the right to paid maternity leave was denied; they were neither paid nor received a government benefit during their maternity leave. 40% indicated that they were pressured to return to work earlier than planned.
- More than half of the men (53%) who answered the question on paternity leave agreed that men should have more paid time off for paternity leave.

Labour Rights

- More women (29%) than men (19%) said they did not have an employment contract.
- 16% of the participants that were working in some period in the last three years or are currently employed, had been asked to sign an employment contract without being allowed to read and understand the terms the contract, at least once.
- 22% of those working in the private sector indicated that their employer does not declare to the state authorities the actual, real salary.
- Asked to return part of the salary have been 7% of the employed.

COVID-19

- 15% said that their salary was decreased as result of COVID-19. The probability for decreased salary as result of COVID-19 is higher for the workers in the private sector (27%).
- 8% lost their jobs due to COVID-19.

- Of the employed 43% reported that their workplace was closed due to isolation or other measures related to COVID-19. Nearly one third i.e. 24,7% reported that their workplace was closed more than a month. During the closure period 28,6% were not paid at actual salary i.e. 13,3% were not paid at all while 15,3% were paid at a reduced salary.
- More women (31%) than men (23%) reported that they experienced challenges related to caring for children.
- Significantly more women (46%) seemed to face challenges related to their mental health and stress during the pandemic compared to men (25%).

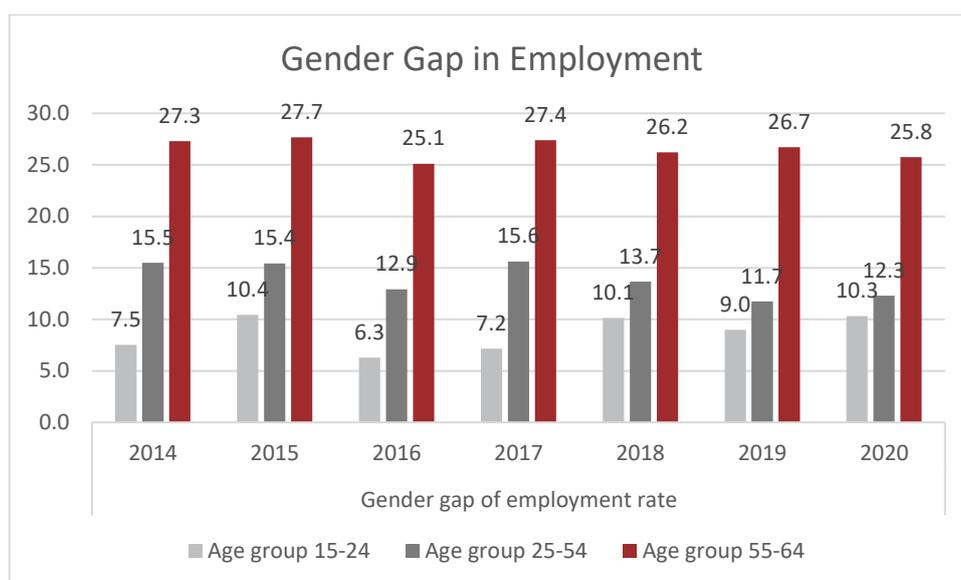
Institutional Response to Gender-based Discrimination

- Despite improvements in recent years, different institutions still have not made enough efforts to address gender-based discrimination and increase public trust in their ability to protect people's rights to non-discrimination.
- Data collection has remained poor, especially sex-disaggregated data.
- Public and private employers have not fully implemented the improved legal framework.

INTRODUCTION

Gender Gaps and Gender-based Discrimination in Labour

Women in Albania face discrimination and persistent gaps in their participation in the economy and society in general. In the domain of work, according to the Gender Equality Index (GEI) of 2020, Albania scored 67.6 points, 4.4 points below the EU average.¹ Statistical data suggest a discrepancy between women's participation in higher education and their subsequent participation in the labour market. In 2020, 60% of students in higher education were girls.² This was reflected in the GEI, amounting to 1.54 for higher education compared to 1.52 in 2019, as more women graduated from higher education than men.³ However, the situation reversed when it came to participation in the labour market. Among the working age population (15-64 years old), labour force participation in 2020 was 77% for men and 61% for women.⁴ The structure of employees shows that 43% of women in the labour force were employed in paid positions, while 23% engage in unpaid work in family businesses.⁵ Further, the gender gap in employment was 14.2 in 2020, a slight improvement from 14.7 in 2017, while the gap among the self-employed was 13.2% in 2020, a marked improvement from 16.1% in 2019. The highest gap in employment was for the 55-64 age group, while the lowest was among the younger population group (age 15-24). A 9.3-year difference existed between men and women in their active working life.



Source: INSTAT, 2021

Segregation along social norms and gender roles is visible in Albania. There is a high concentration of women in the agriculture sector (41% in 2020, where few women are paid as they work in family businesses), followed by trade, transport, hospitality and administrative services.⁶ In addition, the gender pay gap in 2020 was 6.6% marking a decrease by 3.6 percentage points compared to the previous year.

¹ INSTAT. 2020. *Gender Equality Index for the Republic of Albania*. At:

http://www.instat.gov.al/media/6661/gender_equality_index_for_the_republic_of_albania_2020.pdf.

² INSTAT. 2021. *Men and Women in Albania 2020*. At: <http://www.instat.gov.al/media/8713/burra-dhe-gra.pdf>

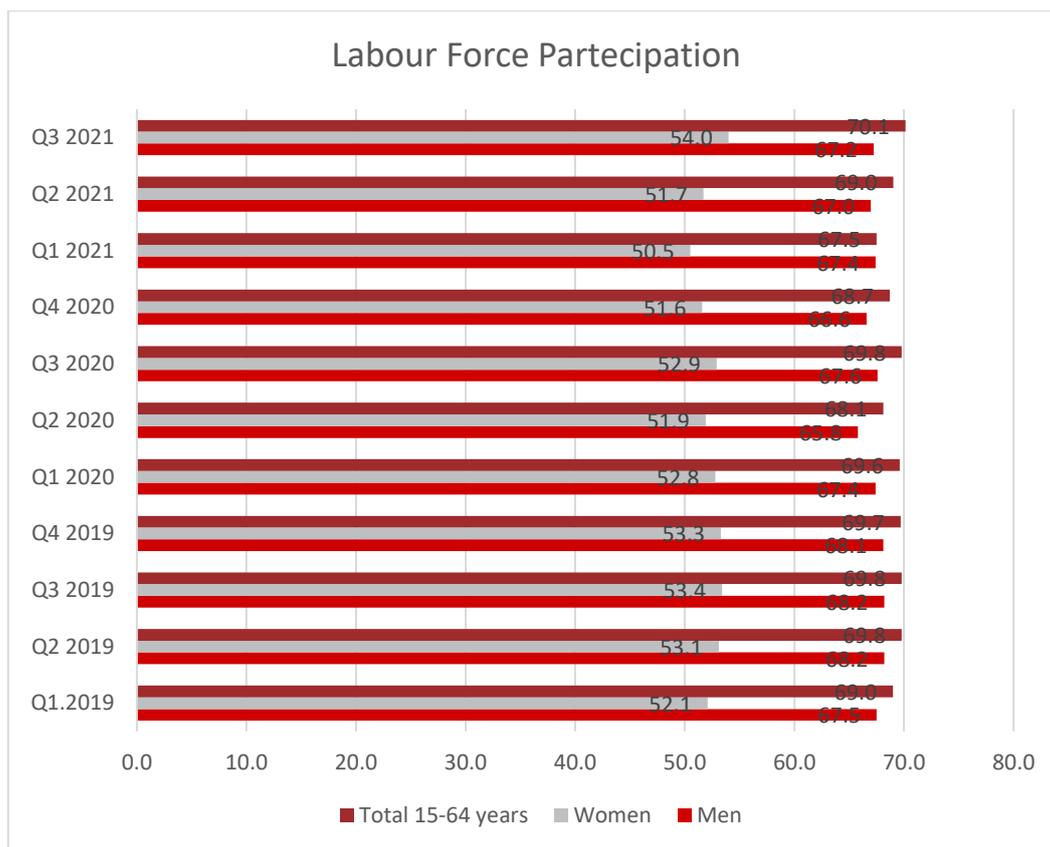
³ INSTAT. 2020. *Gender Equality Index for the Republic of Albania*. At:

http://www.instat.gov.al/media/6661/gender_equality_index_for_the_republic_of_albania_2020.pdf.

⁴ INSTAT. 2021. *Men and Women in Albania 2020*. At: <http://www.instat.gov.al/media/8713/burra-dhe-gra.pdf>.

⁵ Ibid.

⁶ Ibid.



Source: INSTAT, 2021

Another challenge relates to women's concentration in the informal labour market. In 2019, informal employment in Albania by gender was 35.6% for men and 21.8% for women, not including agricultural employment. There have been no major changes in these numbers since 2017; in 2020, 34.1% of men and 21.9% of women still worked in the informal sector. The informal economy has remained significant in Albania since it comprises approximately 29% of the non-agricultural sector.⁷ The highest percentage of informal employment was reported in trade activities, including hospitality services (hotels, bars, and restaurants, 4.2%); the manufacturing sector (3.2%); and construction (7.6%).⁸ The higher percentage of men in informal employment, compared to women, does not mean that women have greater access to formal employment; rather, women generally have unequal access to labour market.⁹

The main cause of women's inactivity is unpaid domestic labour (cited by 21% of women in 2018, 18% in 2019, and 19% in 2020); other reasons mentioned are that women are attending school instead of working (21% in 2020).¹⁰ For men, the main cause of inactivity is that they are students.¹¹ Only 0.6% of men in 2020 compared to 1% in 2019 were out of work because of unpaid work at home, which is telling for the division of roles along traditional gender norms. Previous time use survey findings in Albania clearly show that women are more

⁷ INSTAT. 2021 *Labour Market 2020: Press Release*. At: <http://www.instat.gov.al/media/8292/njoftim-per-media-labour-market-2020.pdf>.

⁸ ILO. 2020. *Overview of informal economy in Albania*. At: https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms_751313.pdf.

⁹ UN Women. 2020. *Country Gender Equality Brief*. P. 50. At: https://www2.unwomen.org/-/media/field%20office%20albania/attachments/publications/2020/12/cgeb%20albania_report_2.pdf?la=en&vs=2652.

¹⁰ Ibid.

¹¹ Ibid.

burdened with unpaid work at home, since women tend to care for children and the elderly.¹² Albania's shift from a communist regime, in which almost everyone worked in socially owned enterprises, to a democracy, contributed to returning many women from engagement in public life back into family life and the private sphere. The closure of many factories previously owned by the government affected women first and foremost. Previously free of charge social services like childcare disappeared after the 1990s, prompting women to dedicate their time to chores and caring for children and other family members.

In today's economy, Albanian women carry almost all the burden of caring activities at home while leaving little time for other social activities, which are crucial for their mental health and general wellbeing. Albania scored a meagre 48.1% in the domain of time with staggering findings in the sub-domain of caring activities in the GEI. Over half of women care for children, older people and people with disabilities, compared to only 24.6% of men. When considering cooking and housework, the percentage shoots up to 88%, while only 16% of men performed these duties.¹³ These are largely in line with the 2011 Time Use Survey (TUS) conducted in Albania, whereby 14% of men were engaged in unpaid labour, compared to 86% of women. Even higher was the difference in caring responsibilities, whereby 96% of women and only 4% of men were engaged in these activities, a serious difference that hampers women's abilities to engage in paid labour and other activities.

The Impact of COVID-19 on Employment and Gender-based Discrimination in Albania

Like other economies around the world, Albania was severely impacted by the COVID-19 pandemic. In addition to the human toll, challenges in providing health services during the pandemic and generally managing to curb the spread of the virus, the economy was also hit hard. The economy was already recovering from the devastating 2019 earthquake. When the pandemic hit, it placed additional burden on the economic recovery. After growing by 2.2% in 2019, growth contracted by 3.3% in 2020. The lifting of restrictions since then has contributed to a slight improvement in 2021. At the height of the pandemic 34,000 jobs were lost and unemployment increased by 0.6 percentage points to 12.5%, which led to further deterioration of the labour market in the country. Most firms reported decreased demand (71% according to World Bank (WB) calculations).¹⁴ As businesses re-opened, the economy restarted its road to recovery.¹⁵

Since the start of the pandemic the Albanian government passed three economic relief packages.¹⁶ Workers' income was protected through wage subsidies, whereby 88% of the firms in the country received some type of support. Credit guarantee schemes also were provided to enable firms to use bank overdrafts to pay for salaries.¹⁷

For the first two packages, the government allocated a total of ALL 45 billion (2.8% of GDP). Support to people included doubling unemployment benefits, while firms received USD 100 million through the instrument of a sovereign guarantee, allocated to companies that had

¹² INSTAT. 2011. *Albania Time Use Survey 2010-2011*. At: http://www.instat.gov.al/media/2999/albanian_time_use_survey_2010-2011-1.pdf.

¹³ INSTAT. 2020. *Gender Equality Index for the Republic of Albania*. At: http://www.instat.gov.al/media/6661/gender_equality_index_for_the_republic_of_albania_2020.pdf.

¹⁴ World Bank Blogs. 2021. *COVID-19 impact on Albania's private sector: taking stock, looking ahead*. At: <https://blogs.worldbank.org/developmenttalk/covid-19-impact-albanias-private-sector-taking-stock-looking-ahead>.

¹⁵ OECD. 2021. *COVID-19 crisis in Albania*. At: <https://www.oecd.org/south-east-europe/COVID-19-Crisis-in-Albania.pdf>.

¹⁶ Ministry of Finance and Economy, 2021.

¹⁷ World Bank Blogs. 2021. *COVID-19 impact on Albania's private sector: taking stock, looking ahead*.

difficulties paying employee salaries.¹⁸ According to the UN Socio-Economic Recovery Plan, this approach proved difficult to implement and the government was forced to revise the approach to make direct payments to employees' bank accounts.¹⁹ The first package targeted over 30,000 enterprises, whose employees were to receive payments equal to the minimum wage for the period April-June 2020. This measure targeted both the self-employed and unpaid family members, who would not otherwise benefit from unemployment benefits, and informal sector employees, including rural farmers excluded from the scheme.²⁰

The second package, approved in April 2020 extended the support to all workers in companies that were directly affected by business close downs, recently unemployed, workers in the tourism sector, and all workers in companies with an annual turnover of less than 14 million ALL that faced reduction in economic activity due to the COVID-19 crisis. The package consisted of a 40,000 ALL lump sum payment for all employees and laid-off employees in enterprises with annual turnover higher than 14 million.²¹

In addition, those receiving Economic Aid (*Ndihma Ekonomike*) cash transfers, received double the amount during the pandemic; this targeted specifically women survivors of violence and heads of households. Thus, it was one of the most gender-responsive measures. The first economic package benefitted women to the amount of 45% of beneficiaries, while women beneficiaries of the second economic package constituted 43% of the total number of beneficiaries.²² Of all measures undertaken to combat the impact of the COVID-19 pandemic, data show that only 47% of the measures had an impact on women and girls, and 11 measures had an impact on gender equality, relating mostly to gender-based violence.²³ As per GADC's 2021 analysis, "gender-sensitive measures related to unpaid work" included social protection measures that supported men and women providing care services, or "improved services for men and women who need care, as well as measures for the labour market", which helped women providing care to "cope with the growing demand for unpaid care jobs."²⁴

Despite these measures, the pandemic heightened already existing gender gaps. According to a recent survey, the pandemic impacted the socio-economic situation in Albania.²⁵ Domestic labour increased in all aspects, with 29.8% of individuals reporting increased cooking time during lockdown, and 53.8% spending more time cleaning; this increment was higher among women. The likelihood of women reducing paid work time increased, too.²⁶

As this section showed, Albanian women were significantly impacted by the COVID-19 pandemic, in a context in which they already experienced a precarious position in the labour market. They experienced loss of income, additional burden of housework and caring responsibilities, increased stress and worries about mental health and wellbeing. In this regard, this research sought to better understand how the pandemic may have affected women's labour rights and gender-based discrimination, which is discussed in the following sections.

¹⁸ Ibid.

¹⁹ UNDP. 2021. *Socio-Economic Recovery Plan*. At: https://unsdg.un.org/sites/default/files/2020-08/ALB_Socioeconomic-Response-Plan-2020.pdf.

²⁰ Ibid.

²¹ Ibid.

²² GADC. 2021. *Fiscal Gender Analysis*. Published in Tirana, Albania.

²³ Please see the full data here: <https://data.undp.org/gendertracker/>.

²⁴ GADC. 2021. *Fiscal Gender Analysis*. P. 50. Published in Tirana, Albania.

²⁵ UN Women. 2020. *COVID-19 Rapid Gender Assessment. Albania: Summary of Key Findings of "Socio-economic impact of COVID-19 on women's and men's empowerment and livelihood"*.

²⁶ Ibid.

Methodology

Albania has had anti-discrimination legislation since 2010, which underwent significant revisions in 2020. Changes to the law introduced new grounds of discrimination, included more severe forms of discrimination, and increased the responsibilities of the Commissioner for Protection from Discrimination, among others. However, information regarding the implementation of the relevant legal framework and case law were scarce in 2018, when GADC and its partners began researching these issues for the first edition of this report.²⁷ At that time, there was little understanding of peoples' perceptions of and experiences with gender-based discrimination in labour.

This report sought to consider what has changed since then. It examines gender-based discrimination, defined as discrimination that affects a person because of her or his gender. Gender-based discrimination 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 gender-based discrimination affecting women. Meanwhile, the terms "discrimination against women" and "discrimination against men" clarify who gender-based discrimination has affected.

In the beginning of 2018, five women's rights CSOs from Western Balkan (WBa) countries, including GADC and led by the Kosovo Women's Network (KWN), started close cooperation towards furthering women's labour rights, focusing on addressing gender-based discrimination in labour. The first edition of this report served as a baseline to inform their advocacy and outreach towards decreasing and better addressing gender-based discrimination in labour. This second edition of the report offers insights into developments since 2018, regarding the legal framework as well as peoples' perceptions regarding gender-based discrimination. More specifically, this research aimed to answer the following research questions:

1. To what extent is the legal framework complete in accordance with relevant EU directives and adequate protections?
2. How many work-related discrimination cases have been reported to different types of institutions from 2008 to 2021?
3. For what reasons have few discrimination cases been reported and/or filed? Related, to what extent are people aware of various forms of discrimination and how to report them, and how has this awareness changed over time?
4. How have relevant institutions treated discrimination cases to date, and how has this changed over time, if at all?

In order to answer the research questions, GADC conducted research from March to December 2018 for the first edition of this report, and again from December 2020 to June 2021 for this second edition. The research involved mixed research methods.

First, the legal analysis prepared for the 2018 report was updated and expanded to include recent changes to the Law on Protection from Discrimination (LPD). The Labour Law (LL) was further analysed as well.

Second, the existing literature and available data and studies on discrimination were reviewed. The body of work on discrimination and labour has remained extremely limited in Albania. Nevertheless, for this second edition, desk research was conducted to identify reports and studies that contain relevant information on gender-based discrimination and labour.

Third, existing data related to discrimination cases, disaggregated by gender, was requested and collected from several institutions that have a legal responsibility related to addressing discrimination, including: the CPD, Ombudsperson Institution (OI) of Albania, and

²⁷ GADC, 2019. Gender Based Discrimination and Labor in Albania. Retrieved from https://www.gadc.org.al/media/files/upload/GBD%20Labour%20Albania_EN.pdf.

Labour Inspectorate. Data were requested for the period 2018-2020, as data from before 2018 was already presented in the first edition of this report, published in 2019.

Fourth, representatives from these institutions, selected using variation sampling, were interviewed using a semi-structured interview guide to measure their knowledge, awareness, and experience with gender-based discrimination and labour. The same interview methodology and questions were used for both editions of this report. Some of the same interviewees were engaged in both iterations of the report, enabling comparison to identify any potential changes in knowledge, attitudes, and/or experiences with treating gender-based discrimination.

Fifth, an anonymous online survey in two languages (Albanian and English) was launched using Lime Survey with the aim of collecting inputs from diverse women and men regarding their knowledge of anti-discrimination legislation; attitudes; personal experiences with discrimination; whether such cases were reported; and the reasons as to why discrimination was not reported when it occurred. The survey was promoted broadly, also targeting under-represented groups, including through media, email and Facebook boosting. A total of 827 people started the online questionnaire, while 380 (46%) completed approximately 90% of the questionnaire. The 2018 survey was completed by 942 people (at least 90%). All respondents were of the age group 15 to 64, as legally allowed to work in accordance with Eurostat. The second survey contained most of the same questions and methods as the first survey to allow for comparisons. Questions about the COVID-19 pandemic were added to the second survey. Both quantitative and qualitative data were analysed by the research team. The research thus involved triangulation of researchers, methods, and sources, towards enhancing validity.

The main research limitations relate to the online survey, which was not statistically representative of the population; therefore, survey findings are not generalisable to the entire Albanian population. Potential for bias exists in general interpretations, given the overrepresentation of certain social groups. The fact that only 66 men completed the survey compared to 314 women constrains comparisons. In addition, inferences are biased because the samples of men and women surveyed are significantly different in terms of place of residence, educational level, and sector of employment. Men are overrepresented among those who live in rural areas (10% of women and 22% of men), among those with secondary or vocational education (4% of women and 19% of men), and among those who work in the private sector (24% of women and 44% of men). Women are overrepresented among those with master's degrees or PhDs (77% of women and 49% of men) and among those employed in CSOs (22% of women and 7% of men).

Despite these limitations, the research team believes that the survey still provided useful qualitative data regarding people's awareness and interpretations of their experiences with gender-based discrimination, which otherwise may have been difficult to collect via random sampling, given the sensitivity of the topic and the need to access persons who believed they had suffered discrimination related to labour. For further information about the methodology, please see Annex 2.

About This Report

This report first analyses the relevant legal framework, presenting the findings of the Legal Analysis. Then, it examines people's awareness, attitudes, and reporting of gender-based discrimination, drawing from existing research, survey findings, and interviews. The report proceeds to discuss prevalence and different types of gender-based discrimination, including those affecting different groups of people. Then, the responses of various institutions to gender-based discrimination are examined. The report concludes with recommendations targeted to relevant institutions and actors. Annexes include the methodology, demographic information about survey respondents, the survey tool, and an example interview guide.

LEGAL ANALYSIS

This chapter responds to the first research question: “To what extent is the legal framework complete in accordance with relevant EU directives and adequate protections?” It presents the legal framework relevant to gender-based discrimination and labour rights, focusing on changes that have occurred since 2018. First, it examines international agreements and instruments. Second, it discusses national legislation, including the Constitution of the Republic of Albania, the Labour Code, the Criminal Code (CC), the Law on Gender Equality in Society, and the Law on Protection against Discrimination. Third, it analyses the relevant strategies and policies. Fourth, it briefly discusses the enforcement of the legal framework through courts. Finally, the chapter summarises conclusions with reference to the research question, highlighting areas in which the legal framework is incomplete.

International Agreements and Instruments

According to the Constitution, the Republic of Albania applies all international laws that are binding upon it.²⁸ Any ratified international agreements constitute part of the internal legal system once published in the Official Journal of the Republic of Albania.²⁹ Moreover, if any domestic laws are incompatible with ratified international agreements, international agreements take precedence over domestic laws.³⁰ Albania has signed dozens of conventions and treaties addressing fundamental human rights and freedoms, non-discrimination and labour rights.

For the most part, international instruments and conventions have been transposed into Albanian legislation. Thus, many Albanian laws are phrased well, including important aspects related to human

Box 1. International Legal Instruments Ratified by Albania, related to Anti-discrimination

- Universal Declaration of Human Rights
- International Convention on the Elimination of All Forms of Racial Discrimination
- International Covenant on Civil and Political Rights
- Optional Protocol to the International Covenant on Civil and Political Rights
- Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty
- International Covenant on Economic, Social, and Cultural Rights
- Convention on the Elimination of All Forms of Discrimination against Women
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- Convention on the Rights of Persons with Disabilities (the “New York Convention”)
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- Council of Europe Framework Convention for the Protection of National Minorities
- Beijing Platform for Action
- Council of Europe Convention on preventing and combating violence against women and domestic violence (the “Istanbul Convention”)

²⁸ Article 5 of the Constitution.

²⁹ Articles 122 and 123 of the Constitution.

³⁰ Article 122 of the Constitution.

rights and non-discrimination.

Additionally, Albania and the EU signed the Stabilization and Association Agreement (SAA) on June 12, 2006, which obliges Albania to guarantee equality between men and women. Following obligations arising from the EU accession process, Albania must approximate its legislation with the EU acquis. The principles of non-discrimination and equality between women and men are protected by the Charter of Fundamental Rights of the European Union.

The European Commission (EC) has continuously emphasised that in order to open accession negotiations, Albania needs to meet several key priorities related to: public administration and judicial reform (focusing on professionalism and de-politization); the fight against corruption and organised crime; and protection of human rights, including property rights.³¹ EC progress reports have continued to request that Albania harmonise its legislation by transposing those legal acts that are related to working conditions, notably on health and safety at work (HSE) and equal opportunities.

In this regard the LPD was recently amended, to be more harmonised with relevant EU directives. The LPD covers the following grounds as a basis for discrimination:

race, ethnicity, politics, religious or philosophical beliefs, disability, age, sexual orientation, gender, colour, language, gender identity, economic, education or social situation, pregnancy, parentage, parental responsibility, family or marital condition, civil status, residence, health status, genetic predispositions, affiliation with a particular group or any other reason.

The following were added as grounds for discrimination in the 2020 amendments to the LPD: "nationality, sex characteristics, HIV/AIDS status, physical appearance, disability".³² The following EU directives are referenced in the LPD:

- **Council Directive 2000/43/European Council** implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
- **Council Directive 2000/78/ European Council** establishing a general framework for equal treatment in employment and occupation.
- **Council Directive 2004/113/European Council** implementing the principle of equal treatment between men and women in the access to and supply of goods and services.
- **Directive 2006/54/ European Council** of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation.

The amended LC, which entered into force in June 2016, has transposed various EU directives covering non-discrimination at work, parental rights, right to information, employer-employee relations, and teleworking.³³ Further, recent amendments to the LC marked improvements regarding non-discrimination, which made the LC fully compliant with the aforementioned directives. This included implementing the principle of equal treatment of persons regardless of racial or ethnic origin, as well as the Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation. The 2016 amendments also increased the minimum working age from 14 to 15, in line with International Labour Organisation (ILO) conventions.

³¹ European Commission. 2013. *Progress report of Albania*. At: https://ec.europa.eu/neighbourhood-enlargement/albania-progress-report-2013_en.

³² Article 1.

³³ European Commission 2016. *Progress report of Albania*. At: https://ec.europa.eu/neighbourhood-enlargement/system/files/2018-12/20161109_report_albania.pdf.

One of the most important international instruments ratified by Albania, in 1994, is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and its Optional Protocol, recognised worldwide as the “Constitution of Women”. The Commission on the Status of Women (CSW) is a commission of the United Nations Economic and Social Council (ECOSOC). It is the main global policy-making body focused exclusively on gender equality and the advancement of women. Article 11 of CEDAW focuses on the right to work, the right to equal compensation, social insurance, job tenure, protection from gender-based discrimination, and discrimination at work.

Albania reports regularly on CEDAW, and the Committee on the Elimination of Discrimination against Women (the monitoring body of CEDAW) has reached Concluding Observations. In July 2016, Albania received CEDAW concluding observations on its Fourth Periodic Report. In reference to the field of employment, the CEDAW Committee expressed the following concerns:

The Committee welcomes the reform of Albania’s legislation concerning the employment of women, namely, the amendment of the Labour Code defining and reversing the burden of proof in cases of sexual harassment. The Committee notes with concern, however, women’s concentration in the informal labour market, especially in the textile and shoe industries, without adequate labour and social protection, and the lack of disaggregated data on the number of women in the informal economy. It is also concerned that the gender wage gap, notwithstanding reported positive developments, remains significant, in particular in the private sector, and that the minimum wage remains extremely low (approximately \$180 a month), disproportionately affecting women. The Committee is further concerned about the limited access to the formal labour market for women belonging to ethnic and linguistic minorities and women with disabilities, as well as about the lack of sex-disaggregated information on labour migration to third countries.³⁴

Throughout its membership in the ILO, Albania has ratified 54 conventions, including the Convention regarding Discrimination in Respect of Employment and Occupation. Albania is responsible for reporting on the advancement of labour rights and labour conditions to international mechanisms, established by relevant international acts ratified by the Albanian Parliament or adhered to by Albania. Specifically, Article 1 of the Convention concerning Discrimination in Respect of Employment and Occupation, which entered into force in 1960, considers discrimination as: “Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation” and calls upon signatory parties “to pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof”.

Albania has ratified all main ILO labour conventions, including:

- ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise Convention, included in the Labour Code.
- ILO Convention No. 100 on Equal Remuneration.
- Convention No. 111 on Discrimination (Employment and Occupation).
- ILO Convention No. 138 on the Minimum Age.

³⁴ Committee on the Elimination of Discrimination against women. 2016. *Concluding observations on the fourth periodic report of Albania*. Online: <https://digitallibrary.un.org/record/840818?ln=en#record-files-collapse-header>

- Convention No. 182 on the Worst Forms of Child Labour. The criteria for employment of persons under 18 are well defined in the Labour Code.
- ILO Convention No. 29, the Forced Labour Convention.
- Convention No. 105 on the Abolition of Forced Labour. The Convention prohibits trafficking, forced and compulsory labour, including by children.

In relation to gender and employment, reference must be made to ILO conventions. Although Albania's domestic legal framework already has adopted different pieces of international legislation regarding gender in labour relations, laws are not entirely harmonised. The ILO has four key gender equality conventions: Equal Remuneration Convention, 1951 (No. 100); Discrimination Convention (Employment and Occupation), 1958 (No. 111); Workers with Family Responsibilities Convention, 1981 (No. 156); and Maternity Protection Convention, 2000 (No. 183). Conventions No. 100 and No. 111 are among the eight ILO fundamental conventions. The principles and rights enshrined in those conventions can be found in the ILO Declaration on Fundamental Principles and Rights at Work (1998). The Equal Remuneration Recommendation, 1951 (No. 90), provides detailed guidance on the implementation of Equal Remuneration for Work of Equal Value. According to the ILO:

The ILO mandate on gender equality is reinforced by related resolutions adopted by its highest decision-making body, the International Labour Conference. The most recent of these is the Resolution concerning Gender Equality at the Heart of Decent Work, adopted in June 2009; and the Resolution concerning the Promotion of Gender Equality, Pay Equity and Maternity Protection, adopted in June 2004.³⁵

More recently, in 2019, the ILO adopted the Convention concerning the elimination of violence and harassment in the world of work. This Convention is an important step in addressing the phenomenon of harassment, especially gender-based harassment at work. It has a wide scope as it includes not only harassment occurring in the place of work, but also outside. Albania ratified the Convention in February 2022, which opens up opportunities to revise its current legislation and take measures to implement its provisions.

Overall, regarding EU Directives, the following have been fully or partially harmonised in the Albanian LC, to date:

- Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC
- Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast)
- Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work
- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)
- Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time
- Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in

³⁵ ILO. No date. *ILO and gender equality*. Online: <https://www.ilo.org/gender/Aboutus/ILOandGenderEquality/lang--en/index.htm>

- the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation
- Council Directive 2001/86/EC of 8 October 2001 supplementing the Statute for a European company with regard to the involvement of employees
 - Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses
 - Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation
 - Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP Directive 1999/92/EC O of the European Parliament and of the Council of 16 December 1999 on minimum requirements for improving the safety and health protection of workers potentially at risk from explosive atmospheres (15th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)
 - Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies
 - Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC
 - Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services
 - Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work
 - Council Directive 92/85 / EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)
 - Council Directive of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (91 /533/EEC)

While Albania has performed well in transposing directives to its national legislation, implementation remains weak. For instance, the 2020 EC report noted poor implementation of recommendations coming from the Commissioner for Protection against Discrimination. While the latter has seen an increase in budget, lack of human, financial, and technical resources undermine its work and effectiveness, as noted in the Universal Periodic Review (UPR) in 2019.³⁶ The EC report also recommended, in line with the analysis in the first edition of this GADC report, a need to establish strong case law on anti-discrimination.³⁷ Additional findings in this second edition, in the chapters that follow, also point to remaining challenges in implementation.

³⁶ OHCHR. 2019. *Universal Periodic Review 2019*. At: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/ALindex.aspx>.

³⁷ European Commission. 2020. *Albania Report 2020*. At: https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/albania_report_2020.pdf.

The National Legal Framework

The Constitution of the Republic of Albania

The Albanian Constitution protects human rights with a specific clause on anti-discrimination, including gender as a prohibited ground for discrimination.³⁸ Article 18 stipulates that “all are equal before the law” and “No one may be discriminated against on the grounds of gender, race, religion, ethnicity, language, political, philosophical and religious beliefs, social, educational and economic situation, and parental status.” The same constitutional principles apply to national minorities and non-Albanian citizens. However, it does not specifically provide protection on the grounds of sexual orientation or gender identity (SOGI).³⁹ Only later, when the LPD was approved in 2010, was discrimination on the basis of SOGI prohibited. The 2020 amendments to the LPD added sex characteristics to the list of grounds for discrimination related to SOGI.

The Constitution is formulated with non-gender sensitive language.⁴⁰ Professions in which either women or men may work are stated linguistically, solely for men. The titles of professions such as minister, mayor, or director of a directorate are in the male gender. However, this occurs only in the official acts appointing them because in everyday life people tend to use the female gender linguistically to refer to the title. Nevertheless, from a purely linguistic perspective, these articles can be regarded as neutral in terms of gender.

In line with international standards, the right to employment is sanctioned in the provisions of the Albanian Constitution under Article 49: “Everyone has the right to earn the means of living by lawful work that he has chosen or accepted himself.” Accordingly, the right to work involves the right to choose a profession, place of work, as well as the system of professional qualification aimed at earning a means of living by lawful work. In decision no. 20/2006 of the Constitutional Court, it is stipulated that:

The definition provided by Article 49 of the Constitution should be considered of its double meaning. It implies a positive obligation that requires state commitment to create the conditions for its realization, but also a negative obligation, which requires that the state does not intervene so as not to violate this right.

Additionally, the Albanian Constitution recognises the economic freedoms and fundamental rights of employees to seek social protection related to labour, as well as to organise in unions to protect their work-related interests:

- Article 49 point 2 - Employees have the right to social insurance of work.
- Article 50 - Employees have the right to unite freely in labour unions for the defence of their work interests.

While the Albanian Constitution provides broad protections against discrimination in line with international standards, including in relation to work, the language used is gender-neutral and could benefit from more specific references to inherent gender inequalities.

³⁸ USAID & UNDP. 2017. *Being LGBTI in Eastern Europe: Albania country report: reducing Inequalities sand exclusion and combating homophobia & Transphobia experienced by LGBTI people in Albania.*

³⁹ Ibid.

⁴⁰ GADC. 2018. *Gender-based Discrimination and Labour in Albania.* At: https://www.gadc.org.al/media/files/upload/GBD%20Labour%20Albania_EN.pdf

The Labour Code

In December 2015, the Albanian Parliament passed Law no. 136/2015 introducing important amendments to the Albanian Labour Code no. 7961 dated 12 July 1995. The aim was to harmonise the Law with the EU *aquis* on employment. This included minimum standards for labour, equality, health and safety at work, and non-discrimination. The amendments also promote social dialogue at the European level. Certain aspects are novelties, introduced for the first time into Albanian legislation, such as temporary employment of foreign citizens, the temporary-work agency, and parental leave. The amendments came into force on 22 June 2016. With respect to gender-based discrimination in labour, the amendments include three important, novel principles that employers must consider during the employment relationship: non-discrimination; protection of personal and sensitive data; and informing and consulting.

For example, termination of an employment contract in violation of the “non-discrimination” principle is now considered termination of a contract for no reasonable cause, which leads to compensation for the employee (Article 146, (1) point c). Amendments provide for changes to the definition of discrimination by including any exclusion or preference related to sexual orientation, pregnancy, residence or HIV/AIDS disease (Article 9, point 2). All employees should be treated equally and the employer should take all necessary measures to ensure the adaptation of the workspace for employees with different conditions (e.g., persons with different abilities, Article 9, point 8). Additionally, Article 9 was amended to establish, for the first time, the employee’s right to file a claim with the CPD following well-defined procedures in the LPD.

The “informing and consulting” principle defines for the first time the employer’s obligation to communicate with the employees’ representative, especially prior to taking important decisions, such as posting employees, reorganising the enterprise, and changing employment conditions.⁴¹ The employer must inform the employee in writing with the purpose of receiving the opinion and eventually consent of the latter. Meanwhile, the amended Article 32 forbids malicious, sexual, racial, and general harassment of employees at work. It obliges the employer to follow a set of rules and obligations aiming at guaranteeing the dignity, personal and mental health of the employee.

In addition, the 2015 amendments also regulate maximum hours of work, working conditions, working overtime, vacation time, annual leave, night work, non-discrimination, and consultation with employees, updating the previously old and/or redundant prior provisions.

The 2015 amendments to the LC regulate: labour relations between employee and employer; payment for hard work and late hours; maternity leave; health at work; and temporary employment. These changes make the LC a modern document that provides more protection for employees. The following sections examine various aspects of the LC that may relate to gender-based discrimination at work.

Employment Contract

Amendments to the LC define the form and content of the employment contract.⁴² The conclusion of an employment contract and amendments to the employment contract shall be made only in writing. In comparison to the prior provisions, the employer and the employee must formalise the employment contract in a written form within seven days from the commencement of employment. Previously, the obligation to have an employment contract in a written form was not specifically foreseen by the LC. From now on, employment contracts must be duly amended to contain changes provided for in the amended law. A new element that must be integrated into employment contracts is a description of the disciplinary

⁴¹ Article 33/1.

⁴² Article 12 of the Labour Code.

measures and procedures applied by the company as a component of grounds for termination of the employment contract. In addition, the conclusion of fixed-term contracts must be justified by objective reasons regarding the temporary nature of the duties assigned to an employee. Failure to comply with this obligation shall not affect the validity of the contract. Pursuant to LC Article 202, failure by the employer to observe the above requirements is subject to a fine of up to 30 times the minimum monthly salary defined by law.

All contracts usually include a probationary period presumed from the time the labour contract is concluded. When the employee cannot work because of illness, the employer gives him/her no less than 80% of the salary for a period of 14 days; this compensation is not covered by social security.⁴³

If an employer does not register an employee in the social security scheme, the employer shall pay all expenses belonging to the employee as a result of an accident or occupation-related disease, as well as all damages generated by not registering the employee in the scheme.⁴⁴

Termination of Employment Contract

Recent amendments have significantly changed the termination of employment contracts.⁴⁵ Employers now must determine and include in the written notice reasons for termination. Such reasons may be related to the lack of capabilities of the employee, his/her behaviour, or operational needs of the enterprise. Reasonable causes for termination are explicitly specified to avoid abusive or unlawful dismissals. During the notice period, if the employment contract is terminated by the employer, the employee is entitled to at least 20 hours of paid leave per week to seek a new job. Amendments also have affected notification terms for the termination of an employment contract; no longer may notification terms be changed through mutual agreement.

Other Amendments

Other changes in the LC relate to the organisation of syndicates and employees' unions; general and solidarity strikes; the creation of a regional three-party council; collective dismissal; enterprise transfer; and collective agreements, among other themes.

Rest Breaks

Amendments to Article 54 define rest breaks⁴⁶ between daily working hours. An employee working for nine consecutive hours has the right to at least 40 minutes of non-payable breaks. An employee that has worked for more than six consecutive hours is entitled to at least 20 minutes of non-payable breaks to be taken at least after every third hour of work. After the ninth hour of work, the employee is entitled to 20 more minutes of rest break. During pregnancy, the pregnant employee is entitled to at least 30 minutes of rest breaks every three working hours. The employer and employee must agree on the duration and timing of the daily rest break in the employment contract.

⁴³ Article 23, paragraph 1 and Article 25 of Law No. 7703, date 11.5.1993 On social security in the Republic of Albania.

⁴⁴ Article 39.3 of the Labour Code.

⁴⁵ Article 144 of the Labour Code.

⁴⁶ Article 54 of the Labour Code.

Maximum Working Time and Overtime

Article 90 of the LC sets out that overtime work must not exceed 200 hours per year.⁴⁷ Further, the amendment reduced the weekly working time from 50 to 48 hours. Overtime for pregnant women, mothers up to one year after birth, and disabled persons is prohibited.

Annual Leave and Other Payable Leaves

Annual leave⁴⁸ cannot be substituted with a cash payment, except when the employment contract is terminated and the untaken leave must be compensated to the employee.

Parental Leave

Parental leave⁴⁹ is a new concept introduced by the 2015 amendments. An employee who has worked for more than one year for the same employer is entitled to unpaid parental leave (not exceeding four months, to be given until the child reaches the age of six). The leave can be divided in not less than one week per year. The duration of parental leave is agreed in writing between the parties. In case of adoption, parental leave may be given within six years from the adoption, but not after the child is 12 years old. Parental leave is an individual right for each employee and may not be transferred by the mother to the father or vice-versa.

The adoption of the Work-Life Balance Directive by the EU in 2019 makes stronger commitments to shared responsibilities between men and women with an indirect aim of improving not only work-life balance but also to increase women's participation in the labour market. The directive introduces for instance the right to request flexible working arrangements as well as carers leave for those providing personal care to a relative.⁵⁰ As most care-giving duties fall on women, this component directly targets women's ability to remain in the labour market. Albania's current legal framework does not include all provisions of the Directive. For instance, there are no flexible work arrangements for carers in the current legislation.

Maternity Leave and Other Protections for Women Employees

Both the LC and the Law on Social Security foresee special protection for women. The Law on Social Security provides for maternity leave.⁵¹ Pursuant to this Law, a pregnant woman is entitled to paid maternity leave of 365 calendar days, including a minimum of 35 days prior to childbirth and 63 days after childbirth. After completing the minimum mandatory maternity leave, 63 days after childbirth, a woman may decide if she wants to work or benefit from social security. If she selects the latter, she avails herself of the maximum period of maternity leave.

In the event of the birth of more than one child, the duration of this period is extended to 390 days. During this period, employees shall receive payment from the Social Security Institute (SSI) amounting to 80% of the daily average of their salary over the last calendar year, applicable for the first 150 days of maternity leave; and 50% of the daily average of their salary in the last calendar year, applicable for the remaining days of maternity leave. Maternity leave is paid by the Institute and not by the employer.

⁴⁷ Article 90 of the Labour Code.

⁴⁸ Article 93.4 of the Labour Code.

⁴⁹ Article 132/1 of the Labour Code.

⁵⁰ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers.

⁵¹ Articles 104, 105 and 105/a and 107 of the Labour Code.

When a pregnant woman, a woman who has recently given birth and/or a woman with a baby at home decides to return to work after the period mentioned above, but the previous job position is not considered appropriate, as defined by legislation on health and safety at work, the employer must take the necessary measures to ensure the temporary adaptation of working conditions and/or hours of work to avoid any risk to the employee and/or the child.⁵² If the adaptation of working conditions or working hours is technically and/or objectively unfeasible, or cannot be requested on duly justified causes, the employer transfers the employee to another similar job for which she is deemed suitable. The LC defines a penalty for violation of the above measures of up to 10 times the minimum monthly wage for the employer.

In addition, the LC prohibits the employer from requiring pre-employment pregnancy tests, unless the workplace requires working in conditions that may adversely affect pregnancy or which may harm the life or health of the mother or child.⁵³ During pregnancy, the woman, in agreement with the employer, is entitled to paid leave for medical examinations when these must be performed during working hours.

If the employer terminates the employment contract when the woman is at work during pregnancy or has returned to work after maternity leave, the employer must prove that the cause of dismissal was neither the pregnancy nor the birth of the child.

The LC provides special provisions for night work, including forms of reward. If a pregnant or breastfeeding woman who returns to work 63 days after birth is uncomfortable working at night, following a medical report, but is suitable and comfortable working during the daytime, she is to be transferred to similar work for which she is deemed suitable.

The employer must assess the risk of agents, processes, or work conditions based on the nature, scale, and duration of exposure within the company and workplace where pregnant women, breastfeeding women, or women that have recently given birth perform their work and activities. Risk assessments shall assess all elements that generally violate employees' safety and health in the workplace and specifically potential effects on reproductive health, pregnancy, and breastfeeding. Safety and health protection for groups that are risk-sensitive shall not constitute any grounds for generating unfavourable circumstances for women in the labour market.⁵⁴

The above paragraph encompasses the employee protection provision set out in the LC, which can be treated also as a direct protection for the reproductive health of women in cases of exposure to radioactive radiation, some categories of chemical substances, and workplace stress. This includes if exposure to the above-mentioned elements has negative effects even once the baby is conceived. On such grounds, the LC forbids:

- Women and pregnant women to be exposed to any kind of hazardous and dangerous radiation, especially to radioactive radiation.
- Women to work with chemical substances or within premises and environments involving chemical vapours, dusts and fumes harmful to their health.
- Pregnant women to work 35 days before baby delivery and 63 days after baby delivery.
- Pregnant women and breastfeeding mothers to be employed in hazardous or hard work that harm children's and mother's health.
- Pregnant women to work night shift (hours).
- Prohibits breastfeeding mothers and pregnant women to lift weights.
- Prohibits that they be asked to start working before 05:00 in summer time (or 06:00 during winter time), or to continue work after 20:00.

⁵² Article 107.1 of the Labour Code.

⁵³ Article 105/1 of the Labour Code.

⁵⁴ Article 48 of the Labour Code.

In addition, it allows for pregnant women and breastfeeding mothers to enjoy paid breaks amounting to at least 30 minutes for every three hours of work per day, if their condition justifies these breaks (Article 54/2).

Care for Dependent Children

If an employee needs to care for dependent children,⁵⁵ the employee is entitled to her/his salary, during up to 12 days of absence from work annually. Employees with children up to three years of age are entitled to 15 days of paid leave if the child is proven sick by a medical report. Employees have the right to be absent from work for an additional unpaid period not exceeding 30 days per year. The leave is granted to the parent who is effectively engaged in caring for the child. Otherwise, the mother and father may take turns. The employer can verify the report on childcare by appointing another doctor. The LC is not harmonised with the EU work-life balance directive as it only foresees leave for dependent children, and not other relatives and dependents as foreseen in the directive.

The Criminal Code

The Criminal Code (CC) qualifies as criminal offences any forced sexual intercourse without consent, regardless of the location where it occurs, thereby including workplaces. The CC also has adopted provisions for protecting women from violence and, specifically, qualifying sexual harassment as a criminal offence. Sexual harassment is defined to include sexual behaviour violating human dignity with any means, or in any form, resulting in a threatening, hostile, degrading, humiliating, or offensive environment. As such, sexual harassment is punishable by one to five years of imprisonment.⁵⁶ Sexual harassment is included as a ground for discrimination in the LPD as well as the LGE.

The Law on Gender Equality in Society

The LGE sets the institutional and policy framework to fight against discrimination and gender-based inequality.⁵⁷ The LGE is implemented through the National Strategy for Gender Equality (NSGE), currently the fourth such strategy for Albania (2021-2030).⁵⁸ The LGE draws on the Constitution of the Republic of Albania, CEDAW, and all the other international acts ratified by the Republic of Albania.⁵⁹ However, the LGE still needs to consider other international commitments of Albania, such as the Istanbul Convention, the case law of the European Court of Human Rights (ECtHR) and the European Court of Justice (ECJ). In addition, since its approval in 2008, the LGE has not changed to adjust to changes in context and the realities of the needs for gender equality in Albanian society. The need for a substantial revision of the Law is evident in almost all its constituting chapters. Herein, only stipulations related to employment and discrimination will be analysed.

The LGE stipulates the main principles of equality between men and women in public and private life. It aims to ensure efficient protection against discrimination on the grounds of

⁵⁵ Article 132 of the Labour Code.

⁵⁶ Articles 107/a, 108/a, 121, 130/a of the Criminal Code.

⁵⁷ This section draws from: Arqimandriti, M. 2020. HUGEN and West Minister Foundation. *Post Legislative Scrutiny of the Gender Equality in Society law*, retrieved from:

<https://www.hugenwb.net/uploads/materials/7621Kontrolli%20post-legjislativ%20i%20ligjit%20P%C3%ABr%20barazin%C3%AB%20qjinore%20n%C3%AB%20shoq%C3%ABri-%20Raporti.pdf>.

⁵⁸ Newly approved NSGE, as of July 2021.

⁵⁹ Article 3 of the LGE.

gender; defines safeguards for equal opportunities between men and women towards eliminating gender-based discrimination; defines the responsibilities of state bodies in supporting gender equality; and defines protection against discrimination and harassment by providing special measures for guaranteeing at least 30% representation in political and public decision-making positions for the least represented gender.⁶⁰ Additionally, the LGE foresees gender equality in education, employment, and media. The LGE, as its main purpose, “provides effective protection from gender discrimination and any other form of behaviour that encourages gender discrimination”, as well as “defines measures that provide equal opportunities among women and men, eliminating any form of gender discrimination”.⁶¹ This stipulation sets the ground for a proactive and reactive approach, where public institutions have the responsibility to react to any case of gender discrimination, as well as the duty to prevent proactively any discrimination from happening.

The LGE defines gender equality, gender, gender-based discrimination, gender mainstreaming, equal gender representation, temporary special measures, employees responsible for gender equality issues, equal value for equal work, gender-based harassment and sexual harassment.⁶² “Gender” is clearly defined as the possibilities and social attributes associated with being a woman or a man, and the relationships between them. However, the LGE makes no distinction between gender and sex. It also contains no reference to “gender identity” and does not define “gender-based violence”, “sexual violence” or “gender stereotypes”. It does include a definition of behaviours that are inappropriate and of a sexual nature, which could loosely be translated as sexual harassment. However, it does not include all forms of sexual and other types of violence that women face. From the list of definitions, it is clear that the LGE is outdated and does not match recent changes to the LPD, the NSGE, the LC, and other related legislation. Therefore, it requires substantial revision to reflect the variety of potential forms of discrimination and violence that women face.

In the area of employment, Chapter IV of the LGE is dedicated to protection and equal treatment in the world of work. It foresees temporary special measures to ensure that the less represented gender gets preferential treatment in promotion and hiring procedures. However, it does not have any provision on measuring if this has been fulfilled.

The LGE briefly addresses unpaid work, by recognising this as contributing to the general economic development of the country and foresees services (including employment services) for this category.⁶³ However, it is unclear how unpaid work is recognised, which specific programs persons performing unpaid work would benefit from, and what assistance they can receive. Considering the ubiquity of unpaid work in Albanian society, the provisions on unpaid work require expanding and alignment with other legislation, as well as international standards.

Sexual discrimination and harassment at work is addressed in Article 18, which outlines the responsibilities of the employer to prevent and address such phenomena in the workplace. However, the way the provisions are laid out are difficult to monitor and operationalise and do not make any reference to the LPD and the CPD, as the main anti-discrimination authority, because the LPD was created after the LGE. The Law should be updated to make its provisions applicable, more exhaustive, and clear.

Gender quotas in the area of political participation have contributed to an increase in the number of women elected in parliament and local municipal councils (the 2021 parliamentary elections saw the highest number of women elected in Albania to date, 37.5%). The implementation of the LGE has led to an improved gender balance at all levels of political decision-making, especially in Parliament and the current composition of the government. In 2020, Albania was listed as having one of the most gender equal governments in the world.

⁶⁰ Articles 4 and 15 of the LGE.

⁶¹ Article 2 of the LGE.

⁶² Article 4 of the LGE.

⁶³ Article 23 of the LGE.

Introducing a gender quota in the LGE was a necessary incentive for significantly increasing the representation of women in political processes. The large number of women who have benefited from this policy, as defined in the LGE, is one of the main achievements of the Law. However, it has not been successful in increasing women's participation in other spheres, such as employment. Nor does data exist to monitor the representation of women in other specific sectors.

The LGE has had a positive impact on the collection and regular distribution of statistics about gender equality and/or gender-disaggregated data. However, the current use of gender-disaggregated data and gender statistics in developing policies, budgeting, and monitoring the national development priorities remains far from satisfactory. The current statistical system is characterised by a significant gap between data and information collected by institutions on one hand, and indicators required at the international level for monitoring gender equality on the other. Moreover, Law No. 17/2018 on Official Statistics does not consider the LGE and does not mention the importance of gender-disaggregated data in any of its articles.

One of the most significant challenges related to the LGE is implementation. An issue that hampers implementation of the LGE is that some articles are merely declarative. The language used in some articles is unclear and fails to ensure concrete action for implementation or to provide for an authority that would monitor compliance. For instance, in the area of anti-discrimination, cases determined by the CPD refer to the LPD instead of the LGE; the LGE's stated objective for ensuring effective protection from gender-based discrimination is non-operational because it does not have an enforcement mechanism. The LPD, on the other hand, has an implementing mechanism, namely the CPD, who can impose fines and represent cases in court.

A further issue with implementation is human resources and appropriate funding. It has been noted in subsequent EC reports for Albania⁶⁴ and observed in several analyses of gender equality commitments that there is a funding gap and inappropriate human resources allocated for the vast responsibilities charged upon central and local level public institutions to ensure gender equality as foreseen in the LGE and other related laws. At the central level, there is a Gender Equality Section within the Ministry of Health and Social Protection (MHSP) which is responsible for coordinating work on gender equality among the line ministries both at the local level through their gender focal points and/or coordinators against domestic violence. The Gender Equality Sector consists of two specialists and one chief of the sector. Considering the wide variety of tasks assigned to the responsible sector and the wide range of gender equality issues, human resources are insufficient for the amount of work required. A similar situation is observed at the local level, where local gender employees perform several different roles, including those unrelated to furthering gender equality.⁶⁵

Law on Protection against Discrimination

Albania has established protection against discrimination by adopting Law no. 10221, dated 4 February 2010, the so-called "Anti-discrimination Law". Following amendments in October 2020, the Law appears to have properly transposed EU directives and definitions of various forms of discrimination.⁶⁶ The amendments to the LPD provide for additional protected grounds, such as citizenship, sex characteristics, living with HIV/AIDS, and appearance.

⁶⁴ See, for instance, EC reports for 2019 and 2020 for Albania.

⁶⁵ UN Women, 2021, *Country Gender Equality Brief*. At: https://www2.unwomen.org/-/media/field%20office%20albania/attachments/publications/2020/12/cgeb%20albania_report_1.pdf?la=en&vs=4248.

⁶⁶ Articles 1 and 3 of the LPD.

The Law now has eight new forms of discrimination, including: multiple discrimination, intersectional discrimination, hate speech, segregation, sexual harassment, structural discrimination, incitement to or aiding another to discriminate, and proclaimed intention of discrimination, referring to international practice as well as current social circumstances. Existing forms of discrimination, such as "victimisation", also have been reformulated. The introduction of these concepts is a determinant milestone for the Albanian legal framework.

To its merit, the Albanian LPD extends the scope of protection from discrimination beyond that which is provided for under EU law in two important aspects. First, it stresses that denial of reasonable accommodation is discrimination.⁶⁷ EU member states currently are debating implementing this approach amid negotiations for a new EU Equality Directive. Second, the LPD builds on the jurisprudence of the European Court of Justice by explicitly stating that "discrimination because of association" is a prohibited form of discrimination.⁶⁸

Moreover, the LPD now has embraced the concept of "severe forms of discrimination",⁶⁹ which is a discriminatory behaviour motivated by more than one ground, committed more than once, which has lasted for a long period of time, or has caused particularly harmful consequences for the victim. In such cases, the Law provides for a doubling of sanctions.⁷⁰

Different provisions concerning the Commissioner, penalties, and enforcement thereof also have been included in amendments, aiming to facilitate the procedure and add another layer of protection for persons who have suffered discrimination. Even the objective of the LPD was expanded and now reads as follows:

This law regulates the implementation of and compliance with the principle of equality and non-discrimination in relation to race, ethnicity, colour, language, citizenship, political, religious or philosophical beliefs, economic, education or social situation, gender, gender identity, sexual orientation, sex characteristics, living with HIV/AIDS, pregnancy, parentage belonging, parental responsibility, age, family or marital condition, civil status residence, health status, genetic predispositions, appearance, disability, affiliation with a particular group or for any other grounds.⁷¹

With respect to forms of discrimination, in addition to severe discrimination explained above, Article 3 of the LPD now contains extended and well-defined forms of discrimination that have either been reformulated or were totally missing previously, such as:

- "Direct discrimination" - the form of discrimination that occurs when a person or group of persons is treated in a less favourable manner than another person or another group of persons in a situation that is the same or similar. This definition has not changed from the previous version of the Law. However, as it refers to grounds of discrimination covered under Article 1 of the Law, it should be noted that Article 1 was substantially revised. Therefore, the concept of direct discrimination covers more grounds of discrimination than its previous iteration did.
- "Intersectional discrimination" - forms of discrimination that operate and interact with each other at the same time in such a way as to be inseparable when several grounds of discrimination exist, producing distinct and specific forms of discrimination. This

⁶⁷ Article 3(7).

⁶⁸ In LPD, Article 3(4). Regarding the European Court of Justice, see *Coleman v. Attridge Law and Steve Law* (Case C-303/06), at <http://www.equalrightstrust.org/news/albanian-president-signs-comprehensive-anti-discrimination-law>.

⁶⁹ Article 3/1 of the LPD.

⁷⁰ Article 3/1 and Article 33 of the LPD.

⁷¹ Article 1 of the LPD.

definition was introduced for the first time in the 2020 amendments to the LPD, which reflects the principles of recognising that intersectional discrimination can occur, affecting different groups in several areas.

- “Discrimination because of association” - discrimination that occurs when there is a distinction, limitation, or preference, because of association with persons who belong to the groups mentioned in Article 1 of LPD, or because of a supposition of such an association. This Article also refers to groups mentioned in Article 1 and was amended in 2020, widening the definition and including more groups and grounds of discrimination.
- “Multiple discrimination” - a form of discrimination that occurs when a person or group of persons is treated in a less favourable manner than another person or another group of persons in a situation that is the same or similar, on the basis of two or more grounds that operate separately. This was added as a new definition during the 2020 revision of the LPD.
- “Indirect discrimination” - while the definition itself did not change in 2020, its reference to Article 1, widens the scope and groups covered under this type of discrimination.
- “Hate speech” - any form of public expression, through any means, of the promotion or incitement to denigration, hatred, or vilification, any harassment, insult, negative stereotyping, stigmatisation, or threat against a person or group of persons, as well as any justification of all forms of expression on the basis of a non-exhaustive list of grounds set forth in Article 1 of the LPD. This was added in the 2020 revisions as it was completely missing from the previous LPD.
- “Denial of a reasonable accommodation” – is impacted by the changes to Article 1 of the LPD, which widened its scope compared to the previous version.
- “Incitement to or aiding another to discriminate” - the form of discrimination that occurs where one or more persons incite or assist one or more other persons, including their financing, for the purpose of discrimination, on the basis of any of the grounds referred to in Article 1 of the LPD. The word incitement was added to this definition which before contained only the word “aiding another to discriminate”.
- “Harassment” - the form of discrimination where unwanted conduct related to any of the grounds referred to in Article 1 of the LDP occurs with the purpose or effect of violating the dignity of a person, and creating an intimidating, hostile, degrading, humiliating, or offensive environment for that person, as well as any less favourable treatment based on the objection or non-subjugation of the affected person to such conduct.
- “Sexual harassment” - the form of discrimination where any form of unwanted verbal, non-verbal, or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment. This was added as a separate form of discrimination as the LPD previously only included harassment.
- “Segregation” - the form of discrimination which occurs where a person or group of persons are segregated from others without any objective and reasonable justification

and such segregation is done on the basis of at least one of the grounds set out in Article 1 of the LPD. This is a new form of discrimination added with the 2020 amendments to the LPD.

Considering the aforementioned amendments, the LPD intended to be more comprehensive in specifying the causes and types of discrimination, which, thus far, have been mostly reflected in the LC. Previously, in the LPD itself, such provisions were incomplete or missing. The LPD was amended by also including recommendations made by specialised international bodies such as the European Commission against Racism and Intolerance (ECRI) in the case of citizenship. Additionally, the provision of appearance or appearance-based discrimination stems from the practical experience of the CPD as an institution. In conjunction with international organisations, suggestions, and CPD own experience, the amendments to the LPD were made taking into consideration also laws of comparable countries such as Serbia. Now, the legislators believe that given the broad nature of the LPD, it assures the rights of every person to: "a) be considered as equal before the law and be granted equal protection of the law; b) have equal opportunities and possibilities to exercise rights, enjoy freedoms and take part in public life; and c) be granted effective protection from discrimination and from every form of conduct that encourages discrimination."⁷² This wide scope of application is complemented by a focus on areas where discrimination is particularly evident, such as employment, education, and the supply of goods and services, including housing and health.

Article 11 allows for positive action, which it defines as a "particular temporary measure that aims at speeding up the real establishment of equality". The Article states that this measure must be suspended or considered as concluded upon achievement of the equality objective.

Concerning employment, Article 12 covers cases where any distinctions, limitations, or exclusions based on the protected grounds are prohibited in the field of employment. This includes cases where adverse treatment is related to job opportunities, the recruitment of staff and the treatment of staff within the workplace. Article 12 (2) also emphasises that all types of harassment, particularly sexual harassment, are prohibited in the workplace.

Article 13 provides a range of positive obligations for employers to encourage the principle of equality and facilitate its promotion within the workplace. The Article sets forth the duties that employers shall have to investigate any complaints of discrimination made by their employees within one month of receiving them. As noted, prohibited grounds of discrimination are included related to SOGI.⁷³ Employment discrimination, moral and sexual harassment, and derogatory comments against employees on the grounds of SOGI are prohibited by the LPD and the LC. The Law on Pre-University Education also prohibits discrimination based on SOGI, while providing free legal aid to anyone who is subject to discrimination, if such a discriminatory practice has been recognised by a decision of the CPD.

In addition, Article 14 vests institutions such as the Council of Ministers, the Minister of Health and Social Protection, and the Interior Minister with proactive duties. Each Ministry has a duty to take positive measures to fight discrimination in connection with employment rights. Moreover, this governmental duty has been transposed by raising consciousness of employees and employers by, among other things, providing information about protection against discrimination; and establishing special and temporary policies, based on the characteristics mentioned in Article 1, for organising campaigns encouraging equality, particularly between men and women, as well as between fully physically able persons and those who are of restricted or different abilities.

The LPD is now better equipped to address a wider variety of grounds for discrimination. The 2020 changes add more clarity, definitions, and details regarding the role

⁷² Article 2 of the LPD.

⁷³ Article 1 of the LPD.

of the CPD, by extending the powers of the Commissioner and including monitoring the LGE to their duties. The LPD is aligned with relevant directives, though implementation is still challenging.

Strategies and Policies

The still in force National Strategy on Development and Integration (NSDI) II 2015-2020 recognises the existence of gender-based discrimination in different areas of public and political life and thus commits to ensure that gender disparities are properly addressed. A key priority is “ensuring the economic empowerment of women by addressing gender disparities leading them to poverty and by promoting their social inclusion and economic independence”.⁷⁴

The National Employment and Skills Strategy (NESS, 2014-2022) was extended following the mid-term review of the NESS conducted at the end of 2018 by United Nations Development Program (UNDP). Also, a revised action plan was completed in 2019 and the policy framework extended by two years in view of the limited progress on the promotion of employment services at the local level and social cohesion. NESS (2014 – 2022) has focused on gender disparities and aimed at “taking an explicitly gender sensitive and inclusive approach by devising policy responses and programs that ensure that benefits of reform equally accrue to different categories of women and men, girls and boys in Albania”. Specific interventions foreseen by the NESS have included removing barriers by facilitating access in training and employment; encouraging participation in the formal labour market; addressing women’s low participation in the labour market; and strengthening capacities to integrate gender equality goals into policy formulation, planning, and deliverables. The Employment and Skills Strategy, extended to 2022, recognises the presence of gender inequalities in the labour market, whereby women’s employment level remains lower than men’s does. As a measure, the new NESS focuses on investing in employment programs that consider gender and have an enhanced focus on groups most at risk, including women.⁷⁵

The first Strategic Objective of the National Strategy for Gender Equality (NSGE, 2016-2020) sought to support women’s economic empowerment by addressing the inherent gender inequalities that lead to poverty. The Strategy did not explicitly focus on gender-based discrimination in the labour market; it made subtle references to the existing situation where women are disadvantaged and often discouraged from participating. For instance, the Strategy referred to closing the gender employment gap, increasing employment among women and decreasing unpaid work for women. These aspects affect gender-based discrimination in access to employment, according to the Strategy. The Strategy could have referred explicitly to reducing discrimination affecting women in the labour market, but did not. The new, recently approved NSGE (2021-2030) expands on the first strategic objective of economic empowerment by adding green economy and digitalization to its strategic aims. The new Strategy focuses on intersectionality. For instance, while the previous Strategy had a dedicated specific objective on increasing the labour participation of women in rural areas, the new Strategy mainstreams this and other dimensions throughout the different specific objectives, including women from LGBT community, women with disabilities, Roma women, etc. The new Strategy also has a clearer focus on increasing women’s entry into the labour

⁷⁴ Albanian Government. 2015. National Strategy on Development and Integration II. At: https://shtetiweb.org/wp-content/uploads/2014/06/NSDI_2014-2020_version_June-2013.pdf

⁷⁵ Employment and Skills Strategy, 2019-2022, p. 7. At: https://financa.gov.al/wp-content/uploads/2020/10/Publikim_AL_Strategjia-Komb%C3%ABtare-p%C3%ABr-Pun%C3%ABsim-dhe-Aft%C3%ABsi-2019-2022.pdf.

market, especially in Science Technology Engineering and Mathematics (STEM) fields by having a dedicated objective on this.

Albania has achieved significant progress in the protection of LGBTQIA+ people's rights, both on a legal and optical level, including the drafting of a National Action Plan on LGBTI People (2016-2020), adopted by the government in 2016, which has constituted the main policy document for protecting the human rights of LGBTI people.⁷⁶ More specifically, two measures on SOGI, constitutes the basis for protection of the rights of LGBTQIA+ people.⁷⁷ Also, the application of the universal declaration on human rights and international human rights conventions provide a solid basis for the protection of human rights, including SOGI.⁷⁸ According to the Yogyakarta Principles,⁷⁹ the protection of LGBTQIA+ people does not require the creation of new or special rights, but it clearly requires enforcement of universally-applicable principles of non-discrimination in a legal framework.

Exploitation of children at work persists in Albania. Child labour still occurs in some extremely hazardous occupations, such as agriculture, construction, footwear, the garment industry, and the service sector.⁸⁰ In 2019, an Inter-Institutional National Action Plan (2019-2021) was approved to protect children from economic exploitation, through prevention, establishment of services, and strengthening implementation of legislation to protect children who are victims of economic exploitation. The Plan is anchored in the National Strategy on Protection of Children (NSPC).⁸¹

In general, the policy framework in the field of non-discrimination in employment and social policy is in line with EU requirements. As many of the plans expired recently or are about to expire, the Government of Albania (GoA) will need to approve urgently new plans based on a thorough analysis of the results achieved and lessons learned from the previous plans. A major problem has remained the insufficient funding allocated for the implementation of national strategies, as several still rely on unsustainable donor funding, rather than government funding.⁸²

Enforcement Mechanisms

According to the LPD, every employee has the right to notify and complain to the employer, the CPD, or the court if he/she believes that he/she has been discriminated against.⁸³ However, the LPD calls for special institutions to be created in various sectors of employment, if the sector has a need for such special institutions or if a different law provides for such institutions to be established. According to the LPD, measures imposed by the court based on such laws do not exclude the addition of other regulations as they might be provided by other legal frameworks. Such unstable boundaries can lead to an overlap of responsibilities and procedures between different legal mechanisms.

If choosing to notify the employer as a first option, both the employee and employer may settle the claim between them before starting any administrative or court procedure. During the examination of the complaint, the employee has the right to continue working as per the terms of the respective employment contract based on the possibility that both parties

⁷⁶ National Action Plan on LGBTI Rights.

⁷⁷ Ibid.

⁷⁸ USAID & UNDP. 2017. *"Being LGBTI in Eastern Europe". Albania country report: reducing Inequalities and exclusion and combating homophobia & Transphobia experienced by LGBTI people in Albania.*

⁷⁹ Ibid.

⁸⁰ OECD, 2021. Competitiveness in South East Europe 2021: A policy Outlook. Albania Profile. Retrieved from: <https://www.oecd-ilibrary.org/sites/6275e653-en/index.html?itemId=/content/component/6275e653-en>.

⁸¹ Decision 704, dated 21.10.2019, at: <https://qbz.gov.al/eli/vendim/2019/10/21/704>.

⁸² European Commission, 2021. Progress report of Albania. Retrieved from https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en.

⁸³ Article 15.

may reach an understanding or settlement even after the relevant discrimination claims have been raised.

If the employer does not take action or any concrete measures to investigate and resolve the complaint of discrimination, the employee who raised the complaint has the right to stop working without losing his/her salary, for as long as it is necessary to be protected from discrimination arising in the workplace. The employee must refund the received money where the court rejects all claims made in regard to discrimination. Pursuant to the above, if the discrimination claims of the employee are established, he/she may be reinstated in the previous position or may require indemnification for material or non-material damages, or any other appropriate measures.⁸⁴ Part-time employees are entitled to the same rights to protection from discrimination as full-time employees.

Enforcement through the CPD

Anyone who feels that he/she has been subjected to discrimination can use the CPD as an avenue for settling the case. The LPD lays out civil court procedures for addressing discrimination cases, as well as respective fines for non-complying parties.

Any person, group of persons, or organisation can file a complaint with the CPD. Upon presentation of the complaint, natural or legal persons against whom the complaint has been filed are notified in writing by the Commissioner within 15 days from the day of registration of the complaint. In return, they have 10 days to present evidence that discrimination has not occurred. Upon investigating, the Commissioner should notify the respective subjects within 90 days of the decision it has reached, after which the subject has 30 days to present the measures taken based on recommendations issued by the CDP. This procedure, however, does not limit the CPD's ability to reach a decision.

The revised LPD introduces several changes to the procedures followed by the CPD in handling cases of discrimination presented to the institution. Before the 2020 changes, the Commissioner did not accept requests that were made anonymously. The revised law removed this provision. The Commissioner now has the power to engage the Constitutional Court when it finds that the LPD or the relevant bylaws violate the fundamental rights and freedoms of individuals. Enabling the Commissioner to submit motions to the Constitutional Court is an important amendment that should be particularly helpful for the Commissioner's work on intersectional and structural discrimination.

In addition, the LPD amendments enacted in November 2020 revised the statute of limitation by increasing it from one to two years from the time the person knew or found out about discrimination. This amendment increases the period of time during which a potential victim may submit a complaint. However, submitting a complaint later may reduce the efficiency of the relevant procedures. The legislator may reconsider this amendment and keep the first part of the current provision, which allows submitting complaints within three years from the occurrence or when the act was committed. Setting clear timelines for reporting any type of civil complaint, including discrimination, is important for legal certainty.

The LPD, as updated, provides for judicial appeal against decisions of the CPD in the competent court. This provision is in line with ECRI and EC recommendations. The Law references administrative complaints proceedings, which is sufficient, legally speaking, to address the procedural gaps involving complaints to the Commissioner's decisions.

Rules on the burden of proof in civil complaints may shift from one party to another, according to the Albanian Civil Procedures Code (CCP).⁸⁵ However, courts must consider that the defendant must provide an objective justification, apart from the claimant who needs to provide proof for the claim. For instance, if a woman worker establishes, in relation to a relatively large number of employees, that the average pay for women is less than that for

⁸⁴ Articles 146 and 155 of the Labour Code.

⁸⁵ Law no. 7850, dated 29.7.1994, the Albanian Civil Code.

men working in the same job, the employer then must prove that this practice related to wages is not discriminatory.

In the 2014 Progress Report on Albania, the EC recommended aligning the LC with the EU *acquis* in relation to the burden of proof.⁸⁶ Accordingly, the Albanian Parliament adopted amendments to the LC in 2016, introducing changes to prohibit discrimination on the grounds of gender in employment and profession. The anti-discrimination-related articles of the LC have transposed effectively the provisions of the Equal Treatment Directive pertaining to the shift of the burden of proof in discrimination cases from the complainant to the respondent. Notably, these rules do not apply to criminal proceedings, which are carried out pursuant to different principles.

The amendments to the LPD in 2020⁸⁷ provide for a shared burden of proof in discrimination cases examined by the Commissioner, which is an important procedural guarantee for discrimination cases in line with international standards. The amendments introduce easier procedures for organisations with a legitimate interest to represent persons or groups of persons before the Commissioner. More particularly, the burden of proof has been shifted to the party accused of discrimination, after the presumption of discrimination has been set by the complainant. These amendments are also in line with EU directives regarding the burden of proof in cases examined by equality bodies,⁸⁸ as well as the 2015 ECRI report on Albania that recommended enacting clear legislation about the shared burden of proof in discrimination cases (paragraph 19).

Due to linguistic issues in the adoption of text, it was unclear before the recent changes in the LPD, whether “evidence” has the same meaning as “facts”, which is the wording used in EU law and which would therefore require a shift in the burden of proof to the alleged discriminator once a *prima facie* case had been established. Now, the LPD has harmonised the language by using also the wording “facts” when referring to evidence. Nonetheless, Albanian courts will need to create a precedent and firmly establish that this is the correct interpretation to be given for such cases. This is particularly important considering that burden of proof requirements have been among the main barriers to drawing a distinct line and fighting discrimination in European courts.

Fines

Failure to comply with the decision of the CPD when adjudicating cases may result in fines, which are deposited into the State Budget. Any person is liable, on the basis of the LPD, when by his/her actions or omissions, he/she has committed a discriminatory act within the meaning given to such acts by the LPD. Individual liability does not exclude the responsibility of the state or of the private legal person. The fines are as follows:

- 10,000 – 60,000 Albanian Lekë for natural persons.
- 60,000 – 60,000 Albanian Lekë for legal persons.
- 30,000 – 80,000 Albanian Lekë for a natural person within a legal person.
- 30,000 – 80,000 Albanian Lekë for a person exercising a public function.

Very important changes have been introduced with respect to the execution of the fines imposed by the Commissioner. Fines shall be paid by the offender no later than 45 days from their communication. Beyond this deadline, the decision becomes an executive title and

⁸⁶ Point 4.19.

⁸⁷ Law no. 124/2020 “For some additions and amendments to law no. 10221, dated 4.2.2010 “On protection from discrimination”, approved on October 15, 2020.

⁸⁸ Article 8 of Directive 43/2000/EC, Article 10 of Directive 78/2000/EC, Article 19 of Directive 54/2006/EC.

shall be executed obligatorily by the bailiff office, upon the request of the Commissioner. In addition, the 2020 changes foresee that for severe forms of discrimination fines shall double.⁸⁹

Failure to pay a fine within three months from the deadline set by the CPD, or when the sanction has not been disputed in court, the CPD has the right to ask competent authorities to suspend or remove the right of any subject to conduct its activity.⁹⁰ It is unclear what the measure should be for state institutions that fail to comply with this provision. In addition, there is no indication that this measure has ever been used in practice. According to the CPD office, the purpose is not to use fines, but rather to effectively address discrimination cases. Therefore, these measures are perhaps not used to the fullest extent allowed by the law.

Enforcement through the Court

The LPD provides for cases of discrimination to be brought before civil courts, as an alternative to filing a complaint with the Commissioner.⁹¹ Any person, group of persons, organisation, or the CPD can present cases in court. The latter should obtain the consent of the parties to be represented. Such cases are subject to limitations such as set periods of five years from the time of the alleged occurrence of discrimination, or three years from the time that the damaged party gained knowledge of discrimination. The 2020 changes to the LPD add a provision that gives the right to the CPD or any other legitimate organisation to represent claimants in court cases of a collective interest.⁹²

The involvement of the Commissioner is left to the discretion of the injured party, if they decide to submit the lawsuit before the court or to the prosecution office without engaging the Commissioner. With the consent of an injured party, the Commissioner can represent the complainant before the court. Primarily, cases of discrimination are civil cases regulated by the Code of Civil Procedure (CCP). However, the Law also foresees possible criminal prosecution. It is rather vague in which cases a discrimination lawsuit can be criminally prosecuted, as the LPD states that "every person or a group of persons ... may submit a lawsuit to the competent court according to the definitions of the Code of Civil Procedure ... or, as the case may be, to make a criminal denunciation before the competent organs for criminal prosecution". While the injured party has no obligation to notify the Commissioner about a discrimination case, the court must report to the Commissioner every lawsuit that is presented. In addition, the Commissioner can be called upon by the court if an investigation is conducted or to provide further proof. The Commissioner is also notified after the court has reached a decision, making the institution effectively a part of the court proceeding from the start of the case to its conclusion.

The court can decide to instruct a return to the prior situation, compensation for proprietary and non-proprietary damages, or other appropriate measures that serve to rehabilitate the victim from discrimination.⁹³ The mentioned "other appropriate measures" are not clearly defined, and therefore are left to the discretion of the judge to determine and prescribe. In addition, Article 37 foresees that the court decides the timeline for carrying out its decision, but does not place a minimum or maximum limit, leaving the timeline for executing decisions at the discretion of the judge. While the timelines are clear for CPD proceedings, the same cannot be said for cases presented in court.

All courts have the obligation to ensure that judicial procedures are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment. In accordance with the criteria laid down in the law, organisations and associations that have a legitimate interest in employers' compliance with provisions of equal treatment directives

⁸⁹ Article 33 (13/d) of the LPD (revised).

⁹⁰ Article 33(15) of the LPD.

⁹¹ Article 34 of the LPD.

⁹² Article 34(4) of the LPD.

⁹³ Article 38 of the LPD.

have *locus standi*: the right or capacity to bring an action or to appear in a court. Such organisations, such as women's rights associations or trade unions, may engage either on behalf or in support of the complainant, with his/her approval, in any judicial or administrative procedure towards the enforcement of obligations under the Civil Code and gender-based legislation.

However, neither the LC, nor other pieces of legislation, lay down any procedural rules for proceedings designed to ensure respect for the principles of equal pay and equal treatment of women and men. In the absence of any specific provision regarding the nature of evidence that should accompany a discrimination claim, the evidence that is submitted by the claimant should comply with the criteria set out by the CCP. Courts rely heavily on the CCP when conducting hearings. This suggests that courts tend to apply a law such as the CCP, which is general in nature, rather than specific pieces of legislation, such as the LPD. The practical effectiveness of the shift of the burden of proof, which was changed in 2020 in the LPD, would be affected adversely if the court would base its decision on evidence only in the CCP, rather than the LPD when adjudicating cases related to discrimination at work.

The availability of free legal aid constitutes an essential requirement to ensure access to justice for victims of discrimination. However, in practice, access to free legal aid remains very limited or depends on complex procedures of bodies created by the government (e.g., the CPD). Albania does not yet ensure sufficient availability of free legal aid to ensure access to justice for victims of discrimination. In 2020, the Ministry of Justice adopted necessary sublegal acts pertaining to the Law on Free Legal Aid (LFLA). However, this system does not yet fully exempt victims of discrimination from all legal fees and charges. Therefore, legal aid is not yet complete and exhaustive.

The LC protects against dismissal or adverse treatment in reaction to a complaint (e.g., victimisation). Moreover, some courts have proven very sensitive to such situations, mostly ruling for the protection of employees.⁹⁴

Lastly, no consolidated case law exists related to gender-based discrimination in Albania. Case law has yet to be implemented in courts as it relates to diverse provisions of anti-discrimination and gender equality-related legislation.

Conclusion

This chapter analysed the most relevant laws related to protection from gender-based discrimination in relation to labour. This includes the Constitution, the LC, the LPD, and the LGE. Elements of other legislation have been considered insofar as they relate to gender-based discrimination and labour or other issues pertinent to this legal analysis. Protection against discrimination is guaranteed by the Albanian Constitution, ratified international conventions, the LC, and special laws, such as the LPD and the LGE. While the legal framework, especially the LC and the LPD, have undergone significant changes in recent years to better reflect international standards and the developing country context, there is still room to improve not only the legal framework, per se, but also its enforcement and peoples' experiences in seeking remedies, as the chapters that follow illustrate. Coherence between the different pieces of legislation has remained insufficient, especially when it comes to fines. The CPD has seen increased powers in the revised LPD, which have yet to be adequately reflected in practice: not only in terms of reported cases but also in the outcomes of those cases. Albania still lacks case law related to gender-based discrimination in labour.

⁹⁴ Prof. Dr. Mariana Semini-Tutulani, *Judicial conflicts related to labour issues seen under the gender equality perspective*, 2014, p. 53.

PEOPLE'S AWARENESS AND REPORTING OF GENDER-BASED DISCRIMINATION

This chapter examines the extent to which people are aware about gender-based discrimination and the relevant legal framework, including how to report discrimination if it occurs. The findings draw from interviews, as well as the online surveys, drawing comparisons over time. As explained in the introduction, limitations exist related to the sample size. Therefore, findings are not representative of the entire population, but they are helpful in shedding light on respondents' levels of awareness related to gender-based discrimination.

People's Awareness about Gender-based Discrimination

As elaborated in the last chapter, discrimination on the basis of gender is forbidden by Albania's legal framework. Mechanisms have been put in place to report, seek remedies, and get support for those experiencing such discrimination. However, data show that while reported cases have increased in recent years, overall reporting remains low. To better understand this, the online survey conducted by GADC aimed, among others, to measure peoples' awareness and perceptions related to gender-based discrimination. This section discusses the findings.

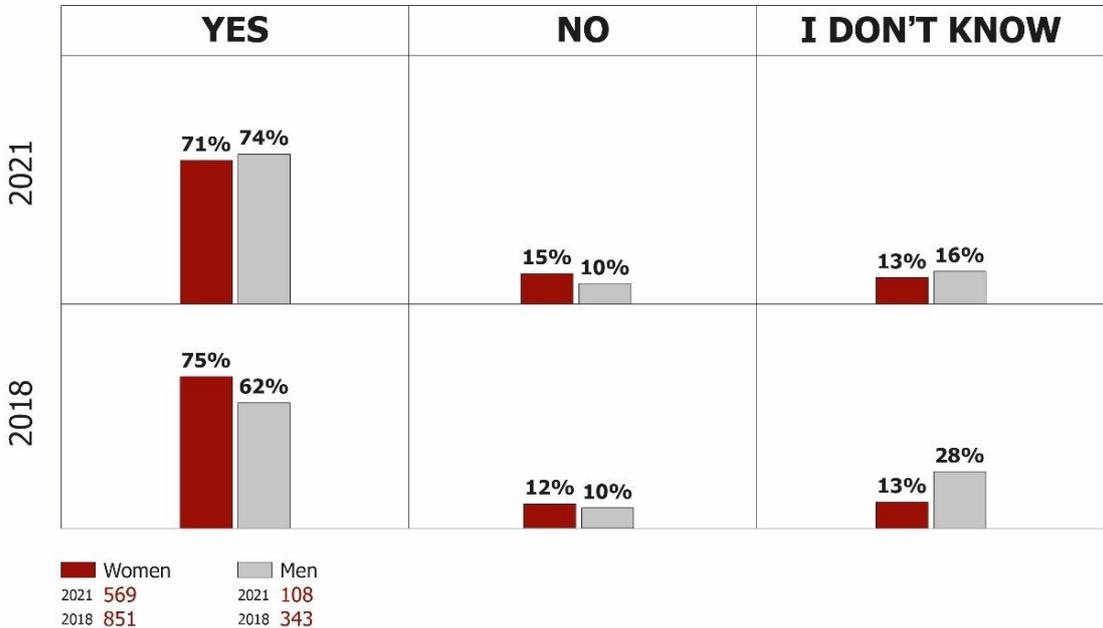
While the vast majority of respondents, 72%⁹⁵, agreed that gender-based discrimination at work is illegal, a little over 14% of the respondents believed it is not illegal, and 13% did not know. There is a slight decrease in the percentage of respondents who agreed that gender-based discrimination at work is illegal compared to the first survey conducted in 2018 (75%). As the sample is not representative of the population, this does not necessarily mean that awareness has decreased, and may be attributable to the particular self-selected respondents to the survey. Nevertheless, it does illustrate the need for continued awareness-raising about the legal framework pertaining to gender-based discrimination. While no significant differences existed between women and men, slightly more women (15%) than men (10%) did not think that gender-based discrimination is illegal (see Graph 1). Many professionals interviewed for this report believed that people are either not informed about gender-based discrimination at work, and thus unable to even identify it, or even when they know it is illegal, they do not pursue their rights. As a gender equality employee pointed out "even when discrimination is seen as a problem by people, they have much bigger problems in their lives, thus not paying due attention to the phenomenon".⁹⁶ An NGO representative agreed, "sometimes people don't even know they have been discriminated against".⁹⁷ Interviewees tended to agree, almost unanimously, that awareness-raising on the issue of gender-based discrimination is essential to increase reporting and peoples' knowledge that it exists in Albanian society and that there are mechanisms in place to report it.

⁹⁵ N=343

⁹⁶ Interview with Gender Equality Employee (GEE).

⁹⁷ Interview with NGO representative.

Graph 1. Respondents' Knowledge If "Discriminating against Someone at Work Because They Are a Woman or a Man is Illegal", by Gender



Survey respondents also were asked to identify the mechanisms for reporting discrimination if it happens in the workplace. The most frequently identified institution for reporting cases of gender-based discrimination was the employer; followed by the CPD and the Labour Inspectorate (see Graph 2). Based on survey responses, if gender-based discrimination at work occurs, 37% of women and 28% of men think it should be reported to the employer.⁹⁸ There was a decrease in the percentage of women and men who knew they could report discrimination to their employer, compared to the 2018 survey (40% of women, 45% of men). The authors can only speculate as to the reasons for this decrease. It may relate to differing levels of knowledge among the different self-selected survey respondents. Notably, all of the survey respondents who were later interviewed had tried to solve their concerns with their employers first. Some of them gave up when a solution was not found, and very few sought justice by reporting their cases to the CPD and courts.

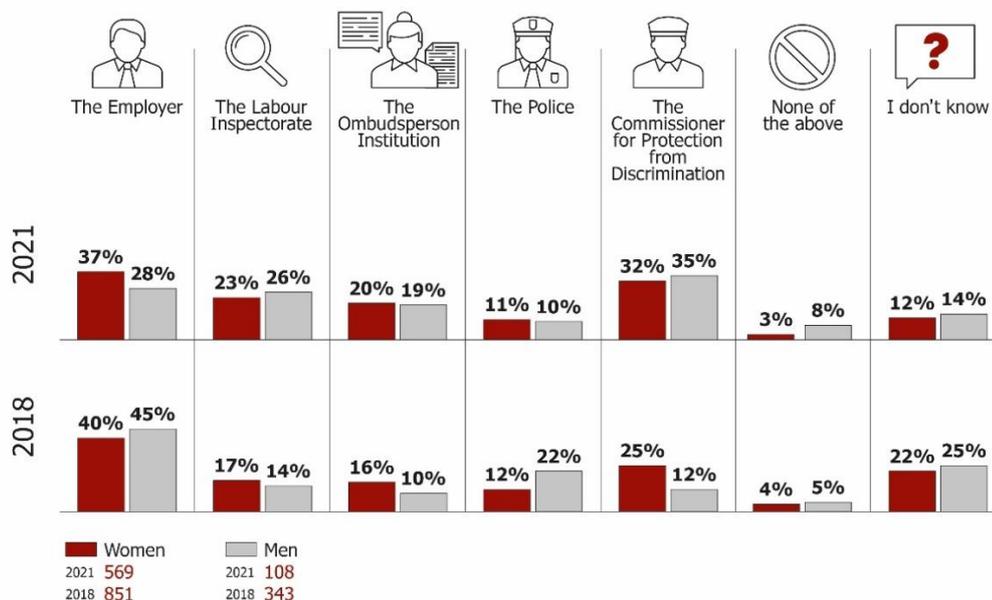
A larger proportion of respondents said they would refer the case to the CPD in 2021 than did in 2018 (25% of women, 12% of men). Therefore, there seems to be heightened awareness of the role of the CPD in addressing cases of gender-based discrimination at work. The third most commonly referenced institution was the Labour Inspectorate (identified by 23% of women and 26% of men). In 2018, fewer women and men referred to this institution (17% of women, 14% of men), similarly suggesting an increase in awareness. Meanwhile, 20% of women and 19% of men identified Ombudsman Institution in 2021.

Still, in 2021, 12% of women and 14% of men did not know where to report cases of gender-based discrimination. Compared to the 2018 survey, this number has significantly decreased; in 2018, 22% of women and 26% of men did not know where to report such discrimination. The survey respondents who agreed to be further interviewed on their experiences with discrimination confirmed these findings, as they tended to be knowledgeable as to where they could report discrimination. However, they tended not to do so for fear of repercussions, inability to secure the support needed, and other personal reasons that were not

⁹⁸ N=240

conveyed. There were cases when the respondents did not want to discuss their case anymore as they “had found a solution since they filled the questionnaire”; they wanted to put the experience behind them.

Graph 2. To Which Institutions Should Gender-based Discrimination Be Reported, by Respondents’ Gender



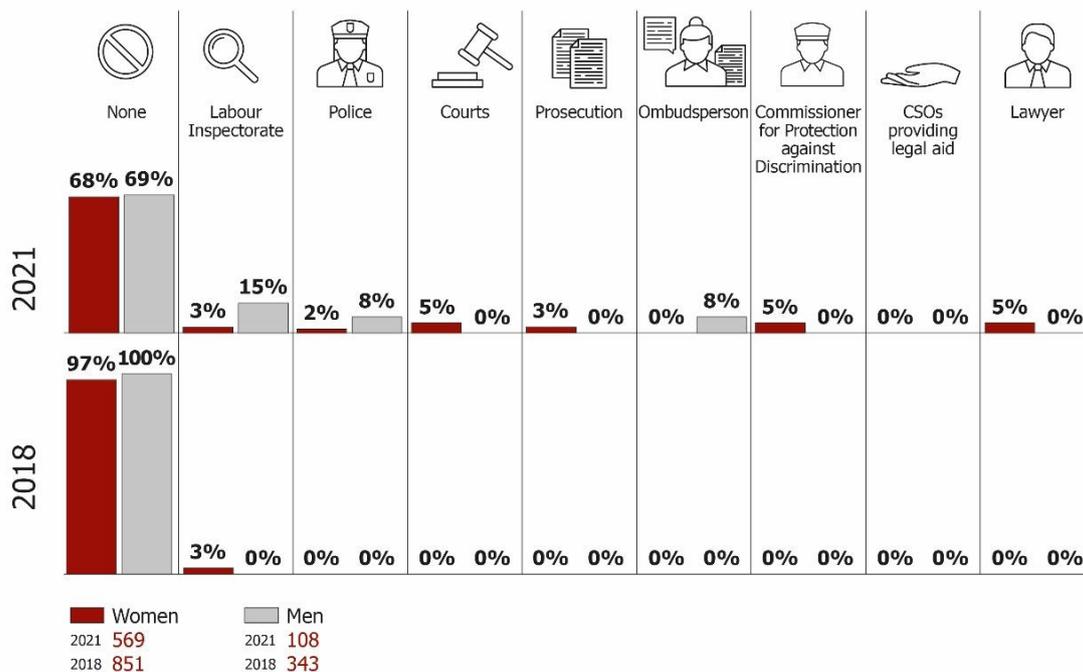
Findings suggest that respondents know more about where to report discrimination than they did in 2018. They were especially more knowledgeable about the role of the CPD and the Labour Inspectorate. However, survey responses suggest that both women and men still lack awareness on what constitutes gender-based discrimination at work and the relevant mechanisms for reporting it, which may undermine reporting of such discrimination to different relevant institutions. Ongoing work by different actors, such as the CPD, Labour Inspectorate, CSOs representing workers’ rights, and labour unions is important to address insufficient knowledge, as well as the evident reluctance of women to seek justice when they feel they have been discriminated against, as detailed in the later chapter on Institutional Response. One respondent indicated that she became more aware of her rights and organised other colleagues after GADC’s awareness-raising meetings in her workplace. This suggests that CSO engagement can and has been at least somewhat effective in increasing awareness.

Reporting Gender-based Discrimination

The online survey sought to estimate the extent to which people may report gender-based discrimination in relation to labour, as well as to analyse why people may or may not report it. Despite the report’s shortcomings from the non-representative (non-probability) sample, the survey provided anonymity for people who otherwise seemingly have not told anyone about their experiences and may not have been reached through a door-to-door survey. One of the key findings from the previous edition of this report was the low reporting rates; people that suffered gender-based discrimination did not report their cases. This was due, in part, to a lack of awareness on the legal framework and the existence of mechanisms for reporting discrimination. Of the 2021 survey respondents who said they had experienced

gender-based discrimination at work, 68% of women and 69% of men⁹⁹ did not report the incident to anyone. This was a marked difference compared to the 2018 survey when 97% of women and 100% of men did not report the discrimination to anyone, and only 3% of women reported it to the Labour Inspectorate. Of those who reported, the courts, CPD, and lawyers were institutions most contacted by women; while men reported mostly to the Labour Inspectorate, police, and Ombudsperson.

Graph 3. To Which Institutions Did Respondents Report Gender-based Discrimination, by Respondents' Gender



Respondents provided various reasons as to why they did not report discrimination. Sometimes family pressure prevented women from reporting discrimination. One interviewed woman said that she wanted to report the discrimination she faced to the authorities, but her relatives stopped her. In another case that GADC took to the CPD, there was reluctance to make sexual harassment public due to fear that family members might take matters into their own hands. Family pressure thus can add to already burdensome procedures for women to report discrimination and could help explain why a high percentage of respondents who suffered discrimination did not report their case anywhere.

Although reporting has remained low, it has increased in recent years. Data from the CPD, the online survey, and interviews conducted for this report all show an increasing trend in the number of cases addressed to the CPD. The survey results showed an increase in the number of women who actually referred their cases to the CPD compared to the first edition of the report. Data collected from the CPD also show that the institution has received more complaints in the past few years. As reported during an interview with the CPD office:

We see that there is a higher level of awareness among the public at large and specific groups regarding legal means of protection from discrimination. This is reflected in the increased number of complaints registered by the CPD, as well as the implementation of the LPD by courts. However, awareness of the general population remains a priority of the CPD. The establishment of regional offices has influenced the increase in the

⁹⁹ N=52

number of cases due to frequent training sessions and collaboration with civil society organisations.

Civil society representatives agreed that many projects and initiatives have been undertaken to increase awareness. However, they also observed that general information on reporting mechanisms is still lacking. The work of CSOs, especially women's rights organisations, they observed as key to addressing issues of gender-based discrimination and increasing reporting. One representative said:

“ I think the current legislation fully protects the right to not be discriminated against on any grounds. However, when it comes to implementation, I have my reservations, which are mainly linked to a lack of awareness among those who have been discriminated against to seek justice. Often in order to maintain their job and ensure a minimum livelihood, citizens accept and suffer discrimination in silence.

– Police Officer

I believe that thanks to the work of different organisations focusing on women, there have been changes in discriminatory attitudes towards women. Many women have received information and have been empowered thanks to the work of these organisations, so that they are able to report discrimination.¹⁰⁰

Another representative pointed to the importance of a more constructive role of the media to educate the public and report cases related to women's rights and gender equality. Often media reinforce discriminatory practices and harmful norms through sensational reporting, which harms women, the respondent said. This is related to a tendency in the media to give voice to perpetrators, find faults in those who report, and to disregard privacy laws and ethical reporting principles to receive more viewers. This results in reinforcement of gender stereotypes, which revictimize women.

“ In my opinion the legal framework is complete and includes all forms of discrimination. What remains to be improved is actual implementation, asking from institutions to take discrimination seriously, encouraging staff to report cases of discrimination, creating clear and simplified procedures for protection from discrimination. Cases of discrimination should receive support to send a positive message to all those affected so they don't feel limited due to fear of judgement or fear of losing their jobs.

– CSO representative

They also observed that there are no school curricula embedded at all levels to better understand concepts of gender equality and justice. While reporting has improved, according to both survey responses and institutional data, people remain reluctant to report discrimination. A plethora of reasons exist for not reporting, beyond lack of awareness of reporting mechanisms. Almost all interviewed stakeholders noted fear of repercussions and losing their job as among the main drivers of low reporting. This is even more acute in the private sector where protection for workers is more fragile.

Another often cited reason for not reporting discrimination was a justifiable lack of trust in institutions. As noted by a representative of the Ombudsperson's Institution:

People want quick solutions to their situation, not waiting for years. If there was an appropriate response from institutions, there would be more trust from those who are

¹⁰⁰ Interview. CSO representative. Tirana. 2021.

discriminated against to denounce these cases. There is no trust that quick solutions will be found and that if they take the steps to report, then there will be a positive impact on their lives.¹⁰¹

While there is recognition that the Albanian legal framework protects men and women from many forms of discrimination, it was a recurring theme amongst interviewed stakeholders that implementation is lacking, which seems to preclude some people from reporting discrimination.

Conclusion

Generally, most women and men respondents seemed aware that gender-based discrimination is illegal in Albania. However, they had comparatively less awareness as to where gender-based discrimination should be reported. Several women and men still did not know where to report gender-based discrimination when it occurs. Of those that had some knowledge, the highest percentage believed that such discrimination should be reported to the employer. Findings also suggested increased awareness of the role of the CPD in treating cases of discrimination. An upward trend in the number of complaints received by the CPD was a positive development further evidencing enhanced awareness. Even so, continuing poor knowledge of where to report discrimination, coupled with distrust in institutions, family pressure, and fear of consequences still hinder people from reporting gender-based discrimination. Thus, the number of reports has remained low compared to the actual occurrence of gender-based discrimination.

¹⁰¹ Interview with Ombudsperson's representative.

PREVALENCE AND EXPERIENCES WITH DISCRIMINATION

The precise prevalence of gender-based discrimination cannot be known given that most cases are never reported. Moreover, as shown in this report, people may not always know the many different forms of gender-based discrimination that exist in relation to labour. A general lack of awareness of what constitutes gender-based discrimination and which rights employees have, discussed in the last chapter, inevitably contribute to the lack of reporting. Given the dearth of information related to gender-based discrimination in official reports, this research sought to shed light on gender-based discrimination by asking people and institutional representatives about their experiences with gender-based discrimination and their perceptions of its prevalence related to labour. As exact prevalence cannot be assessed, the research provides a picture of diverse experiences of discrimination in Albania.

This research drew from mixed methods and data sources in investigating how many work-related gender-based discrimination cases have been reported to different institutions in the last decade. In addition to examining data maintained by various institutions, this section draws from the online survey and interviews with different stakeholders to better understand people's experiences with different forms of gender-based discrimination and labour rights violations in Albania. The first section presents general findings related to the prevalence of gender-based discrimination in labour. The second section examines discrimination against people based on protected grounds previously outlined in the Legal Analysis. Then, the third section discusses various forms of gender-based discrimination in relation to labour. Finally, the chapter reflects specifically on the impact of the COVID-19 pandemic on people's experiences with gender-based discrimination related to labour.

Overall Prevalence

When asked about their personal experiences with discrimination, slightly more women in the 2021 sample reported having experienced discrimination related to labour first-hand in 2021 (20%) than in 2018 (18%). Meanwhile, several more surveyed men also reported experiencing discrimination in 2021 (18%) compared to 2018 (6%).

Of the persons who believed they had experienced discrimination related to labour, only 18 reported it to institutions (26%). Three women (5%) contacted the CPD, three women (5%) contacted a lawyer, and two men (15%) and two women (3%) contacted the Labour Inspectorate regarding their cases. Additionally, two (3%) women reported their cases to the prosecution. In the previous edition of the report only 3% of the respondents had reported gender-based discrimination and all of them referred their cases to the LI.

Only three women were involved in court actions related to their cases. One had reported the case to the court and then sent the case to the CPD, who dismissed it on the grounds that it was already under court proceedings. Two of the women had reported the case to the CPD; in both cases, it was dismissed by the latter for lack of documentation. Four of the women who were interviewed had tried to solve the situation with their employers and/or supervisors, and only after no solution was found did they report their cases to other institutions. One of the interviewed women said that she suffered the discrimination in silence for personal reasons, but if she faces the same situation in the future, she will complain and be more vocal.

Lack of trust in institutions has been a recurring finding related to various issues and topics in Albania. The quality of public services, access to justice and belief in the work of

institutions are all severely hampered by cases of injustice often reported in the media, widespread corruption, and a lack of professionalism among institutions. Interviewees from different institutions stated that one of the most common reasons for not reporting discrimination is lack of trust that their claims will be taken seriously and that they will find redress. As a representative of the OI declared:

People want quick solutions to their situations; they cannot wait for years. If there would be an institutional reaction from relevant authorities in real time, there would be more trust among people to denounce discrimination. They do not trust they will find a solution and do not see a positive result in the quality of their life.¹⁰²

Not much has changed in terms of the reasons for not reporting cases of discrimination compared to the first iteration of this report. Interviewees and survey participants enlisted the same reasons as the main obstacles: minimal awareness of reporting mechanisms, lack of trust in institutions, and the prevalent belief that people will lose their jobs if they report discrimination, fearing retaliation from employers against employees who dare to make their concerns public. As an interviewed woman said, she is “already known at work as the person that always raises her voice on workers’ rights, so I fear if I continue to do so then I will get fired.”

“

We have a good legal framework, but implementation continues to be problematic. There are many cases when citizens face difficulties in raising their voices against discriminatory practices from employers. They report cases of gender-based discrimination mostly after they lose their jobs.

– Helsinki Committee

Discrimination Based on Specific Protected Grounds

This section discusses multiple and intersectional gender-based discrimination affecting people in Albania. Given the convenience sampling used, the online survey did not produce sufficient information to draw conclusions regarding whether multiple or intersectional discrimination tends, statistically, to affect particular groups of people more than others. Data from qualitative interviews suggests that representatives from relevant institutions have a perception that multiple discrimination does not exist. However, multiple discrimination can exist for women that belong to certain communities or groups, based on ethnicity, sexuality, age, ability, or geographic location. For interviewees who agreed that discrimination tended to affect specific groups more, ethnicity tended to be a recurrently mentioned factor for discrimination. Respondents also observed discrimination affecting individuals with different abilities and LGBTIQ+ persons, as discussed in the following subsections.

Gender-based Discrimination against Persons with Different Abilities

People with different abilities face several challenges and multiple forms of discrimination in daily life.¹⁰³ Difficulties maintaining economic and financial independence are among the main obstacles. They tend to face discrimination in hiring as many employers are

¹⁰² Interview with Ombudsperson’s Office. GADC.

¹⁰³ UN Office of the High Commissioner for Human Rights. *Combating Discrimination Against Persons with Disabilities*. At: https://www.ohchr.org/en/issues/discrimination/pages/discrimination_disabilities.aspx.

unwilling to hire people with different abilities, and state programs to incentivise employers have not yet produced large scale results.¹⁰⁴ Consequently, unemployment has remained high among people with different abilities, and even higher among women with different abilities. For instance, in 2019 there were 619 registered unemployed people with disabilities, of which 218 (35%) were women. Of them, 112 were involved in employment programs, and only 22 of them were women (20%). Of the 82 people with different abilities employed through mediation programs, only three were women (4%). Almost half of those attending vocational education training programs were women. This suggests that women with different abilities may access vocation training in equal numbers as men, but they are significantly less likely to be employed afterward or to benefit from state employment programs.

The CEDAW shadow report submitted by Albanian CSOs in 2021 pointed to the lack of a regulatory framework that would enable women with different abilities to obtain employment.¹⁰⁵

For example, no systematic assessment exists of their professional development needs in relation with labour market needs. Monitoring by the Albanian Disability Rights Foundation (ADRF) revealed that employees of employment offices cannot always find employment that fully guarantees proper accommodation in the workplace for people with disabilities.¹⁰⁶ The Albanian government has recognised the difficulties women with disabilities face in finding employment in its fifth periodic report to CEDAW submitted in 2021.¹⁰⁷

Even when people with different abilities are employed, they face barriers linked to prejudice and discrimination because of their different abilities.¹⁰⁸ A lack of awareness among fellow employees also contributes to challenges in the labour market. As discussed in the previous report, they are often provided jobs as “a charity” and are given lighter jobs that do not always reflect their preferences.¹⁰⁹

One of the research participants also noted the lack of support for mothers of persons with different abilities, who do not receive any care by the state. They receive a minimum payment (less than 100 EUR) to care for their child 24 hours a day but are not recognised and cannot benefit from social insurance. This can make it more difficult for them to secure employment as well. In fact, in 2014 the CPD ruled there was direct discrimination in the case of a woman who was fired from her job for having to care for a child with disabilities. She was allowed to work six-hour shifts under a previous director of the institution. However, with the new director, she was not allowed to miss any work, despite having legal grounds for her request. The CPD ruled in favour of the complainant and ordered her return to the previous place of employment.¹¹⁰ GADC could not find out if the decision was implemented by the

“ The law on protection from discrimination contains specific articles on disability, making it complete. However, it is not properly used in practice, as evidenced by the minimal number of cases presented to the Commissioner where discrimination due to disability is the main ground for the complaint.

- NGO Representative, Tirana

¹⁰⁴ Interview with the ADRF representatives.

¹⁰⁵ Unpublished, forthcoming 2021.

¹⁰⁶ ADRF, “Vlerësim i zbatimit të programit të nxitjes së punësimit për personat me aftësi të kufizuara (VKM nr 248 datë 30.04.2014)” Raport Monitorimi (Assessment of the implementation of the employment programme for people with disabilities, DCM 248, dated 30.04.2014), Monitoring Report, April 2017.

¹⁰⁷ Fifth Periodic Report Submitted by Albania to CEDAW Committee. See the full report here:

<https://www.ecoi.net/en/document/2046178.html>.

¹⁰⁸ ADRF representative interview. 2021.

¹⁰⁹ GADC. 2019. *Gender-based Discrimination at Work in Albania*.

¹¹⁰ Albanian Disability Rights Foundation. *Permbledhje e vendimeve të Komisionerit për Mbrojtjen nga Diskriminimi për aftësi të kufizuara (Summary of CPD decisions on disability)*. 2019. Not published online.

relevant institution. However, it shows that not only people with different abilities experience discrimination, but their relatives do too, especially caretakers who are predominantly women.

In 2019, Albania reported for the first time to the Convention on the Rights of Persons with Disabilities (CRPD). The reporting included progress and remaining challenges in creating equal opportunities for all. The CRPD final conclusions, along with the shadow report submitted by CSOs representing persons with disabilities, pointed to a lack of a comprehensive gender equality policy, and a strategy that addresses multiple and intersecting forms of discrimination faced by women and girls with disabilities. Moreover, it acknowledged the lack of information on implementation of and results achieved by the National Action Plan on Disability 2016-2020, particularly regarding women and girls with disabilities. The report also mentioned the lack of adequate measures to implement CEDAW recommendations specifically related to women with disabilities.¹¹¹

In order to address the concerns raised by CEDAW and the CRPD, multiple and intersectional forms of discrimination were recently included in the LPD.¹¹² Additionally, the new NSGE considers intersectional discrimination as one of the guiding principles of the document, mentioning, among others, the needs of women with disabilities who face multiple forms of discrimination, such as due to gender and disability. In its results framework and indicators, the NSGE specifically refers to women with disabilities. However, data availability has been problematic in the past. Thus, reporting against the indicators listed in the NSGE has become even more important for understanding the impact of policies, especially employment policies, on the lives of women and girls with disabilities.

During the COVID-19 pandemic, a national hotline was established (0801010), which enabled lawyers to offer legal help. With this hotline, people with different abilities could reach lawyers and report their cases of discrimination with more ease.¹¹³

Many of the problems identified previously in accessing the labour market and facing discrimination at work remain consistent and visible. Interview participants tended to agree that persons with disabilities face more discrimination in the labour market than others, due to their disability. Since the first edition of this report, there have not been many changes in the situation of people with different abilities in relation to gender-based discrimination in labour. In fact, none of the cases reported through the online survey referred to a disability, and, so far, cases supported by GADC have not come from the intersection between disability and gender-based discrimination at work. As many women with different abilities have a hard time even finding employment, it is understandable that very few cases are reported, if at all. The stakeholders interviewed tended to agree that people with disabilities face discrimination more often than other people, and this starts from their inability to become employed. As a labour inspector noted, "there are very few programs and initiatives to encourage private businesses to employ people with disabilities. This remains a challenge for the Albanian government. I think this is the most disadvantaged group."¹¹⁴ Discrimination against persons

¹¹¹ The full report of the CRPD is available here:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhspdJq2SN0FynLS%2BUiWUJaqofjmf0rHJ5MLWvzpC5ePiubIk65eOKd%2FNGE6rLwV%2B8UH2qHAW2phpnAZHHFMFuZbruUZnINmuu8vWwy5fRMtguz>

¹¹² For further discussion, see the first chapter of this report. On the Draft LPD, GADC recommended that the definition of the term "disability" be included, since it is one of the grounds on which people are discriminated against. This is necessary for changes that need to be made in relation to other aspects of the legal framework, towards adopting and including EU disability directives that may lead to the improvement and strengthening of Albanian anti-discrimination law. Further, the Albanian Disability Rights Foundation proposed amending the terminology used in Article 28 of the same bill: Point b "Cases of dismissal from the Commissioner's office" when the Commissioner is mentally incapacitated or physically unable to exercise his/her functions. This recommendation was reflected in the final revisions made to the recently adopted LPD.

¹¹³ Please see here for more information: <https://platforma-pak.al/en/home-2/>.

¹¹⁴ Interview with Labour Inspector.

with disabilities in hiring processes may also hinder their employment, though such cases have not been reported, potentially to insufficient awareness that this constitutes a rights violation.

Gender-based Discrimination against LGBTQIA+ Persons

None of the survey respondents identified discrimination on grounds of sexual orientation. Even so, the challenges identified in the first edition of this report have remained relevant. Employment for LGBTQIA+ persons has continued to be a challenge, especially for transgender people.¹¹⁵ LGBTQIA+ persons often experience bullying in school, and, as a consequence, they drop out early. This affects their chances in the labour market. Isolation, lack of self-confidence, and lack of basic life skills hamper their involvement in the labour market. Among the LGBTQIA+ people who are employed, none had shared information about their sexual orientation with their colleagues or managers, according to one research. They feel threatened that they may lose their job and/or suffer mockery, insults, or gossip.¹¹⁶

The interviewed CSO representatives agreed that there is rampant discrimination against LGBTQIA+ people at work. In a survey by the CSO Aleanca LGBT in 2020, several respondents reported facing discrimination at work (8.8%).¹¹⁷ The fact that fewer surveyed LGBTQIA+ persons reported facing discrimination at work than in their families or at school perhaps may be attributable to the fact that they do not disclose their sexual orientation at work and try to hide it from colleagues, according to Aleanca. Concerningly, a survey a year later found that 98% of the LGBTQIA+ survey respondents said that they had faced discrimination in employment.¹¹⁸ The moment that they declare their sexual orientation they face multiple barriers, including finding a job. Thus, as mentioned, they tend not to mention it to colleagues. The report paints a grim picture. Moreover, the COVID-19 pandemic has had a severe impact on the employment of LGBTQIA+ persons; many lost their jobs and have struggled to find support, either from family members or public institutions. According to a questionnaire administered in 2020, 47% of the LGBT persons participating in the study were unemployed at the moment, and approximately 20% had lost their jobs due to the pandemic.¹¹⁹

LGBTQIA+ persons' experiences with discrimination differ; transgender people reportedly face the most significant obstacles in finding employment. Many transgender people resort to sex work, which they often consider among the few solutions they have to make a living.¹²⁰ Meanwhile, during the pandemic, transgender persons no longer had access to this means of income and faced added difficulties in fulfilling their basic needs, such as food, housing, and medication.

Few LGBTQIA+ persons seem familiar with laws that could protect them from gender-based discrimination. Only 45% of LGBTQIA+ persons interviewed in 2020 by the Aleanca LGBT said that they were aware of legislation that protects them from discrimination. Unfortunately, a lack of knowledge among many is coupled with a complete lack of trust in institutions and officials' ability to address cases of discrimination affecting LGBTQIA+ persons. Only 5.8% of those who had experienced any form of discrimination reported it to

¹¹⁵ Aleanca LGBT. 2021. *Situata e Komunitetit LGBTI+ gjate pandemise COVID-19 (Situation of LGBTI+ community during the COVID-19 pandemic)*. At: <https://historiaime.al/wp-content/uploads/2020/10/Situata-LGBTI.Covid-19.pdf>.

¹¹⁶ Ibid.

¹¹⁷ Aleanca LGBT. 2020. *Diskriminimi dhe dhuna me baze orientimin seksual dhe identitetin gjinor. (Discrimination and violence on grounds of sexual orientation and gender identity)*.

¹¹⁸ Aleanca LGBT. 2021. *Situata e Komunitetit LGBTI+ gjate pandemise COVID-19*.

¹¹⁹ Ibid.

¹²⁰ Ibid.

someone or an institution for investigation.¹²¹ From those who had reported it, only 20% felt supported by the institution.

Two participants in GADC's research, from police and the anti-discrimination institution respectively, said they had received specific training on discrimination against LGBTQIA+ persons. However, not all officials in responsible institutions seem to possess enough information about LGBTQIA+ rights or the discrimination they face in relation to labour. This may hinder an adequate institutional response to such cases, contribute to distrust in institutions among LGBTQIA+ persons and thus hinder reporting and access to justice.

Gender-based Discrimination against Minority Ethnic Groups

Ethnicity is another category that constitutes a ground for non-discrimination as sanctioned in Article 18 of Albania's Constitution. Minority rights are a key fundamental human right recognised by the Albanian legal framework, embedded in its international commitments and part of the requirements for the country's EU accession. In the context of the fulfilment of international commitments, the law on national minorities is in accordance with the Constitution, the obligations stemming from the Council of Europe Framework Convention for the Protection of National Minorities, as well as a series of international acts which underpin the protection of human rights.¹²²

“ People often experience discrimination, but they don't react because they know it won't lead anywhere. As marginalised or vulnerable groups, they take it for granted that they will be discriminated against and don't understand that they should react. Such cases of discrimination happen often. Roma women are subject to double discrimination: once because she is Roma and the second time because she is a woman, especially in the workplace.

- Representative from Roma Active Albania

Albania's improvements in terms of its legal framework were recognised in the 2018 EC report on Albania. This report outlines that important steps have been taken to improve the legal framework for the protection of minorities and that Law on the Protection of National Minorities, adopted on October 2017, “abolished the differentiation between national and ethno-linguistic minorities and has introduced the principle of self-identification”.¹²³ In addition, 2020 marked the final year of the implementation of the National Action Plan on integration of Roma and Egyptians in Albania (NAPIRE 2016-2020). Strategic objective 3 of the NAPIRE tackles equal employment opportunities for Roma and Egyptians,¹²⁴ recognising the inherent discriminatory practices that leave them on the margins of the labour market, in low-skilled jobs and mostly in the informal economy. The EC noted, however, that little progress has been made in improving the situation of Roma and Egyptians, despite having a policy in place.¹²⁵ More specifically, national employment programmes to encourage their participation in the labour market have not reached the intended results. Therefore, the EC

¹²¹ Aleanca LGBTI. 2020. *Diskriminimi dhe dhuna me baze orientimin seksual dhe identitetin gjinor*. (Discrimination and violence on grounds of sexual orientation and gender identity).

¹²² UN Human Rights Office of the High Commissioner. *Committee on the Elimination of Racial Discrimination considers the report of Albania*. 5 December 2018. At: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23976&LangID=E>.

¹²³ EC. 2018. *Albania Report*. p. 30 at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-albania-report.pdf>.

¹²⁴ For the full NAP see: https://shendetesia.gov.al/wp-content/uploads/2017/03/Plani_kombetar_i_veprimit_per_integrimin_e_Romeve_dhe_Eqiptianeve_2016-2020.pdf.

¹²⁵ EC. 2020. *Albania Report*. At: https://ec.europa.eu/neighbourhood-enlargement/system/files/2020-10/albania_report_2020.pdf.

has called for a review of the national employment approach to specifically target the barriers and challenges that minorities face.

The Case Study summarised in Box 1 is illustrative of the discrimination that Roma and Egyptians face in Albania. Collection of recyclable materials is among their only sources of income, and officials have taken efforts to curtail this informal economic activity. The complainants also claimed that the Municipality had failed to provide them with alternative employment opportunities, even though they had registered in the local employment office. Although their claim focused on discrimination based on ethnicity, and not based on gender, the case is illustrative of the issues that women and men Roma and Egyptians face in securing decent work and institutional protection of their livelihoods. It is indicative of the general employment challenges facing Roma and Egyptians, amid the dearth of data on gender-based discrimination that they may face in employment.

Box 2. Case study 1. Discrimination in Employment on the Ground of Ethnicity

In 2021, a group of Roma individuals filed a claim with the CPD that the Municipality of Tirana had violated their rights, and they had been victims of discrimination. Of the six claimants, two were women. All of them were registered with the employment office as unemployed jobseekers. However, at the time of the incident, collecting recycled materials was their only means of survival. The claimants complained that the municipal police, without following any procedure and legal document, confiscated their materials, which they intended to sell. The police went even further to confiscate their bicycles and carriages, which were used to transport the recycled materials. Moreover, police even used physical violence against one of them.

Upon investigating the case, the CPR found that indirect discrimination had occurred based on their ethnicity and recommended that the Municipality of Tirana establish clear procedures for confiscating materials in line with the existing legislation. The decision did not foresee measures to compensate the claimants for the discrimination experienced.

Source: Decision No. 34 of 23.02.2021 of the Commissioner on Protection from Discrimination

Another domain where Roma and Egyptians are employed in Albania is the textile and footwear industry, where many Roma women work. A representative of the Ombudsperson’s office drew attention to the working conditions in this industry where many cases of discrimination exist.¹²⁶ The representative also stated that pregnant Roma women have more trouble obtaining insurance during their pregnancy, compared to others.

Among participants in GADC’s research, that discrimination affects minorities more often than others was a recurring theme. While research participants recognised that steps have been taken to integrate minority groups into society, prejudice continues, as people in the society have continued to consider Roma and Egyptians as lazy, disinterested in education, and subject to early marriage. These broader, discriminatory social stereotypes hamper Roma and Egyptians’ access to the labour force, and Roma women likely face double discrimination, though documentation of such cases was unavailable.

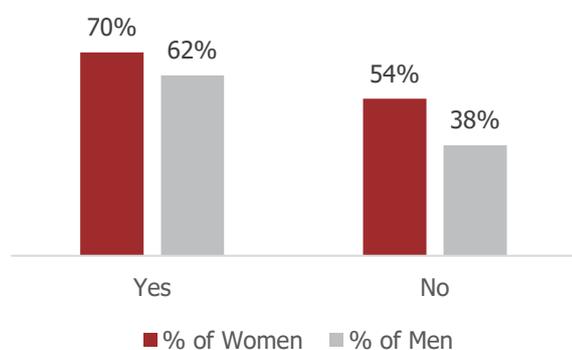
Different Forms of Gender-based Discrimination

This section discusses various forms of gender-based discrimination that can occur in the labour market, including discrimination in hiring, promotion, contracts, working hours, pay, working conditions, maternity leave, paternity leave, and sexual harassment at work, respectively. The findings draw from the GADC online survey, supplemented by interviews. Again, the findings are not representative of the population in Albania, given the sampling method used, but they are indicative of the continuing presence of gender-based discrimination in labour.

Discrimination in Hiring

Among the online survey respondents who had had at least one job interview in the last three years, about half (47%) of the women participants had experience being asked interview questions that might imply discrimination, compared to 62% of men participants. Although the difference in percentage points is evident, the disproportionately small sample of men

Graph 5. Experiences with at least one potentially discriminatory interview question



“*When we talk about discrimination, we have to understand that it is more multi-dimensional than simply gender-based discrimination. In my daily work, I often see multiple forms of discrimination. Cases that were reported show that women are the most discriminated against, not only due to their gender, but from other accompanying grounds such as race and ethnicity. Roma women are even more discriminated against, or women with disabilities. Awareness must be raised among them to inform them of their rights and the existing legislation.*

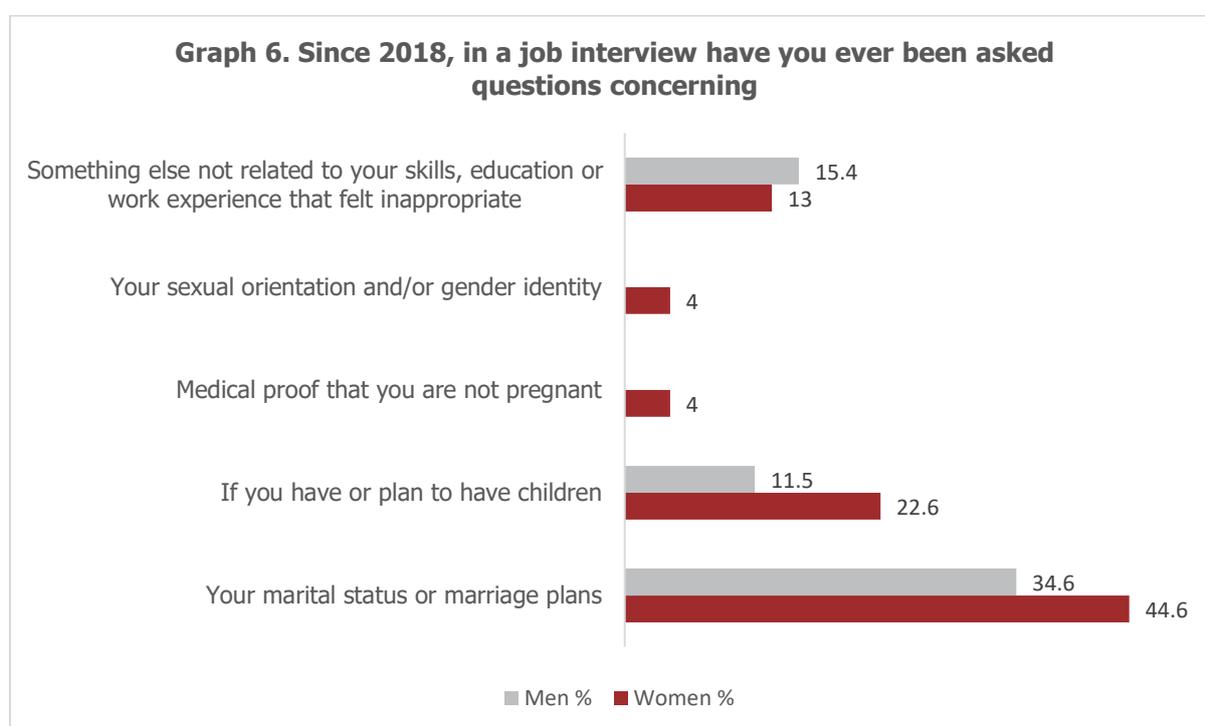
– Gender Equality Employee, Tirana

means that differences among women and men cannot necessarily be inferred. A significantly lower percentage of respondents reported facing discrimination in hiring in the current iteration of the report compared to the first report of 2018, in which 75% of women and 65% of men reportedly faced discriminatory hiring questions. The difference may be attributable in part to the fact that the 2018 question asked participants

¹²⁶ Interview with Ombudsperson’s Office. GADC.

about their experiences with such questions in the last decade (since 2008), while the 2021 survey asked about the last three years, since 2018. Given the longer period of reference, this may have allowed for more experiences of gender-based discrimination. Again, the different sample of respondents also could explain differences. Nevertheless, findings suggest that gender-based discrimination in hiring clearly has continued to occur in Albania.

The most frequently encountered discriminatory questions were about the job applicant’s marital status or marriage plans; 45% of women and 35% of men said they had been asked such questions during interviews in the last three years. Several research participants were asked about children: whether they have or plan to have them (23% of women and 12% of men). Overall, 12% of women, compared to 4% of men, said they experienced discrimination in hiring based on their parental status. Concerningly, 4% of the women research participants said that they were asked for medical proof that they are not pregnant, which is the same percentage as in the first survey. Notably, such questions are illegal, as discussed in the first chapter of this report.



Half of the research participants who took part in at least one job interview in the last three years believed that that they were discriminated against in hiring. No significant difference existed based on gender. Research participants were most inclined to state that they encountered discrimination in hiring based on age (26% of women and 15% of men). Again, while the sample of men is disproportionately smaller, surveyed men were more likely to say that they faced discrimination based on their political affiliation or sexual orientation. Meanwhile, of those who had at least one interview in the last three years, 16% of women said they were discriminated against in hiring because they are women, while 23% of men felt discriminated against because they are men. No major differences existed between the first and second surveys regarding the forms of discrimination in hiring those respondents said they faced. Findings suggest that gender-based discrimination against women and men in hiring has continued in Albania, based on gender as well as age, political affiliation, and sexual orientation.

Discrimination in Promotion

Survey participants who were currently employed or had worked in the last three years were asked about discrimination in promotion, whether they had faced it, and on what basis. Approximately 4% of the respondents indicated that they had experienced discrimination in promotion based on gender, while 7% thought that they were not promoted because of their age.

Overall, 17% of the participants that were employed at the time of the survey or had been employed in the last three years indicated that they had been discriminated against in relation to promotion. This figure is comparatively smaller than in the previous survey, in which 43% of employed persons reported facing discriminated in promotion. Again, the difference may be attributable to the period of reference, which was 10 years in the 2018 survey, and thus a longer time period during which discrimination may have occurred. This difference also may be partially attributable to the fact that more survey respondents in the 2021 survey worked in the civil society sector, where discrimination in promotion seems to occur less. Meanwhile, three respondents from different institutions revealed during interviews that they had encountered discrimination in promotion.

Two of the interviewed survey respondents shared specific examples of discrimination in promotion. One of them declared that “men are treated better when it comes to promotion compared to us women”.¹²⁷ Despite her experience with gender issues and as a long-time teacher, she has not been selected to be engaged in similar projects as men and has not been promoted despite her many years of work. According to her, in order to advance, employees have to fulfil directors’ wishes and be their puppets.

Two cases reported to GADC concerned discrimination in promotion alleged by women police officers. In one case, despite receiving the grade of “Commissioner” following official training, she had not been appointed to a position in line with her grade since 2019. At the time of this report, GADC was in the process of providing legal aid and exploring administrative avenues to resolve this issue before lodging an official complaint.¹²⁸ For women in male-dominated fields, discrimination may be even more blatant. As a police officer represented by GADC observed, “I think that this happens because in these positions supervisors usually choose male competitors”.

Box 3. Case Study 2: Discrimination in Promotion

V.G. holds of the rank of Police “Deputy Commissioner” but actually serves in the position of Specialist of the File for Crime Investigation in the Section of Criminal Analysis and Information in the Local Police Directorate of Durrës. As she reported to GADC: “I have 24 years of work experience in the State Police, with ranks such as: Lieutenant, Captain, Inspector General, Chief Inspector, Commissioner, and Deputy Commissioner. During these years I have worked in several districts, such as: Tropoja, Kukes, Lezha, and Durres.”

In 2019, she completed training for the rank of Commissioner at the Security Academy. V.G declared that she regained the rank of “Commissioner” after being demoted due to a structural change that occurred in this Directorate. At the time, she was transferred from the position of Chief of the File Section to the position of File Specialist in the Local Police Directorate of Durres. Despite the fact that she achieved the rank of Commissioner and there were vacancies that corresponded to this rank in

¹²⁷ Interview with survey respondent.

¹²⁸ Case reported to GADC on 12.11.2021.

the Directorate where she works, after approximately two years she has not been appointed to a position according to her rightful, relevant rank.

"I have sent several requests to the relevant police structures, local and central, to consider my request of being assigned to a suitable position according to the rank I have regained, but the assignment has not been made by them even though there were vacancies," she said. "Meanwhile, some of my [male] colleagues have been reappointed several times to various functions belonging to this grade during the time I expected to be appointed according to the rank."

GADC addressed the case to the Commissioner for Protection against Discrimination. The institution was directly involved in conducting investigations and ascertaining whether gender-based discrimination in labour relations occurred in this specific case.

In December 2020, with Order No. 1736 of the General Directorate of the State Police, V.G was assigned to the position according to her grade.

Source: GADC documentation of the case.

Given the survey findings, interviews, and cases assisted by GADC and the CPD, this research has found that gender-based discrimination related promotion has continued in Albania.

Contracts and Working Hours

Concerningly, of the survey respondents who had been employed, 11% had never had a written contract. A significantly higher percentage of men (17%) than women (9%) in the sample had never had a written contract. These figures were much higher in the 2018 survey (43% for men and 21% for women). Again, this difference is likely attributable to the different period of reference (e.g., three versus ten years) and different samples of respondents completing the survey. Generally, findings suggest potential gender differences among women and men, but they do not necessarily suggest gender-based discrimination; further details and comparisons would be needed with other workers to determine whether some workers were provided with contracts while others were not, based on their gender. Nevertheless, research findings do evidence that violations of both women and men's labour rights have continued in that they are not provided with written contracts. GADC's forthcoming research on the textile and footwear industry has confirmed these findings. GADC found that it is not uncommon for women to sign contracts without reading them, not be provided with the contracts they sign, and, in worse situations, not sign contracts at all.

Of the survey participants that had an employment contract at the time of the survey or in the prior three years, more than half of the women (57%) and men (52%) had indefinite contracts and one-fifth (21%) had employment contracts with a duration of less than a year. A significantly higher percentage of women than men had employment contracts lasting 7 to 12 months. Assessing perceptions, employed survey participants were asked who they believe has longer contracts in their workplace. More than half (67%) stated that it is the same for both men and women, and 17% did not know. Approximately 4% believed that men have longer contracts, while 4% thought that women have longer contracts. In other countries in the region, employers reportedly have used short contracts with women to avoid potential costs affiliated with women taking maternity leave. Further comparisons between women and men working at the same employer could shed light on whether gender-based discrimination against women may exist regarding contract length.

Regarding working hours, 61% of the survey respondents indicated that they usually do not work more than 40 hours per week. A comparably larger percentage of men (46%) said that they work overtime, involving between 41 and 60 hours per week, than did women

(31%). Meanwhile, 15% of men worked more than 61 hours a week, compared to 5% of women. This potentially reflects gender differences among women and men in working hours. Nevertheless, gender-based discrimination cannot be deduced without further comparisons within a given workplace.

In addition to violations of the right to overtime compensation, during the COVID-19 pandemic, GADC and the Albanian Women Empowerment Network (AWEN) supported 17 employees who worked at a tailor; they were fired illegally and were not paid their salaries for the preceding months. Moreover, further inquiry showed that the employer had not paid their state-required social and health insurance for several years. AWEN's lawyer, in collaboration with GADC, filed criminal charges for abuse of office by state institutions. They also filed a complaint with the CPD. At the time of writing this report, the court was considering the case; three sessions were held with AWEN and GADC's support. The collective case remains in process at the time of writing.

The survey findings, interviews, and cases assisted by AWEN and GADC all suggest that violations of contracts and working hours have continued to occur in Albania. Further information and inquiry is needed to determine if such cases have involved gender-based discrimination, as well as to better document such cases.

Violations of the Right to Equal Pay for Equal Work

As stated, equal pay for equal work is a fundamental value of the EU. Prior research has found that, on average, men have higher wages than women do in Albania.¹²⁹ According to the Gender Equality Index 2020, the gender wage gap in Albania has been calculated based on wages declared at the tax office.¹³⁰ As a result of informality, wages often are underreported, especially higher wages, which pertain more to men. Consequently, the gender wage gap is reduced to 10% based on INSTAT calculations.¹³¹ The gender pay gap, calculated through survey data, beyond the figures declared in taxes is around 15.2%.¹³² The gender pay gap is more emphasised among employees in economic enterprises belonging to the economic activity group "Mining and processing industry; electricity, gas, steam and air conditioning supply; water supply; waste treatment and management activities, rehabilitation". For this activity group, the gender pay gap is 34.6%.¹³³

Prior research also has found that employers sometimes incorrectly declare the salaries of employees when reporting on taxes and pensions to the state authorities to decrease the amount owed.¹³⁴ This can have gendered repercussions, as persons may receive lower pensions later in life as a result, and women historically have been most at risk of old-age poverty.¹³⁵

When asked about any experiences that they have had with mis-declared salaries, 8% of survey participants indicated that their employer does not declare their actual salary to the state authorities, and 9% did not know. The percentage of those who report mis-declared salaries was the same as in the first iteration of the survey in 2018. Also similarly, a comparatively larger percentage of men (15%) in the sample had experience with mis-declared salaries than did women (7%). However, it could not be concluded statistically that there was a significant difference between women and men. Again, comparisons would have

¹²⁹ GADC. 2013. *Inequalities in Pay in Albania*.

¹³⁰ INSTAT, 2020. Gender Equality Index for Albania

<http://www.instat.gov.al/en/publications/books/2020/gender-equality-index-for-the-republic-of-albania-2020/>

¹³¹ INSTAT 2020. Women and Men in Albania

¹³² INSTAT, 2020. Gender Equality Index for Albania

<http://www.instat.gov.al/en/publications/books/2020/gender-equality-index-for-the-republic-of-albania-2020/>

¹³³ INSTAT, 2019. 2019 Labor Market in Albania

¹³⁴ GADC. 2019. *Gender-based Discrimination at Work in Albania*.

¹³⁵ Godoy, L. & Montano S. 2004. *Understanding poverty from a gender perspective*. Women and Development Unit of the Economic Commission for Latin America and the Caribbean (ECLAC). Series Mujer y desarrollo 52. Santiago, Chile.

to be made within a given workplace to deduce whether any gender-based discrimination was occurring in relation to misfiling salaries. Nevertheless, findings do indicate that violations of women's and men's labour rights continue. Moreover, mis-declared salaries can have particular repercussions for women's maternity leave benefits as discussed in the next section.

Additionally, half of the online survey respondents in this research reported that they are not compensated for overtime work. Only 16% indicated to receive financial compensation for overtime work. Approximately 13% indicated that they receive time off as compensation. This remained the same as reported in the previous 2018 survey. This and other evidence suggest that provisions of the LC on overtime work are routinely disrespected, especially in private companies. The 2020 Annual Report of the Labour Inspectorate stated that inspections of private companies revealed that half of the companies it inspected did not pay their employees' overtime.¹³⁶ This figure is probably larger, considering informal work and the companies selected by the Labour Inspectorate. These findings suggest continuing violations of workers' rights to compensation for overtime work.

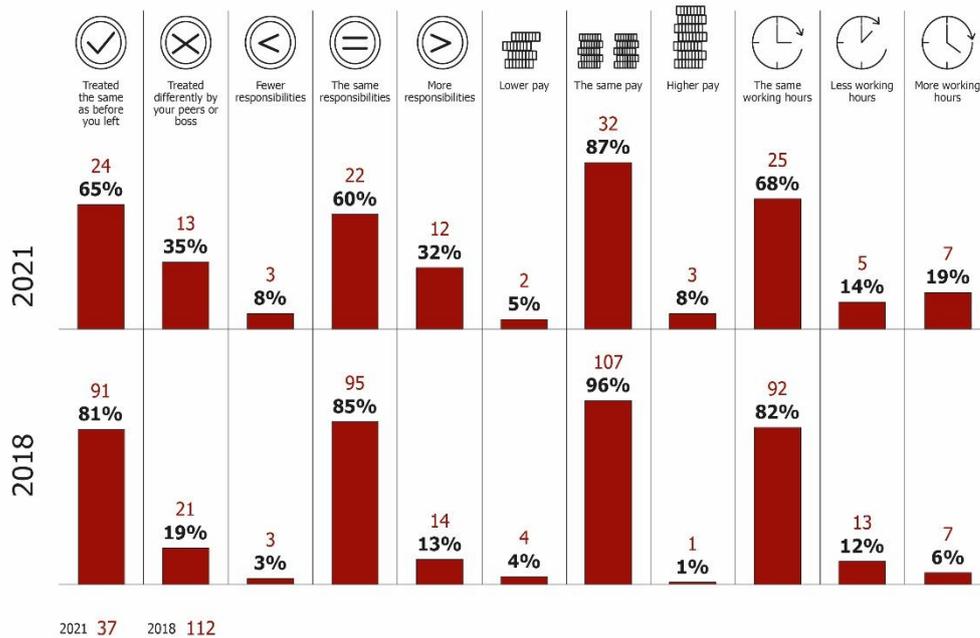
Violations of Pregnancy and Maternity Leave Rights

Of the surveyed women, 15% had experienced being pregnant while being employed in the last three years. For 13% of those women, the right to paid maternity leave was denied; they were neither paid nor did they receive a government benefit during their maternity leave. This percentage is slightly lower than in the first 2018 survey.

After their maternity leave, 93% of the women returned to their previous place of employment, and 40% of them indicated that they were pressured to return to work earlier than planned. While over half (60%) of the women did not feel pressured to return early from their maternity leave, 35% felt that their peers or boss treated them differently because they took the leave. When asked specifically on what changed, 8% stated that they had fewer responsibilities, while 32% thought that they had more responsibilities when they returned; 5% said that they had lower pay after they took their leave. Around 14% indicated to have

¹³⁶ Labour Inspectorate. *Annual Report 2020*. At: <https://inspektoriatiipunes.gov.al/wp-content/uploads/2021/02/Analize-vjetore-2020.pdf>.

Graph 7. Different Types of Treatment Women Faced after Returning from Maternity Leave (By Number and Percentage of Women Who Took Maternity Leave)



fewer working hours after they returned from maternity leave, while 19% said that they had more working hours.

As one of the survey respondents reported:

I had just returned from maternity leave with a one-year-old at home. They would send me to remote villages even though this was not part of my job description, but it was done to discourage me from working and resign. I would leave my kid at home and couldn't nurse him, as I had to travel for hours. I tried to communicate this to the supervisor but without any result. I felt discriminated against. While male colleagues stayed in the office, I had to travel every day with my husband to remote villages. In the end, they still fired me.

She believed that she was fired because she took maternity leave and that her supervisor used this as a reason to fire her. She lost her case in court and was advised to reach out to the CPD, but her family members did not want to pursue the case any further.

Box 4. Case Study 3: Discrimination Due to Maternity Leave

X.B. is a new mother and a police officer. Upon her return to work from maternity leave she was given a transfer order without any prior communication or notification. The transfer was in violation of the Law on State Police, as well as the Law on Protection of Motherhood. X.B. is in a difficult position currently, due to the health situation of her infant and her inability to take leave from work to take care for her baby. case was referred to GADC in August 2021, and GADC provided information regarding her legal rights and legitimate right to claim discrimination. The case was presented to the CPD in September 2021. Frequent communication continued through November 2021 between the claimant and the CPD, ensuring that all necessary proof was submitted. At the time of writing, GADC was awaiting the CPD's decision and closely following the case.

Her case was referred to GADC in August 2021, and GADC provided information regarding her legal rights and legitimate right to claim discrimination. The case was presented to the CPD in September 2021. Frequent communication continued through November 2021 between the claimant and the CPD, ensuring that all necessary proof was submitted. At the time of writing, GADC was awaiting the CPD's decision and closely following the case.

Despite the rights outlined in the Law on Maternity Leave (LML), violations often occur in the private sector, especially in small and unstructured companies.¹³⁷ This relates to the high level of informality in the country and the aforementioned declaration of the minimum salary, instead of the actual salary; the amount declared is the amount officially used in calculating the state-paid maternity leave benefits. Thus, women whose employers report their salaries incorrectly receive lower maternity leave benefits than they deserve. It has been suggested, especially by the Ombudsperson during the interview, that employers and employees should share information on wages more transparently to avoid the exploitation of pregnant women.

The situation is exacerbated by the fact that employees often have limited to no knowledge of their rights related to pregnancy or maternity leave. A representative of the CPD observed that while the legal framework fully protects maternity leave, women often are scared to realise their rights for fear of losing their jobs:

Pregnant women go to work until the very last moment, even when they are performing heavy duties. The company representatives know they should not work with heavy machinery in shoe factories, for instance, where there is a high chance of poisoning. These women work long hours and are forced to work to support their families.¹³⁸

Thus, low awareness and fear of job loss likely prevent women reporting violations of their rights related to maternity leave.

In another case, a complainant who referred her case to the CPD declared: "I have been discriminated against at work because I have been pregnant three times, which makes

¹³⁷ Assessment from GADC field work, Labour Inspectorate annual reports, and other organisations working on labour rights.

¹³⁸ Interview.

me understand that my employer would rather pay someone who does not take maternity leave, or other forms of leave due to childcare responsibilities".¹³⁹ The CPD, however, in its decision of non-discrimination, argued that the complainant did not provide enough proof of discrimination on grounds of pregnancy.

An interviewed CSO representative also reported that cases of termination of employment due to maternity are frequent. They encountered a specific case when a woman received compensation because she was fired for taking maternity leave. However, this practice remains problematic in Albania, despite the legal protections in place.

Overall, findings suggest that violations of maternity leave rights, and discrimination following maternity leave, have continued to occur in Albania.

Violations of Rights to Paternity Leave

Of the employed men in the online survey sample, 34% compared to 38% of men in the 2018 study thought that their employer would not allow them to take paternity leave, and 40% did not know, compared to 39% in 2018. Slightly more than a quarter of the respondents (26%), compared to nearly every fifth (19%) in 2018 believed that their employers would give them paid paternity leave. Of the men participants, 18% compared to 16% in 2018 had a new-born child while being employed. Of them, four participants (36%) did not receive days off for paternity leave, two (18%) said that their employer allowed them to take seven days off. Although more qualitative than quantitative in nature, these findings clearly illustrate violations of men's right to paternity leave have continued in Albania.

More than half (53%) of the surveyed men who answered the questions on paternity leave agreed that men should have more paid time off for paternity leave. Support for paternity leave increased compared to the 2018 report when 44% of the men agreed with this statement. Meanwhile, in 2021, 25% were still against it, and 23% did not know if men should have more paid time off for paternity leave or not. These findings suggest that the environment in Albania is generally favourable for increasing the allowable time of paternity leave to 10 days in accordance with the EU Work-Life Balance Directive, including with the affirmative measure of paid leave to encourage increased uptake among men. Meanwhile, the lingering scepticism suggests the need for awareness-raising of the benefits that taking paternity leave and enhancing work-life balance can have for both women and men.

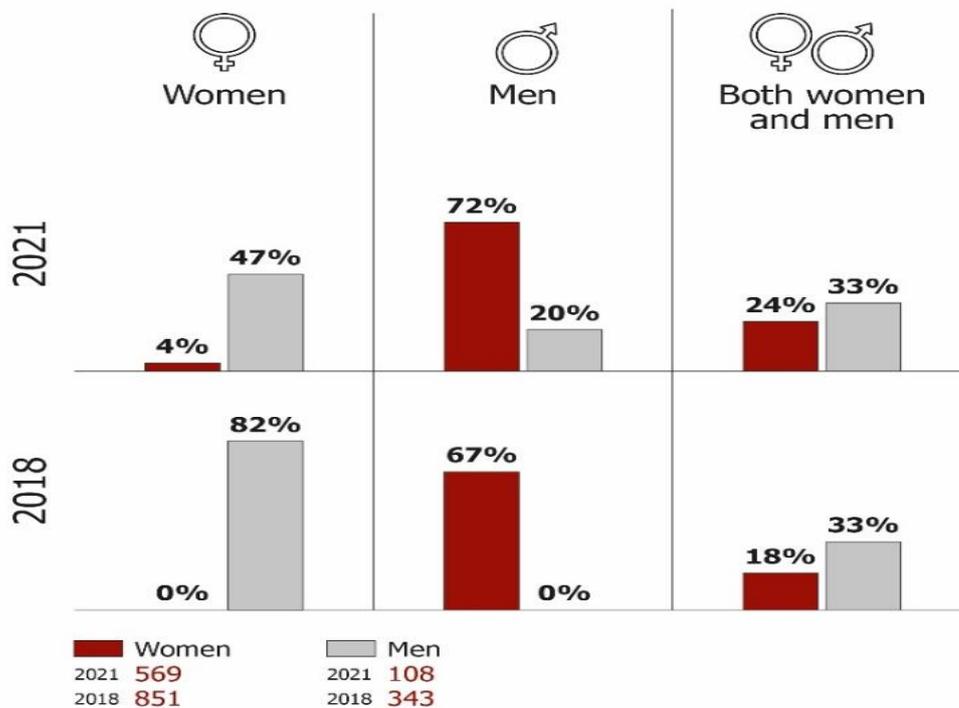
Sexual Harassment at Work

The most prevalent form of gender-based discrimination reportedly experienced by survey participants was sexual harassment at work. Nearly one-fourth (23%) of the participants reported having experienced such harassment at work, with no significant differences between men and women. This percentage is slightly higher than in the first survey when 18% of respondents reported experiencing sexual harassment at work. In total, among respondents to the second survey, 74 women and 15 men said they had experienced such harassment.

Of the women who indicated to have been victims of sexual harassment at work, 72% stated that the perpetrator was a man, and 24% said that perpetrators were both men and women. The sample of men subjected to sexual harassment at work is comparatively smaller (15), however nearly half (47%) stated that they had been a victim to men perpetrators, while five participants (33%) had experienced harassment from both men and women perpetrators.

¹³⁹ Decision 255 of the CPD, dated 29.12.2021.

Graph 8 . Gender of Perpetrators of Sexual Harassment, by Respondents' Gender



Box 5. Case Study 4: Sexual Harassment at Work

E.Sh. is an IT professional working for years as camera operator in the Port of Shengjin. For some time, she did not receive payment for the night shift, as the decision to pay is made by the supervisor who has paid some people for working this shift but not her. Upon learning this information, she referred her concerns to the employer and requested payment for working the night shift. Her repeated requests were never considered. Moreover, her supervisor requested sexual favors before he would approve her request, claiming that he is the chief and can do whatever he wants. Her refusal led to an open confrontation, which occurred in front of other people. She feared that her family members would get involved and seek justice themselves, so she tried to resolve the issue by requesting her compensation and putting an end to the continuous sexual harassment.

After failing to resolve the issue with her employer, the case was submitted to the Commissioner on Protection from Discrimination on the ground of sexual harassment. The case also was sent to the prosecution, which at the time of writing was investigating the matter. The case was complicated, with claims in addition to the sexual harassment claim, and it has continued for more than a year.

At the end of 2021, the CPD issued a decision that found discrimination in the form of sexual harassment, while the court has continued with its examination of the case. GADC has continued to follow the case in court, as well as previously with the CPD, to ensure that the woman is compensated and measures are implemented by the employer.

When asked about the positions of perpetrators, 74% (76% in 2018) of survey respondents stated that they were victimised by persons working in higher positions than them; 44% (35% in 2018) were sexually harassed by a person at the same level position; and 19% (18% in 2018) said that the perpetrator was employed in a lower position than them. This is in line with broader, internationally recognised trends of perpetrators tending to be in positions in power and misusing this power.¹⁴⁰

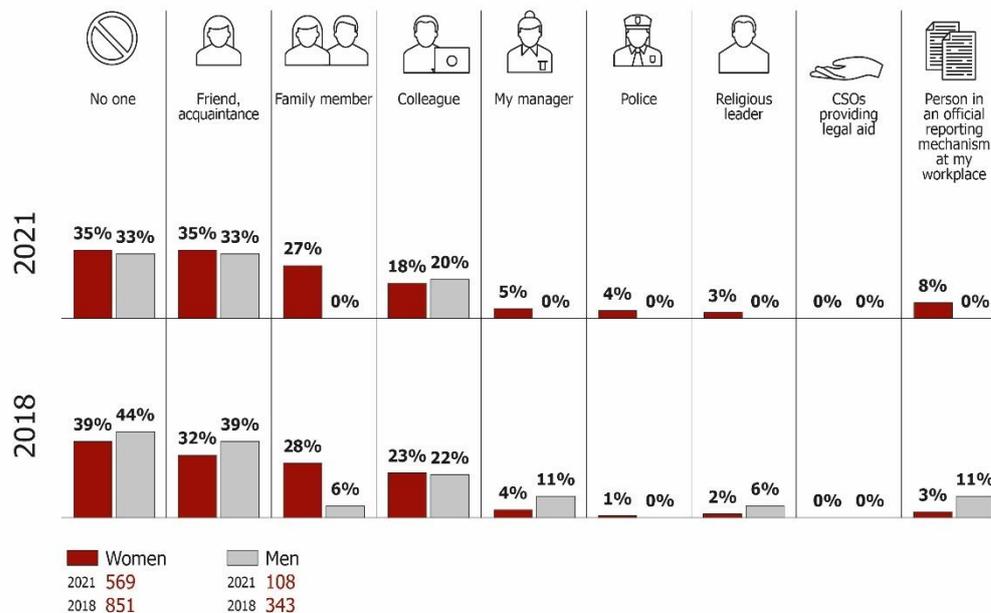
“*Sexual harassment is one of the most common forms of discrimination that women face.*”
 – Police officer

Of the persons who reported suffering sexual harassment at work, 35% women and 33% men (39% women and 44% men in

2018) had not shared or reported their experience to anyone; 35% women and 33% men told a friend or acquaintance; and 27% women and no man (28% women and 6% men in 2018) shared the experience with a family member. A smaller percentage reported the experience to a more formal instance (7%) compared to 6% in 2018; 8% (4% in 2018) reported it to an official reporting mechanism at their workplace; 4% told their manager; and 4% (0.7% in 2018) reported the case to police.

“*Cases of sexual harassment are the most frequent, as women and girls are discriminated against and sexually abused just because of their gender. Women are not only sexually harassed, but they are judged and discriminated against because of the suffered abuse.*”
 - CSO representative

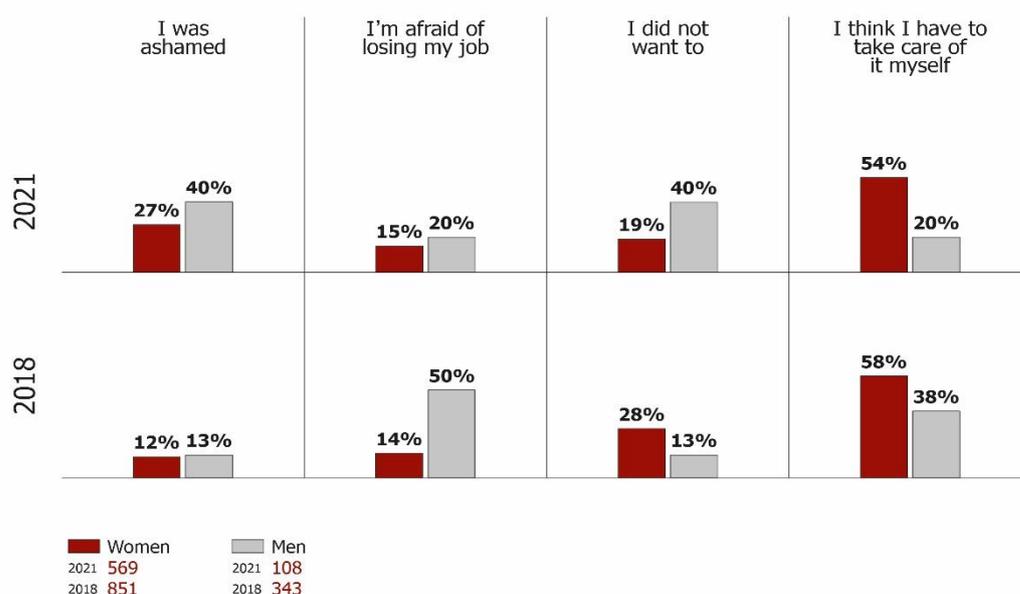
Graph 9. To Whom Did Respondents Report Sexual Harassment, by Gender



¹⁴⁰ See for instance: McEwen, C, Pullen, A., & Rhodes, C. 2021. *Sexual harassment at work: A leadership problem*. Perspectives. Online: <https://www.redalyc.org/journal/1551/155166529004/html/>

The most frequent reasoning provided as to why they did not report sexual harassment was that they felt that they should handle it themselves, especially for women (54%). As a woman respondent declared, "I was sexually harassed, but the harassment stopped as soon as I threatened the perpetrator". The next most common reason for not reporting harassment was that they would feel shame if they reported it. Men similarly tended not to report sexual harassment due to shame and not wanting to. Fewer men than women said that they wanted to handle the situation themselves or feared that reporting would cause them to lose their jobs.

Graph 10. Reasons Why Sexual Harassment at Work Was Not Reported, by Gender



The interviewed representatives of different institutions tended to agree that few people report sexual harassment to institutions for fear of losing their jobs; due to insufficient awareness regarding their rights pertaining to discrimination and labour; general discouragement over long bureaucratic procedures in relevant institutions; difficulty documenting discrimination cases especially in sexual harassment; and a fear that anonymity will be breached.

The Impact of COVID-19 on Respondents

The global pandemic has impacted every aspect of life, from health outcomes to strains in socio-economic systems and peoples' lives. The pandemic also has exacerbated pre-existing social and gender inequalities, contributing to an increase in the incidence of violence against women and girls and additional burdens on women as caregivers. Vulnerable groups were particularly affected by the health emergency, especially in remote areas.¹⁴¹ Data from Albania show that women were particularly vulnerable to the impact of the pandemic due to their employment in the informal market and low-wage activities, which were disrupted due to quarantine measures.¹⁴² Further, about 46% of women living with children had to decrease

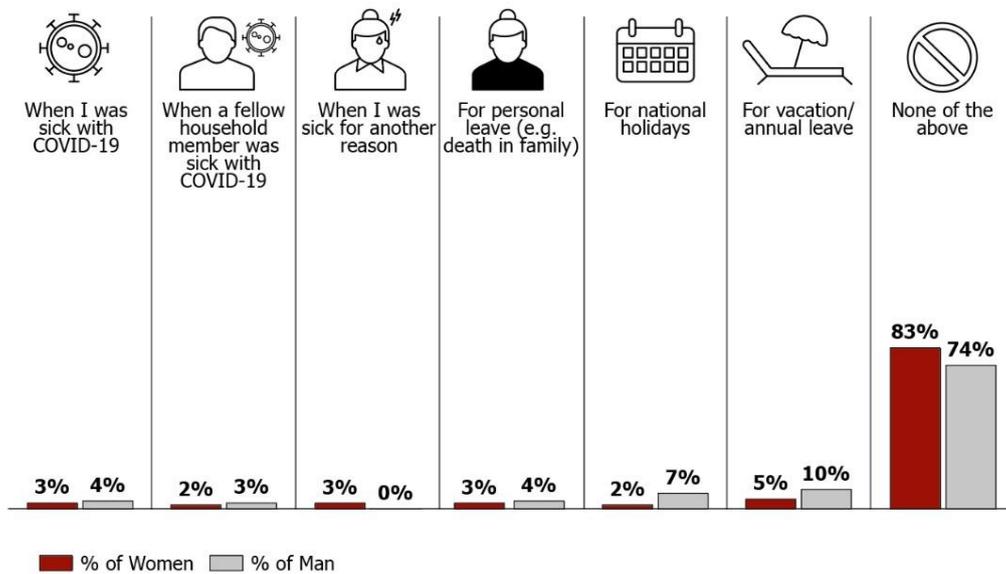
¹⁴¹ UN. 2021. *Policy Brief: The impact of COVID-19 on women*. At: <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Policy-brief-The-impact-of-COVID-19-on-women-en.pdf>.

¹⁴² Assessment of GADC, which works on the ground, especially with women in the garment and shoes industry.

their working hours to care for children. Closure of educational institutions also affected women’s return to the labour market.

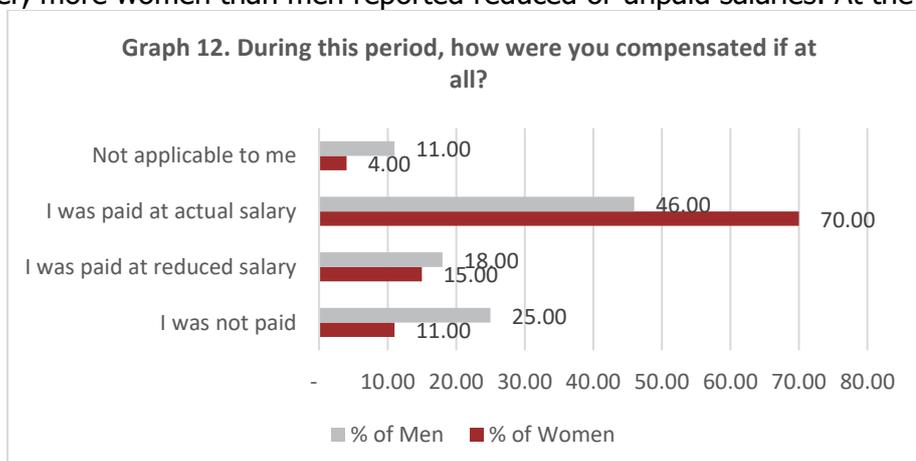
Asked if they were denied the right to take off work since 2019, most online survey respondents reported that they were not denied this right. Nevertheless, about 17% were denied their right to time off, evidencing the existence of labour rights violations amid COVID-19. Among them, 3% of the women surveyed were denied leave when they were sick with COVID-19, and 3% when they were sick for another reason. More surveyed men (26%) than women (17%) were denied time off from work, but mostly for vacation, annual leave, or national holidays. Only 4% of men were denied leave when they were sick with COVID-19.

Graph 11. Since 2018, have you ever been denied the right to take off work for any of the following reasons



Almost half of the respondents reported that their place of employment was closed due to government measures to curb the spread of the pandemic, and almost a quarter reported that their place of employment stayed closed for a month or more.

As a result of these closures, a portion of the respondents were not paid their actual salaries. As the graph below suggests, 36% (11% of women and 25% of men) have not been paid; 33% (15% of women and 18% of men) have received a reduced salary. In real numbers, however, more women than men reported reduced or unpaid salaries. At the height of the



pandemic, women textile workers in at least seven cities took to the streets to protest not receiving “war wages”, as promised through government financial recovery packages.¹⁴³

Box 6. Case Study 5: Discrimination during the COVID-19 Pandemic: Unpaid Social Insurance

In July 2020, 16 employees of a textile company were collectively fired from their jobs without justification and effective immediately. On that date, the employees had not received their salaries for May and June, as well as salaries for the first week of July 2020. In addition, social and health insurance for the period of 2015-2020 had not been paid by the employer. After complaints to the Labor Inspectorate, the employer only paid the May salary.

GADC took over the case initially through a request to the Commissioner on Protection from Discrimination (CPD) and followed it until the final decision of the CPD was issued. Unfortunately, the CPD discontinued the case due to the company declaring bankruptcy and thereby claiming that the case lost actuality. GADC pressed criminal charges in September 2020 against the company, as well as public institutions responsible for collecting social and health insurance. In January 2021, an additional charge was brought, but so far, the prosecution has not provided further information about the case. In addition to criminal charges, the case also has been filed in civil court to ensure that the claimants are paid their rightful social and health insurance for the period they were working at the company. At the time of writing, the case remained pending and would likely continue into 2022.

Almost half of the survey respondents reported that their employer provided protection measures against COVID-19. However, 16% reported that no measures were taken by employers to ensure the safety of their employees.

The challenges faced by the most survey respondents during the pandemic included stress and balancing personal and work life, including care responsibilities. A higher percentage of surveyed women (46%) reported feeling stress compared to men (25%). In addition, women seemed to have borne the burden of care responsibilities more than men. For instance, 31% of women reported facing challenges in caring for children compared to 23% of men. Meanwhile, other care responsibilities seemed more equally divided between the two. More women reported facing psychological and physical violence at home than did men. This is in line with the general increase in reported cases of violence against women to the national helpline during the height of the pandemic; the number of cases reported to the national hotline increased six-fold compared to the previous year.¹⁴⁴ More men than women respondents reported not having faced any challenges during the pandemic.

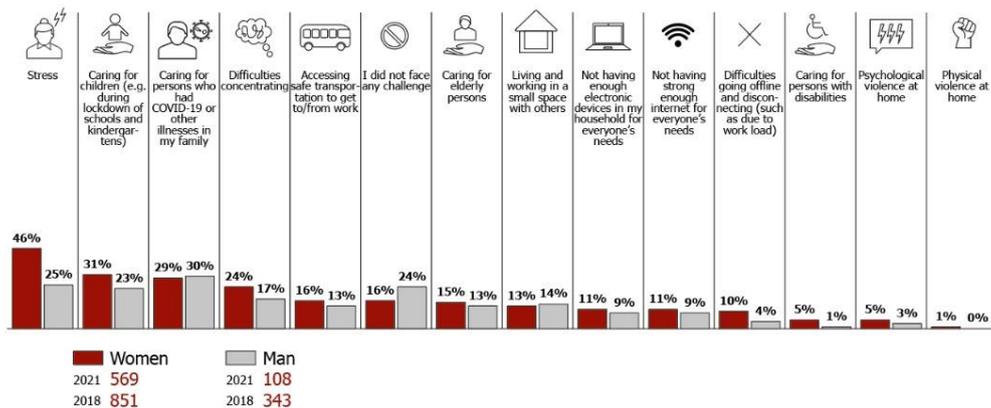
The COVID-19 pandemic has underlined the importance of installing better work-life balance legislation and workplace policies. The staggering differences between women and men in terms of unpaid care work and the consequences that unpaid labour have on women’s

¹⁴³ Please see a collection of articles from these protests: <https://www.youtube.com/watch?v=mauSQayTHQg>; <https://www.youtube.com/watch?v=ohWO9lkCb8o>; <https://www.youtube.com/watch?v=fRXcopQ7Gj0>; https://m.facebook.com/kohajone/videos/515743992438721/?locale=pl_PL&_rdr; <https://shqiptarja.com/lajm/paga-e-luftes-punetoret-e-fasonerise-ne-fier-proteste-u-kemi-ndenjur-pronto-nese-jane-tallur-me-ne-ne-do-tallemi-me-shume?r=pop5s>; and <https://www.dailymotion.com/video/x7ttwzr>.

¹⁴⁴ Counselling for Girls and Women, National Hotline number 116-117.

employment rates, pay, and wellbeing have demonstrated the urgent importance of establishing improved legislation that can provide for greater gender balance at home and at work. In this regard, Albania has yet to take sufficient steps to approximate its legal framework with the EU work-life balance directive, as discussed in the Legal Analysis chapter. Doing so would be essential not only in times of crises, such as related to the COVID-19 pandemic, but to improve gender equality more generally as well.

Graph 13. Challenges Encountered



Conclusion

Slightly more survey respondents reported having experienced discrimination in 2021 than in 2018. It is encouraging that more persons who have experienced discrimination have reported it to relevant institutions than in 2018. This may suggest some increase in awareness over time. Meanwhile, the data also suggest that discrimination related to labour continues to be underreported, and several people have remained unaware of mechanisms for reporting gender-based discrimination. They and others have continued to fear repercussions for reporting it or have lacked trust in institutions. Even though the survey showed that men were more at risk of unemployment compared to women, self-employed women were hit harder by reduced working hours and loss of income.

Meanwhile, qualitative evidence clearly suggests that several labour rights violations, some involving gender-based discrimination, have continued to occur in Albania during the last three years. Sexual harassment has continued to be among the most serious of these, though people have remained hesitant to report it for a variety of reasons, ranging from shame to lack of trust in institutions. Persons with different abilities, minority ethnic groups, and LGBTQIA+ persons have continued to face multiple and intersecting forms of discrimination based on gender and other grounds. They particularly seem to face discrimination in hiring, which prevents their entry into the labour market. Even when they enter the labour force, they often work in low paying jobs and continue to face discrimination at work. Women are more affected by discrimination than men. The COVID-19 pandemic has exacerbated differences among women and men, particularly among persons already facing multiple discrimination.

THE INSTITUTIONAL RESPONSE TO DISCRIMINATION

This chapter analyses the experiences of different institutions with treating discrimination cases that relate to labour. This includes assessing the extent to which each institution possesses adequate knowledge of the relevant legal framework and procedures for addressing gender-based discrimination related to labour; how institutions have dealt with reported cases; and challenges encountered in treating these cases. Each institution is analysed separately.

Commissioner on Protection from Discrimination

Established in 2010,¹⁴⁵ the CPD is a fully functioning body, aligned and in accordance with four European Directives in the field of non-discrimination. The CPD is a public legal person, independent in performing its duties, and the responsible authority to ensure effective protection against discrimination. The CPD has an “inquisitory” mandate, considering that it has litigation powers in terms of representation in courts and formally deciding on complaints (e.g., addressing decisions or recommendations to the parties), which are legally binding.

The Commissioner monitors and evaluates the quality and implementation of legislation and strategies on equality, as well as proposes the approval of new legislation or the amendment or reform of existing legislation. The Commissioner is required to provide information on the LGE and to take an active role in monitoring the implementation of such laws, as well as to make step-by-step recommendations for relevant legislative reforms when a technical level of consultancy is required. The Commissioner also is entrusted with ensuring that all interested parties and legal entities are properly informed about their right to protection from discrimination and the legal remedies available to them.¹⁴⁶

In 2020, the Law on Protection from Discrimination underwent significant changes to better reflect international norms as well as to adjust the role of the CPD. In this regard, some of the major changes and additions to the role of the CPD included:

1. The CPD can now review complaints from persons or groups of persons not only as provided in the LPD but also in the LGE, thus making a strong connection between the two laws and giving the latter power of implementation of its provisions. In addition, the CPD is now also in charge of monitoring implementation of the LGE.
2. The CPD can now also initiate a procedure before the Constitutional Court, when during its activity it finds that the law or normative acts violate the fundamental rights and freedom of individuals.
3. To give power to the CPD to collect information, the LPD now foresees the obligation of all public institutions and private entities to support the Commissioner in providing information and guarantees access to information.
4. The procedure for execution of fines and CPD decisions became an executive title and are compulsorily executed in the bailiff’s office, by request.
5. The CPD now has the competence to file a lawsuit in defence of the principle of equality and non-discrimination, on issues related to collective interests.

¹⁴⁵ By the Law 10221/2010 “For the Protection from Discrimination”.

¹⁴⁶ Article 32 of the LPD.

6. Changes to the LPD also shift the burden of proof to the person against whom a complaint has been issued, which creates a good practice for other legislation in Albania.¹⁴⁷

According to the 2020 Annual Report of the CPD, of the total number of complaints related to employment, 90 were made against public institutions and 37 against private businesses.¹⁴⁸ Data from 2019 show that discrimination in employment is the most common form of complaint presented to the CPD. However, data also show that most cases are based on the ground of discrimination due to political beliefs. Termination of employment in the public administration on grounds of political affiliation remains a common phenomenon in Albania, which explains the high number of such cases presented to the CPD.

In 2018, the CPD ruled there was discrimination in 27% of the cases related to employment; in 2019, this figure went up slightly to 33%; while in 2020 the CPD found discrimination in 44% of the cases reported in the field of employment. As mentioned, most discrimination cases in the field of employment were against public institutions (at central and local level), with private companies constituting less than 30% of the cases; however, there was a marked increase since 2018 when only 17% of the cases involved private companies.¹⁴⁹ GADC's experience has shown that discrimination, especially gender-based discrimination in private institutions, exists at much higher levels than those actually reaching the CPD. As previously observed related to the survey findings, people are not entirely informed about reporting mechanisms; are afraid to report for fear of losing their jobs; and/or lack trust in institutions' ability to resolve their complaints.

Establishing inter-institutional mechanisms with other relevant agencies, such as the Ombudsperson's Office, the Labour Inspectorate, CSOs, and other relevant actors can help improve performance and the number of cases handled by the Commissioner. In 2018, the CPD signed a memorandum of cooperation with the Ombudsperson's Office to move away from ad-hoc collaboration and increase information-sharing and the handling of cases. Data on their cooperation in 2018 and 2019 are unavailable in the CPD's annual reports. In 2020, the CPD sent two complaints to the Ombudsperson's Office, while the latter sent five complaints to the CPD for follow-up. Opportunities exist for increasing the number of cases shared among these institutions. In 2020, the CPD also shared complaints with the Commissioner for Data Protection and Privacy.¹⁵⁰ There was no indication of collaboration with the Inspectorate of Labour beyond events and activities organised throughout the year.

As discrimination in employment constituted the majority of cases presented to the Commissioner, fewer cases involved gender as the ground of discrimination. From annual reports of the CPD, it is not possible to cross-reference how many of the cases of discrimination in employment have gender as the grounds for discrimination. However, in 2020, of seven cases where the CPD made a decision with gender as the grounds for discrimination, the CPD found discrimination only in one case. According to the *Annual Report for 2020*, the majority of gender-based discrimination cases are in the field of employment.¹⁵¹ However, no data is provided on the exact number of such cases.

¹⁴⁷ European Network of Equality Bodies. *ALBANIA: UPDATE IN THE LAW ON PROTECTION FROM DISCRIMINATION*. April 2021. At: <https://equineteurope.org/albania-update-in-the-law-on-protection-from-discrimination/>.

¹⁴⁸ Annual reports of the Commissioner can be found here: <https://www.kmd.al/raporte-vjetore/?lang=en>.

¹⁴⁹ Data analysed from annual reports of the CPD from 2018, 2019, and 2020, which can be found here: <https://www.kmd.al/raporte-vjetore/?lang=en>.

¹⁵⁰ Commissioner for Protection from Discrimination. *Annual Report 2020*. Online: <https://www.parlament.al/Files/Kerkese/20210413135056raport%20dhe%20shkresa%20KMD.pdf>.

¹⁵¹ Ibid.

Table 1. Cases Subject to CPD Inquiries 2018-2021¹⁵²

Year	2018	2019	2020
Number of inquiries handled on grounds of gender	17	3	7
Number of cases in the field of employment	125	120	127
Number of decisions where the CPD found discrimination in the field of employment	26	30	40
Number of cases of multiple discrimination (which include gender as one of the grounds)	1	2	1
Total number of complaints handled by the CPD	287	171	175

Representatives of the Commissioner's Office, interviewed for this report, demonstrated fully awareness and knowledge about the LPD, but also referred to provisions in the LC. One representative enlisted all grounds for discrimination as provided in the LPD, as well as the different forms of discrimination recognised in the legislation. Representatives of the CPD have been exposed to training and information sessions regarding different issues within the larger topic of non-discrimination and gender equality. Some had attended several training sessions on discrimination in the world of work; they recognised the work of GADC on these issues; and mentioned other thematic areas, such as the rights of different groups, including Roma, Egyptian, and LGBTQIA+ persons. Each year, more than 20 cases are reported to the Commissioner by CSOs, the Commissioner's Office stated during an event.¹⁵³ Few have related to gender-based discrimination in employment. In fact, GADC is one of few CSOs that has presented cases of gender-based discrimination in labour to the Commissioner. The Commissioner has had more direct experience with cases of discrimination than officials from other institutions interviewed.

In addition, all persons interviewed from this institution were aware of the challenges related to multiple forms of discrimination and the intersectional nature of discrimination, especially for vulnerable groups, such as women with disabilities, Roma women, and LGBTQIA+ persons. They were knowledgeable about the procedures for reporting and shared the first-hand challenges they had encountered, especially at the local level. As one representative noted, sometimes local authorities have been reluctant to collaborate with the Commissioner's Office; "... only when the office in Tirana intervenes, the situation changes".

In addition to providing legal recommendations towards improving laws directly regulating issues on discrimination and the work of the CPD, the Commissioner's Office also offers legal opinions and recommendations for other legislation relevant to discrimination. For example, in 2020, the CPD provided several recommendations for the ILO Convention on harassment in the world of work.¹⁵⁴ Despite a long list of recommendations on this and other laws and decisions, the extent to which they have been taken into account remained unclear at the time of publishing this report.

¹⁵² Annual reports of the Commissioner can be found here: <https://www.kmd.al/raporte-vjetore/?lang=en>.

¹⁵³ GADC Roundtable, 19 January 2021. Women Workers Rights. <https://www.gadc.org.al/d/255/tryeze-e-rrumbullaket-te-drejtat-e-grave-punonjese-ne-fabrikat-fason-covid-19-dhe-perspektiva-per-vitin-2021>.

¹⁵⁴ Commissioner for Protection from Discrimination. *Annual Report 2020*. At: <https://www.parlament.al/Files/Kerkese/20210413135056raport%20dhe%20shkresa%20KMD.pdf>.

Box 7. Case Study 6: Intimidation at Work

A.B. is a teacher in one of the secondary schools of the capital Tirana. For more than a year the school principal made manipulative efforts to get A.B. fired from her job. First, she received an administrative warning, which she appealed in court and won in the administrative court of the first instance in Tirana. Then, A.B. reported to the CPD harassment and victimisation by the head of the institution. During this time, she reached out to GADC to receive further legal counselling and representation.

Initially, the CPD stopped the case and, despite protests by GADC, upheld its decision to discontinue the investigation. In July 2021, GADC sent counter-arguments to the CPD and another request to initiate procedures for investigating claims of discrimination. This time, the CPD issued a decision in favour of the claimant, recognising that there was discrimination in the form of harassment and victimisation, and requesting reinstatement in the same place of work.

It is not uncommon that even when the CPD finds discrimination and requests that measures be taken by the relevant parties, the latter fail to take measures and continue the discriminatory behaviour. In one of the decisions of the CPD from 2021, there was a complainant that referred a case of discrimination for the second time, as the institution that discriminated against her did not take any of the measures recommended by the CPD. In this case, the CPD found aggravated and repeated discrimination. This and other cases suggested a lack of willingness among some institutions to take remedial measures to ensure that those who have been discriminated against find justice; this has occurred repeatedly in public institutions, which should set an example for other sectors.

In summary, CPD representatives are still very knowledgeable regarding discrimination at work, particularly following extensive training in these themes. They have more institutional practice in treating such cases than do other institutions interviewed through this research, which perhaps has contributed to more experience and thus improved performance in the treatment of such cases.

Police

The Albanian State Police (ASP) is responsible for preventing, discovering, and investigating criminal acts and individuals suspected of being involved, in accordance with the Criminal Code (CC) and the Criminal Procedure Code (CPC).¹⁵⁵ As some forms of gender-based discrimination are criminal offences, such as sexual abuse at work, the ASP has a role in treating it.¹⁵⁶ However, in the past three years, no such cases were brought to the police. Statistics from the Ministry of Justice (MoJ) further show that no cases relating to sexual harassment perpetrated by people in positions of power have been brought to courts either.

¹⁵⁵ Article 17/c of the Law on State Police.

¹⁵⁶ Article 105 of the Criminal Code of the Republic of Albania.

The police officers interviewed for this report tended to believe that the legal framework in relation to gender-based discrimination and gender equality in general are complete. They also seemed knowledgeable about the role of the CPD and the LPD. One of the interviewees believed the LPD provides good protection and acknowledged the role of the Commissioner in influencing other institutions to act on reported cases. One

interviewee even noted an internal policy against sexual harassment within the ASP, while others also mentioned the Constitution, the LC, and the LPD as the main documents providing equal protection for women and men. One interviewee observed that the legislation on protection from discrimination should be harmonised with other laws to provide effective protection. However, the respondent did not elaborate on existing inconsistencies.

In summary, police officers seemed knowledgeable about the relevant legal framework and their responsibilities. However, since no cases involving gender-based discrimination have been reported to police, such as sexual abuse or sexual harassment by persons in positions of power, police do not have practical experience treating such cases. This makes it difficult to assess police officers' treatment of gender-based discrimination cases.

“

I believe the legal framework is complete. The aim is to see how its implemented: how responsible, trained, and capable are the people who hold positions and [do they] have the duty to be active in complying with their legal obligations.

- Police Officer

Prosecution

As per the Criminal Procedure Code, a Prosecutor “conducts criminal prosecution, investigations, examines preliminary investigations, files charges in court and takes measures for the execution of decisions”.¹⁵⁷ Only two women who responded to the online survey had interacted with the prosecution regarding cases of discrimination. None of the interviewees identified the prosecution as one of the institutions to be contacted related to discrimination in the labour market.

Interviewed persons from the prosecution knew about the LPD and generally believed that the legal framework is complete and fully in line with international standards and the EU acquis. An interviewee mentioned the difficulty in proving discrimination, a challenge that many people face when they report discrimination; thus, the respondent suggested that gaps exist in the legal framework. In general, no other pieces of legislation were specifically mentioned by interviewees when asked about the completeness of laws that provide protection from discrimination. Exceptionally, one interviewee referred to the LGE and recent changes to the LC, as well as the LPD. Interestingly, none mentioned the CC.

An issue identified during interviews with prosecutors was a lack of continuous training on gender-based discrimination in labour. None of the prosecutors interviewed had received specific training in this area. A few had received some training on gender equality and sexual harassment. Additionally, data collection remains almost inexistent. As one of the interviewees noted, because they have had no cases of discrimination, there is no register to record cases, even if they appear in the future.

Prosecutors clearly lacked direct experience with such cases. Although they tended to believe that sexual harassment is widespread (and increasing) in Albania, rarely was it reported, they said. Interviewees were unable to provide any information about specific cases. A representative of the prosecution did mention one sexual harassment at work case, which occurred within a public institution. According to the interviewee, different institutions

¹⁵⁷ Article 24 of the Code of Criminal Procedures of Albania.

coordinated well in treating the case, as the case was reported to the CPD, and was followed by the police, the court, and prosecution. However, the outcome of the case was not shared with GADC.

In summary, prosecutors, like police, seemed generally knowledgeable about the legal framework but had extremely limited experience treating cases of gender-based discrimination. Therefore, their capacities to treat such cases could not be assessed.

Criminal and Civil Courts

For employment issues, there are three potential ways that a person can claim or report discrimination, as discussed previously in the Legal Analysis chapter. For cases of discrimination or equality, the individual can file a discrimination complaint to his/her employer, the CPD, or the court. According to Article 34 of the LPD, cases of discrimination can be brought before civil courts, as an alternative to filing a complaint with the Commissioner. Such cases are subject to limitations, such as a set period of five years from the time of the alleged occurrence of the discrimination, or three years from the time that the damaged party gained knowledge of the discrimination.¹⁵⁸ The procedural requirements in relation to the burden of proof are set forth in Article 36(6) which states: "After the plaintiff submits the evidence on which he bases his claim and on the basis of which the court may presume discriminating behaviour, the defendant is obligated to prove that the facts do not constitute discrimination according to this law".¹⁵⁹ If the Court rules that discrimination has occurred, based on Article 38, the Court can order restorative measures aimed at ensuring that the plaintiff is placed in the same position as she/he was prior to the discrimination. They also may provide compensation to the injured party.

The Law establishes a strong link between the CPD and the court in issuing decisions related to discrimination. According to the LPD:

1. A decision of the CPD can be appealed in the respective court.
2. The court has a duty to notify the CPD when a case of discrimination is presented to this institution and can ask the CPD to present an opinion, in written, based on its investigation or any other information of importance to the case.

Since 2018, the number of discrimination-related court cases in which the CPD has been involved has increased. In 2018, the CPD was involved in 66 cases, 86 in 2019, and 101 in 2020.¹⁶⁰ This suggests that collaboration between the two institutions has improved.

Most cases presented to courts related to appealing decisions issued by the CPD. Data provided in the annual report suggests that the court usually has upheld the CPD's decision. In addition, the courts (first instance, appeals court, and high court) also have issued confirmations of execution orders for different institutions fined by the CPD. In a significant number of cases, the CPD has been called by courts as a third party to provide a written opinion on cases adjudicated by the courts; such cases increased from 27 in 2018 to 31 in 2019, and to 40 in 2020.¹⁶¹ While there are more cases in court, this does not necessarily mean that people who have faced discrimination use courts as a way to seek legal remedies. Indeed, among the online survey participants who reported having experienced discrimination, only three women said that they approached courts to treat their cases.

¹⁵⁸ Law on Protection from Discrimination, Chapter VI.

¹⁵⁹ Ibid, Article 36.

¹⁶⁰ Commissioner on Protection from Discrimination. 2020. *Annual Report 2020*. At: <https://www.kmd.al/wp-content/uploads/2021/03/Raporti-Vjetor-i-KMD-2020.pdf>.

¹⁶¹ Ibid.

Nevertheless, the aforementioned increase in cases treated by courts could contribute to the establishment of more robust case law on gender-based discrimination in labour.

Three of the criminal judges interviewed believed that the legal framework is complete and in line with international standards. Two specifically referred to provisions in the LPD regarding the court's role, compensation, and how citizens can seek justice. One judge pointed to the need to review the LPD, as incomplete; as interviews were conducted after significant revisions of the LPD in 2020, the judge perhaps was unaware of the changes). None of the judges interviewed were able to identify gaps in the existing legal framework on protection from discrimination. Lastly, by their own admission, judges were not exposed to training on these issues, and one said it would be necessary to receive more training to be better prepared when such cases arrive in court.

None of the interviewed judges had dealt with gender-based discrimination in labour cases. Since they deal with cases of sexual violence at work and there are no such cases registered in the past three years in the annual statistics of the Ministry of Justice this is understandable. Rather, they mentioned more cases related to discrimination on the ground of political beliefs, as more commonly reported. However, criminal judges do not treat these cases.

Some of the judges interviewed observed citizens' lack of trust in their institution. The same cannot be said about other interviewed institutions. Considering the ongoing justice reforms and vetting of judges, citizens' lack of trust in the judiciary is understandable.

Since 2018, GADC has had several experiences with bringing discrimination cases to court, either through referral to the CPD or through direct representation of claimants in court. A significant victory was achieved in 2021 when the CPD issued a decision of discrimination involving sexual harassment by a superior. This followed a one-year battle, as the woman's case also was investigated by the prosecution. Cases of sexual harassment are seldom reported and even more rarely adjudicated in favour of the victim. As noted previously, the yearly statistical report of the Ministry of Justice did not contain any cases related to the article of the Criminal Code that addresses sexual violence or harassment perpetrated by a person in a position of authority. Therefore, this was a significant victory and set a precedent, which will be useful for future cases.

“ Some of the main reasons for not reporting cases of discrimination are lack of trust in the judiciary, public opinion, and lack of information.

– Judge

Labour Inspectorate

The mission of the state Labour Inspectorate encompasses all phases from control of labour standards to recommendations, notification, conflict resolution, prevention, and sanctioning.¹⁶² The LI must ensure implementation of legal provisions pertaining to working conditions, protection of workers, wages, security, hygiene, welfare, etc. It also can inform an employer of gaps and abuses identified during inspections and propose means for improvement. Moreover, it has a legal right to fine employers for abuses reported to it or observed through regular inspections.

According to official statistics provided by this Institution, in the period 2018-2021, nine cases of discrimination in the workplace were referred to the LI. Of the nine cases reported, one related to sexual harassment, three to unequal treatment at work, four were cases of discrimination at work, and one person reported physical violence at work. While the number of cases reported has remained low, notably, only seven such cases were reported to

¹⁶²Article 6 of the Law on Labour Inspection in the Republic of Albania.

the LI between 2008 and 2017. This suggests a slight increase in the reporting of discrimination cases to the LI over time. However, as recognised by the institution itself, a major constraint has remained the low number of inspectors and thus inspections conducted per year, as well as the lack of an institutionalised training program, especially for new inspectors.¹⁶³

The interviewed inspectors know more about the LL, as it forms the legal basis for their work. They still acknowledged the LPD but not the LGE. Interviews suggested the need for increased efforts to improve the level of knowledge and application of the existing legal framework on discrimination. Such knowledge is necessary for informing inspectors' work during inspections and for their appropriate referral of cases. Labour inspectors tended to report that very few discrimination cases had been brought directly to their institution. One inspector noted that CSOs usually brought these cases to their attention, particularly GADC, which has had frequent contact with the LI in representing the rights of women at work, especially in the textile industry.¹⁶⁴

Data collection also has remained a challenge for this institution, making it difficult to distinguish cases of discrimination identified by the LI. The interviewed inspectors observed that the lack of an online database makes it difficult to have a repository of inspections and to follow up on them.

The LI stated that the "low number of complaints is linked to hesitation from employees to denounce [the discrimination], and in those few cases when they do take a step, inspectors face difficulties to prove the facts or the circumstances surrounding the case."¹⁶⁵ What makes it even more difficult for labour inspectors to adjudicate cases is that persons who have suffered gender-based discrimination usually report their cases once their employment contracts have been terminated. This makes it difficult to verify claims of discrimination as proof may be harder to obtain since time has passed since discrimination occurred, inspectors said.

A Memorandum of Understanding was signed between GADC and the LI in 2019. The reports coming through calls to the GADC green number, 08001818, are immediately followed by the LI. Then, the LI reports back to GADC on the results of its inspections. In 2018 and 2019, GADC organised training and a series of activities with LI inspectors in different cities of Albania to raise their awareness and capacities on women's rights in the workplace. The LI chief inspector and representatives of the LI have participated in GADC's public activities where women workers' rights have been discussed.

After a meeting organised by GADC between the CPD and the LI, the two institutions signed an agreement of cooperation, towards coordinating actions to protect employees against discrimination at work. This agreement served to institutionalise cooperation between the parties, so that they could provide mutual assistance, better exchange information, and share reporting of discrimination cases.¹⁶⁶

In 2019, the LI organised 13,079 inspections and received 600 complaints. Among them, they received only three complaints related to discrimination, 82 cases for non-payment of deserved salaries, 76 for unpaid social insurance, 16 for non-payment of medical reports, and 12 for long working hours. In 2020, the number of complaints almost doubled, with the LI receiving 1,060 complaints; this may be attributable in part to labour rights violations occurring in relation to the COVID-19 pandemic. Among these complaints, 24.6% of cases involved delays in payment of social and health insurance, 3.5% of cases dealt with non-payment of disability reports, and 38.6% of cases with violations of employment relations.

¹⁶³ Labour Inspectorate Annual Report 2020. at: <https://inspektoriatipunes.gov.al/wp-content/uploads/2021/05/Raport-Vjetor-2020.pdf>.

¹⁶⁴ Interview with LI.

¹⁶⁵ Official communication with the Labour Inspectorate, dated 08.09.2021.

¹⁶⁶ Inspectorate of Labour. *Annual report 2019*. At: <https://inspektoriatipunes.gov.al/wp-content/uploads/2021/05/Raport-Vjetor-2019.pdf>.

Data on gender-based discrimination cases was unavailable, however. The LI report stated that they resolved 61% of complaints partially or fully in favour of employees. Cases resolved not in favour of the employee included justifications as follows: the subject to whom the complaint is addressed (e.g., the employer) has discontinued operations; some complaints exceed the competence of the LI; and inspectors' investigations found allegations unjustified.

While the legal framework gives authority to the LI to implement all legislation related to labour, including on occupational health and safety, the LI is not properly equipped in terms of human and financial resources to carry out all its duties. According to the Organisation for Economic Co-operation and Development (OECD), only small improvements have been made in recent years to increase the institutional capacity of inspectors to ensure organisational health and safety regulations are implemented, informal employment reduced, and child labour detected.¹⁶⁷ The number of labour inspectors has remained nearly constant since 2014; in 2019, 98 of 154 total LI staff worked as inspectors).¹⁶⁸ The average caseload for each inspector was approximately 12,600 cases per year.¹⁶⁹

The percentage of companies registered in Albania that are inspected annually has remained low as per annual reports of the LI. In addition, despite the aforementioned improvements, coordination with other stakeholders still is not embedded in the work of the inspectorate. For example, the 2021 EC Report for Albania observed the need for better coordination between the LI and the Agency for the Protection of Children's Rights to combat child labour.¹⁷⁰

Further, a 2019 report by the High State Audit (HSA) identified several problems with the functioning of the LI.¹⁷¹ It noted that economic subjects listed as high risk were only inspected once, while economic subjects listed as low risk had inspections more than once. According to the HSA, this could signify favouritism of specific economic subjects, harms the LI's image, and exercises undue pressure on low-risk subjects while neglecting those that are high risk and need proper attention. This leads to bad planning and a waste of limited resources, the HSA concluded.

Some of the women interviewed through the present research knew about inspections conducted by the LI at their workplaces, but they reported that workers were not consulted or considered during these inspections. Other women research participants had not heard of any such inspections taking place. Women workers' stories further suggest that the LI may not sufficiently attend to rights violations affecting women, including gender-based discrimination.

In conclusion, some improvement has occurred in the involvement of the LI in cases of discrimination. Inspectors are knowledgeable regarding the LL but lack knowledge on the LPD and LGE. They have not had proper training on discrimination. While some collaboration exists between the LI and the CPD, it is not institutionalised or based on concrete procedures and practices. The LI has inadequate financial and human resources to properly address labour rights violations and achieve its mission. In addition, there is no specific and heightened attention to issues of gender-based discrimination in employment as the focus is on general infringements of the LC, which guides the work of the inspectors. Therefore, inspectors lack meaningful practical experience.

¹⁶⁷ OECD. 2021. *Competitiveness in South East Europe 2021: A Policy Outlook, Competitiveness and Private Sector Development*. At: <https://doi.org/10.1787/dcbc2ea9-en>.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ EC. 2021. Report for Albania. At: https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en.

¹⁷¹ At: <https://panel-klsh.almotech.co/storage/php9w5Jc5.pdf>.

Ombudsperson Institution

The Ombudsperson Institution (OI), as an independent body, has the responsibility to promote high standards of human rights and freedoms. Since Albania has a specific organ responsible for addressing discrimination, namely the CPD, the OI plays a secondary role. According to the Law on the Ombudsperson, the OI's powers lie in issuing recommendations to pertinent authorities if it finds that there have been violations of human rights in different areas.¹⁷² As noted by the OI representative interviewed for this research, promoting the highest human rights standards is one of the most important areas of engagement for the OI.¹⁷³

In the past two years, collaboration and coordination among the CPD and the Ombudsperson has increased. This is visible from the annual reports issued by the CPD. In 2019, both institutions participated in several meetings to discuss collaboration, as well as in other events related to the missions of each institution. The 2020 report points to intensified collaboration between the two institutions. For instance, the OI referred cases to the CPD for the first time (two cases), and vice versa (two cases). In addition, the regional offices of the two institutions have organised joint activities, training sessions, meetings, and shared information. The two institutions also have collaborated more effectively in organising joint activities to raise awareness among the population.

From the participants in the online survey conducted through this research, only one man contacted the OI to report a case of discrimination. Meanwhile, more than 100 survey participants (less than 10%) knew that they could contact the OI if they faced discrimination. This suggests that the role of the OI is less known than that of other institutions.

The OI representatives interviewed knew the relevant legal framework and could mention the 2020 changes to LPD. Only one believed that the legal framework was robust, but more could be done to align it with best practices. Interviewees also could identify specific categories and groups more likely to experience discrimination, such as LGBTI persons, those living in rural areas, and ethnic minorities. Regardless of their knowledge, training sessions on specific issues related to discrimination did not seem very frequent.

In summary, OI representatives are knowledgeable about the existing legal framework on protection from discrimination, the CPD, and its role. Moreover, these two institutions have undertaken efforts to join forces with local offices conducting activities together and referring cases to each other. In addition, the OI has increased the number of referrals to the CPD in recent years, noting that their institutional collaboration has increased also in addressing specific cases of gender-based violence in employment. As these cases falls mostly under the remit of the CPD, the OI itself does not have a significant experience in addressing them in practice.

“ For people to be protected from discrimination it is important to register, refer, and follow up on cases. Gender-based discrimination should be a priority and treated separately. This is another form of violence against women.

– Ombudsperson Institution

Labour Unions

Labour unions are voluntary organisations of employees (or former employees) with a collective mission of protecting the economic, professional, and social interests of their

¹⁷² Article 2 of the Law on the Ombudsperson.

¹⁷³ GADC interview with OI, January 2019.

members. They have a mandate to address problems related to wages, social protection, working conditions, and/or pensions. Public and private institutions have an obligation to provide all requested statistical data to labour unions.¹⁷⁴

A social dialogue framework exists in Albania. However, social partners, particularly trade unions, have rather weak capacities, despite capacity-building efforts by international donors.¹⁷⁵ Freedom of association and collective bargaining are protected as a constitutional right in Albania. Yet only a small percentage of garment workers are unionised. In some factories, the management has established unions to “tick the box” for their international customers.¹⁷⁶

The two biggest unions are the Union of Independent Trade Unions of Albania (BSPSH) and the Trade Unions Confederation of Albania (KSSH). BSPSH has 84,000 members, and KSSH reported having 115,000 members (52% are women).¹⁷⁷ Over the last three years, KSSH had 15 individual cases of discrimination at work and some collective cases. They were pursuing two collective cases in courts at the time of the research: one case involved 900 employees at the oil refinery and the other involved a group of employees at Ulza hydropower. KSSH has four legal offices to assist trade union members and has about 1,300 cases currently in legal process.

At the time of writing, an initiative existed to draft a law on trade unions in Albania, but preparations were still in the preliminary stages.¹⁷⁸ Some interview respondents expressed scepticism about the proposed law. A representative of the Centre for Labour Rights said: “I think that this law is not feasible in practice because it will have to change and adapt the legal system that we have for trade unions. It would require changes in the labour code and that would have to receive the consensus of labour unions, of the employers’ organisations, institutions (which see it as uninteresting), and many other actors. Legal interventions to frame the trade union organisation in detail do not serve the real development of real unions.”

“*The law on trade unions is necessary and very late. In my opinion, it should be approved as a legal package with three parts: 1) for the organisation and functioning of the trade union organisation of employees and employers, including clear criteria for trade union representation; 2) for collective contracting, which includes the rules how to negotiate, how to sign, and how to implement the collective labour contract at the three levels, national, professional, and the territory of the enterprise; [and] 3) amicable settlement of collective or individual labour disputes. We, as a confederation, have repeatedly requested the drafting of this law and lobbied the parliament, sending recommendations and comments.*

- KSSH

Collective bargaining at sector level is almost non-existent. Collective agreements are mainly concluded at company level, as with some private sector companies, such as in the textile industry.¹⁷⁹ Most collective bargaining agreements are concluded in the public sector,

¹⁷⁴ Article 1 of the Law on Labour Unions in the Republic of Albania.

¹⁷⁵ Dragoshi, F. and A. Pappa. 2015. *Long Road to Social Dialogue in Albania: Turning Challenges into Opportunities*. Institute for Democracy and Mediation and Friedrich-Ebert-Stiftung. At: <https://library.fes.de/pdf-files/bueros/albanien/12294.pdf>.

¹⁷⁶ Ibid.

¹⁷⁷ Interview with the President of KSSH, Mr. Kol Nikollaj.

¹⁷⁸ OECD. 2021. *Competitiveness in South East Europe 2021: A Policy Outlook, Competitiveness and Private Sector Development*. At: <https://doi.org/10.1787/dcbc2ea9-en>.

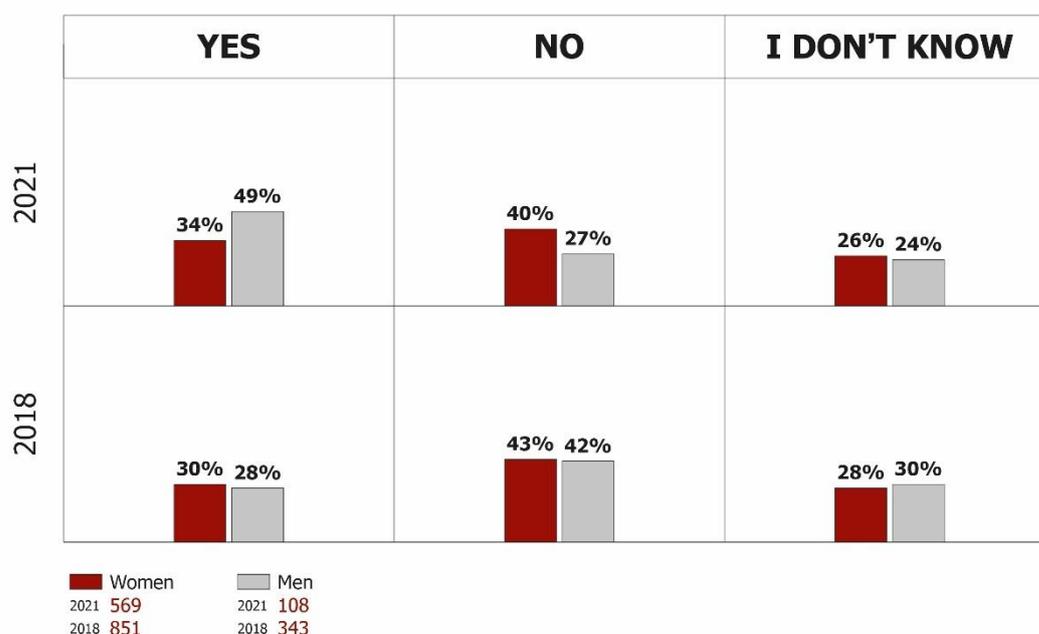
¹⁷⁹ GADC

often without fixing higher labour standards than those fixed by law.¹⁸⁰ Meanwhile, health and safety councils often have not been active.¹⁸¹

The National Labour Council (NLC) is an institution for tripartite dialogue, but this body is not an effective social dialogue forum at national and regional levels.¹⁸² Meetings of the subcommittees of the NLC have not been held, which has decreased the meaningfulness of discussions at the National Labour Council.¹⁸³ Bipartite social dialogue remains fragile in both the private and the public sector, mainly due to insufficient experience of trade unions, a lack of culture of dialogue, and employers' scepticism towards trade unions.¹⁸⁴ In its 2020 Annual Report, the Labour Inspectorate identified the lack of robust unions as a major challenge, especially within large companies, where a high number of women are employed (perhaps alluding to the textile industry).¹⁸⁵

When asked about workers' unions, more than one-third (37%) of the online survey respondents thought that no union represents their interests, and more than every fourth (26%) did not know if unions representing their interests exist. However, 38% believed that there are workers' unions in Albania that represent their interests.

Graph 14. Do Any Workers' Unions Exist, which Could Represent Your Interests, by Gender



Of those who said that there are workers' unions that represent their interests, only 23% were a member of one. More men respondents (31%) were members of labour unions than women (23%). Of those who were members of a union, more than half (61%) thought that unions represent poorly or very poorly their interests. This marked a significant increase compared to the 2018 survey, when 44% of those surveyed believed that unions represented

¹⁸⁰ OECD. 2021. *Competitiveness in South East Europe 2021: A Policy Outlook, Competitiveness and Private Sector Development*.

¹⁸¹ Ibid.

¹⁸² Ibid.

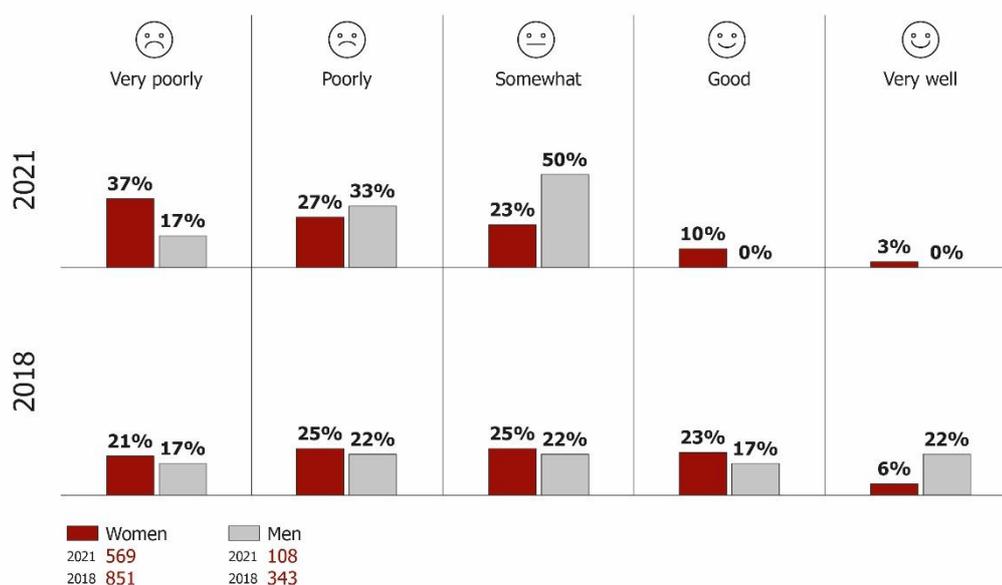
¹⁸³ EC. 2021. *Progress report for Albania*. At: https://ec.europa.eu/neighbourhood-enlargement/albania-report-2021_en.

¹⁸⁴ Ibid.

¹⁸⁵ Labour Inspectorate. *Annual Report 2020*. At: <https://inspektoriatipunes.gov.al/wp-content/uploads/2021/05/Raport-Vjetor-2020.pdf>.

poorly or very poorly their interests. Women had a higher level of dissatisfaction in unions than men, which perhaps also partially explains women’s lower level of participation in unions. These findings may indicate people’s distrust in labour unions. Indeed, some union representatives acknowledged peoples’ low participation in unions and their distrust.

Graph 15. How Well Do You Feel that Your Workers’ Union Represents Your Interests, by Gender



Interviews with union representatives seemed to suggest that they lacked knowledge about gender-based discrimination. One interviewed union representative was unaware of the existence of the LPD. Such a lack of knowledge would make it difficult for union representatives to raise awareness among union members regarding their rights or to protect workers’ interests and wellbeing. Thus, workers lack a sufficient support system for reporting rights violations.

In summary, lack of trust in unions and union representatives’ insufficient knowledge regarding gender-based discrimination hamper their ability to raise awareness about discrimination and how to report it, as well as limit the extent to which they can support people in seeking justice for labour rights violations.

Civil Society Organisations

Civil society organisations, both at the local and central level, are some of the most active actors in promoting and protecting human rights in Albania. Women’s rights organisations in particular have contributed to advancing women’s rights in all social spheres. While CSOs do not have a specific legal mandate for addressing gender-based discrimination in the labour market, several CSOs work in areas that relate to addressing discrimination. Interviewed organisations working directly with women, people with different abilities, LGBTQIA+ persons, and those working directly on issues related to employment faced cases of gender-based or multiple discrimination in the labour market almost daily, they said. Therefore, CSOs are a valuable source of data, analysis, statistics, and legal and policy expertise. CSOs have presented shadow reports on CEDAW, including one related specifically

to women's labour market participation. In addition, the GADC's 2018 first edition of this report was the first comprehensive study on the legal framework and the situation of gender-based discrimination in labour undertaken in Albania. It shed light on a common phenomenon that hitherto lacked systematically collected data and analysis. Their advocacy and watchdog role has been exercised in a variety of areas, with gender equality being one of the most robust areas of expertise for CSOs in the past three decades.

The CSO representatives interviewed tended to be knowledgeable about the legal framework on protection from discrimination as well as the broader legal framework on gender equality. They mentioned different laws pertaining on gender equality, as well as analysed their compatibility with the international framework, such as CEDAW and the Istanbul Convention. One interviewee pointed out that the Istanbul Convention is not fully and properly reflected in the LPD, as the Istanbul Convention (IC) sees violence against women as a form of discrimination. A recurring theme was that the LPD lacks sufficient gender perspective, despite acknowledging discrimination on the grounds of sex and gender identity. One interviewee also noted that fines are an insufficient legal measure for combatting gender-based discrimination as many companies pay the fines and continue with the same behaviour, or they ignore them completely. Nevertheless, the CSO representatives interviewed tended to believe that the legal framework is largely complete, with challenges primarily related to the law's application in practice.

Among the institutions and actors interviewed, CSOs reported assisting more cases of discrimination in labour than other representatives. Most of the CSOs interviewed have faced at least a few cases each year. They have represented and reported on cases of discrimination in hiring, due to sexual orientation, related to a physical disability, or related to gender. Analysing the extent to which CSOs were successful in securing justice for these cases in different institutions was beyond the focus of this research, which focused more on institutions' response, as the official duty-bearers. Nevertheless, CSO representatives pointed to problems in reporting cases and securing justice for victims of discrimination.

GADC has offered support and a secure mechanism for reporting their cases to the free number 08001818, this is in addition to the awareness-raising and organising that GADC has conducted with private businesses, especially those with a high concentration of women, such as in the textile and footwear industry. CSOs' role in identifying, reporting, and representing women who have experienced gender-based discrimination has increased in the last three years. Since 2015, GADC with support from the Olof Palme International Centre and the Swedish Government has supported women workers in the garment industry. GADC met hundreds of women throughout Albania and visited dozens of factories. GADC has raised its voice in parliamentary hearing sessions, public activities, and the media, aiming to raise awareness among women working in the textile and footwear sectors, as well as the entire Albanian society regarding their rights. GADC also has promoted compliance with national and international labour standards in these industries.

Despite facing several challenges, some positive results can be observed. As mentioned in the section on the CPD, one case of sexual harassment at work was addressed successfully in 2021. Meanwhile, at the time of writing, GADC was in the process of representing seven other cases brought by groups of women, especially those in the textile industry, as well as other cases of gender-based discrimination in hiring and promotion. GADC and other organisations' continuous awareness-raising efforts have contributed to more women coming forward to seek support and protection. The tollfree phone number managed by GADC also has provided a new way for people to report discrimination, and the number of calls has increased over time. GADC lawyers and staff have continued to treat and follow these cases.

CSOs thus have established experience and practices for addressing gender-based discrimination in employment, but support from governmental institutions is almost inexistent. Despite some collaboration with the CPD, LI, and other state agencies, there is no financial

support from the government to continue the important work of CSOs in protecting women's rights in the labour market. These interventions are donor dependent and sometimes sustainability is not guaranteed.

In conclusion, the CSO representatives interviewed, which deal with these issues, are well aware of the legal framework, its gaps, and the institutions responsible for protection from gender-based discrimination. In recent years, they have increased awareness among diverse people, including marginalized groups, regarding their labour rights, and have broadened their own experience in treating cases of gender-based discrimination. CSOs have been among the important resources available to support for persons suffering from gender-based discrimination. Their collaboration and watchdog role with relevant institutions also has increased.

Conclusions

The institutional response to gender-based discrimination in labour seems to have improved in recent years. This is evident from data on cases reported to the CPD and courts. Linkages between these two institutions have been strengthened, as evidenced by the significant increase in cases where the CPD has served as a third party or directly referred cases to courts. Additionally, the OI and the CPD seem to be collaborating more closely, especially through their regional offices across Albania, as well as by referring cases to each other.

Despite this progress, weak implementation of the legal framework has remained a challenge, as recurrently mentioned by interview participants across different institutions. Due to insufficient awareness of their rights and distrust in institutions, people still are not utilising the mechanisms and systems in place to support them in claiming their rights. Low reporting means that most institutions still have very limited experience treating cases of gender-based discrimination.

Data collection also remains a problem, despite some improvements, such as the CPD's annual reports and cases published on its website. Otherwise, there is still little systematic data collection and analysis to fully understand the extent of gender-based discrimination in labour.

RECOMMENDATIONS

For the Legal Framework

- Align definitions of discrimination, especially related to labour, between different pieces of legislation to avoid confusion and ensure coherence in addressing cases in court. The recent changes to the LPD can be taken as the foundation for revising the LC and LGE.
- Harmonise legislation with the EU work-life balance directive, adding provisions that are currently missing in the Albanian legal framework, particularly related to carers' leave.
- Ratify the ILO convention on sexual harassment in the workplace to ensure that the national legal framework is in line with all international standards, as the convention provides comprehensive standards for addressing harassment in the world of work.
- Revise the LGE to better reflect the contextual changes made since 2008 when the law was approved. Ensure that it considers sufficiently other international commitments of Albania, such as to the Istanbul Convention, the case law of the European Court of Human Rights and the European Court of Justice. Align the LGE with the LPD, especially under the chapter on fines and redress mechanisms to avoid confusion about which law applies when reporting gender-based discrimination.
- Strengthen legal provisions for reporting sexual harassment in the workplace and ensuring that the burden of proof does not fall on the victim in civil cases.

For the CPD

- Organise awareness-raising campaigns, especially for private sector employees, on the existence of redress mechanisms and the work of the CPD.
- Cooperate with labour unions, CSOs, and the LI in identifying and following gender-based discrimination cases related to labour.
- Further enhance collaboration with the Ombudsperson to address gender-based discrimination related to labour with a unified approach and by establishing referral mechanisms between the two institutions. Ensure also that local offices of both institutions collaborate at the local level to maximize efforts in educating the public.
- Ensure better data collection and transparency with other institutions and CSOs, as well as disaggregate further the data based on gender and age, at minimum, publishing it in annual reports.
- Enhance the existing repository of decisions by providing easily searchable data.
- Organise training for employees in the Commissioner's Office as training of trainers as well as peer to peer learning.
- Increase the reach of CPD outside Tirana, especially in rural areas, continuing especially the fruitful collaboration with the Ombudsperson's Office.
- Add harassment and maltreatment in the workplace into the existing legislation on anti-discrimination in line with international and European practice.
- Strengthen collaboration with courts, especially when the CPD is invited to provide its opinion or information on cases adjudicated in court.
- Make efforts to raise awareness especially in private companies where discrimination is less reported by also strengthening protection and legal guarantees for those who report.

For the Labour Inspectorate

- Increase the number of inspectors and financial resources to carry out their duties, especially in the field of gender-based discrimination in labour.
- Increase cooperation with other institutions and coordinate work with other authorities to ensure a multi-agency approach to tackling this type of discrimination.
- Improve data collection and management practices to better track cases addressed by inspectors and publish gender-disaggregated data whenever possible.
- Introduce gender mainstreaming in inspection procedures so that gender considerations are captured during investigations and routine inspections.
- Increase the number of training sessions for inspectors to increase their knowledge related to the legal framework pertaining to gender-based discrimination and the new changes to the LPD.
- Ensure inspectors are diligent in identifying gender-based discrimination and referring cases promptly to relevant institutions.
- Enhance coordination, referral, and sharing of information with the CPD.

For Police

- Organise specialised training on gender-based discrimination in labour or include this topic within the framework of gender equality training sessions.

For Courts

- Increase the number of judges working on cases of gender-based discrimination, creating a pool of judges specialised in treating such cases, who also can serve as points of reference for their peers.
- Collaborate with specialised institutions such as the CPD and CSOs to conduct specialised training on gender-based discrimination in labour.
- Establish strong case law to ensure a coherent approach in how courts treat cases of gender-based discrimination in labour.
- Organise training for judges who lack proper knowledge in following due process for these cases.
- Improve the repository of cases in all types of courts so that decisions can be easily accessible and analysed.

For Labour Unions

- Increase and improve the engagement of labour unions in social dialogue between employers and employees, including on gender equality related issues.
- Improve the representation of labour unions in the tripartite body for employment issues to better represent the needs and interests of employees, especially in addressing gender-based discrimination.
- Ensure a more active role in advocacy and influencing decision-making on issues of labour and gender-based discrimination.
- Increase collaboration with other stakeholders, such as CSOs, to bring attention to issues of gender-based discrimination at work.
- Increase awareness-raising efforts among union staff members and union members to ensure they are aware of the mechanisms for reporting discrimination.

- Undertake outreach and awareness-raising of the benefits that unions can provide, targeting the public, towards improving trust in unions and increasing membership. Collaborate with women's CSOs to design campaigns that target women and to improve the services available to women, including related to seeking justice for gender-based discrimination.

For CSOs

- Cooperate more closely with the CPD to refer cases of discrimination and monitor institutions' treatment of these cases.
- Carry out more awareness-raising campaigns with workers around the country to inform them about their rights, mechanisms for reporting gender-based discrimination, and free legal aid.
- Strengthen the anonymous referral mechanisms (possibly online) where individuals can share their stories and encourage others to report gender-based discrimination as well.
- Conduct better monitoring of public institutions, especially the LI, to ensure that inspections are performed and cases are treated efficiently and fairly.
- Regularly monitor the work of responsible institutions in treating cases of gender-based discrimination, including the CPD, courts, police, and prosecution.
- Conduct further research on the situation of women in the labour market to better understand the conditions conducive to allowing for gender-based discrimination to occur.
- Increase advocacy and accountability efforts to ensure that the existing legislation on gender-based discrimination in labour is properly implemented.
- Continue establishing practices and practical experience in assisting cases of reported gender-based discrimination in employment via legal aid.

Employers in Public and Private Sectors

- Publish information on gender-based discrimination in workplace premises and inform employees about their rights as per the LPD, LC, and other relevant legislation.
- Lead by example in developing policies against sexual harassment, discrimination in hiring and promotion, and towards work-life balance.
- Establish and implement efficient mechanisms for reporting gender-based discrimination safely, anonymously, and without fear of retribution and ensure that employees are informed about these mechanisms.
- Allow CSOs and other public institutions to reach out to employees to inform them about their rights at work and protection from discrimination.

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ANNEXES

Annex 1. National Legal Framework on Gender Equality

Year	Laws affecting gender equality and antidiscrimination
1995	Law no. 7961, 12.7.1995 "The Code of Labour of the Republic of Albania" (as amended) Law no. 7995, 20.09.1995 "For the Promotion of Labour" (as amended)
1998	The Constitution of the Republic of Albania
1999	Law no. 8454, 4.02.1999 "For the Ombudsperson" (as amended)
2002	Law no. 8876, 04.04.2002 "For Reproductive Health" (as amended)
2004	Law no. 9188, 12.2.2004 "On Some Additions and Changes in the Penal Code" Law no. 9198, 01.07.2004 "On Gender Equality in the Society" (repealed) National Strategy on HIV/AIDS 2004-2010
2005	Law no. 9398, 12.05.2005 "On Some Additions and Changes in the Law for the Ombudsperson"
2006	Law no. 9669, 18.12.2006 "On the Measures for Domestic Violence" (as amended)
2007	First National Strategy for Gender Equality and the Elimination of Domestic Violence (NSGE-DV) 2007-2010.
2008	<ul style="list-style-type: none">• Law no. 9914, 12.05.2008 "On Some Changes on the Law no. 9669, 18.12.2006 "On the Measures on Domestic Violence"• Law no. 9970, 24.07.2008 "On Gender Equality in the Society"• Law no. 10019, 29.12.2008 "Electoral Code of the Republic of Albania" (as amended)• Law no. 10039, 22.12.2008 "For juridical assistance" (repealed)
2009	<ul style="list-style-type: none">• Law no. 10192, 03.12.2009 "On the Prevention and Elimination of Organized Crime and Trafficking through Pre-emptive Measures on Personal Wealth" (as amended)
2010	<ul style="list-style-type: none">• Law no. 10221, 4.2.2010 "On the Protection from Discrimination".• Law no. 10237, 18.2.2010 "On Health and Security at Work" (as amended)• Law no. 10295, 01.07.2010 "On Pardons"• Law no. 10347, 4.11.2010 "On the Protection of Children's Rights" (repealed)
2011	Law no. 10399, 17.03.2011, "On assistance and social services" (as amended)
2013	Common Instruction No. 21 dated 21.06.2013, between MoLSAO and the Ministry of Finance "On defining the procedures that must be followed for gender integration in medium term budget program"
2014	<ul style="list-style-type: none">• National Action Plan for Women Entrepreneurship 2014-2020• National Action Plan for the involvement of men and boys as partners of women and girls in actions for gender equality and against gender based and domestic violence.• Employment Promotion Program "For unemployed jobseekers in difficulty" no. 48, 11.01.2012, amended with no. 192, 02.04.2014.• Employment Promotion Program through Job Training. nr. 47, dt. 16.01.2008, amended by no. 193, 02.04.2014.
2015	Amendments introduced to the Electoral Code with the Law 74/2012 to ensure 50% women at local councils at the new LGU.
2016	<ul style="list-style-type: none">• National Strategy on Gender Equality and Action Plan 2016-2020.

- Law no. 70 / 2016 "On Craftsmanship in the Republic of Albania" - Adopted by the Assembly of Albania on 30.06.2016
- Legal Framework (Law No. 44/2016, 21.04.2016 "On some Amendments and addenda to Law no. 9355", 10.3.2005, "On Social Assistance and Services", as amended)
- 2018** • "On some Amendments and addenda to Law Nr. 9669, 18.12.2006, "For Measures against Violence in Family Relations", as amended law no. 47/2018, 23.07.2018
- 2019** • Law no. 57/2019 "On social assistance in the Republic of Albania"
- Law No. 15/2019 "On the promotion of employment"
- "On the approval of the political document" Reform of the disability assessment in the social protection system and the action plan 2019-2024 for its implementation", no. 380, dated 05.06.2015
- "On the approval of the National Strategy for Social Protection 2020-2023 and the action plan in its implementation", no. 866, dated 24.12.2019
- Decision no. 864, dated 24.12.2019 "On the approval of the National Political Document on aging, 2020- 2024, and the action plan for its implementation"
- On the approval of the National Strategy for Employment and Skills 2019 – 2022, no. 659, dated 10.10.2019
- 2020** • Law No. 9666/2006 "On measures against domestic violence", as amended.
- Criminal Code with Law no. 35/2020 "On some additions and changes to law no. 7895", dated 27.1.1995, "Criminal Code of the Republic of Albania", as amended.
- 2021** • National Strategy on Gender Equality and Action Plan 2021-2030

Annex 2. Methodology

This annex provides further details about the research methodology.¹⁸⁶ 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 with gender-based discrimination in labour; and an anonymous online survey of women and men. This section provides further details about each research method.

Key Terms and Delimitation

The research focused on gender-based discrimination in relation to labour. It did not examine gender-based discrimination that may occur outside the workplace. The key research terms were defined and operationalised as follows. “Discrimination” included all forms of gender-based discrimination, as defined by law. The term “labour” was used rather than “employment” to include study of unpaid and unregistered forms of labour. “Gender” involved all gender expressions and 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 each country, including any shortcomings in aligning national legislation with the *Acquis Communautaire* (particularly 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 legislation/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 gender-based discrimination that was available, so as to ground the report in existing information and avoid duplication of existing research. It included examination of the research methods used and timeframes.

Data Collection

The research team sought to collect data related to discrimination cases related to labour for the period of 2018 to 2021, disaggregated by gender, from: the CPD, police, prosecution, courts, the Ombudsperson’s Institution, the Labour Inspectorate, labour unions, and legal aid providers (state and non-state). This involved sending official data requests to these institutions.

The Survey

The research team sought to collect input from diverse women and men regarding their knowledge of anti-discrimination legislation, personal experiences with discrimination,

¹⁸⁶ This Methodology was drafted initially by KWN and Reactor – Research in Action in reference to the research undertaken in all countries in the region. It was then adapted by each country to reflect the methodology used in that country.

whether such cases were reported, and why they did not report discrimination if it occurred. GADC collaborated with its partner organisations in the region, particularly Reactor Research in Action (North Macedonia), using Lime Survey. The survey was promoted broadly, including through social media, boosting on Facebook, and email, including an email circulated to public servants and government officials, requesting their participation. The survey was open from 30 October through 30 November. For demographic information about respondents, see Annex 3 and for the survey tool, see Annex 4. This report also drew from findings from the first survey conducted from 30 October to 30 November 2018, enabling comparisons.

Interviews

In total, GADC conducted 76 interviews in 2021. Of these, GADC interviewed 60 representatives from seven institutions responsible for implementing the relevant legal framework, regarding their knowledge, attitudes, and experiences in treating discrimination cases to date. GADC interviewed police officers, prosecutors, court judges, labour inspectors, anti-discrimination bodies, gender equality officers, businesses, and union representatives. With assistance from the Albania Police headquarters, 14 police officers were selected by region. Eight women and six men were interviewed in urban and rural areas in Tirana, Shkodra, Kukes, Korca, Elbasan, Vlore, Berat, Fier, Lezhe, and Pogradec. In total, six prosecutors were interviewed, including two women and four men. Researchers faced several difficulties securing these interviews. GADC also faced difficulties in adhering to the planned variation sampling when scheduling interviews with judges. The nine judges interviewed included seven women and two men. GADC interviewed six labour inspectors, three women and three men. For the Ombudsperson Institution, four representatives were interviewed, three women and one man. Four representatives of the CPD were interviewed (three women and one man), including the Commissioner. Five labour union representatives were interviewed (three men and two women), located in Korca, Elbasani, Vlora, Fieri, and Tirana. Eighteen CSO representatives were interviewed (14 women and four men). These CSOs support LGBTQIA+ persons, Roma, and people with disabilities. Some focused on furthering women's rights. GADC also interviewed one representative from the Albania Helsinki Committee. GADC interviewed seven gender equality officers (all women) and two business representatives (one woman and one man). Interviews also were conducted with women who said they had experienced gender-based discrimination. Of the 22 people who completed the online survey and left their contact phone numbers to be contacted, only 10 agreed to be interviewed in an in-depth interview.

Data Analysis

The GADC research team coded the qualitative data resulting from interviews in a coding document, as per the research questions, to identify recurring trends and differences. At least two people participated in the coding of every interview, towards triangulation of researchers. Reactor carried out the statistical analysis of survey data using SPSS, which was reviewed by GADC researchers. Towards maximising the use of data gathered, the data from everyone who completed a particular question was processed and presented. Thus, the number of missing cases differed for each variable and increased for questions posed towards the end of the survey. The number of responses ("n") is reported in the presentation of findings. Any statements including the term "significant" in relation to the survey findings suggest statistical testing with a confidence level $\alpha = 0.05$. However, limitations outlined in the next section must be considered.

Limitations

The team considered that the costs of surveying a nationally representative sample outweighed the benefits that this kind of sample offers in terms of generalisability of findings.

Therefore, the research team had to find a balance between cost and quality, selecting to use an online survey involving convenience sampling 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. Moreover, the team thought that underreporting of discrimination likely would be widespread in a household survey, given the general population's hypothesised low level of knowledge regarding which acts could constitute gender-based discrimination. Further, the research team 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 regarding 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 was 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 was convenient, it was not demographically representative of the population of Albania. Therefore, the percentages reported do not reflect the prevalence of the phenomena among the general population in Albania; and the variability of the "sampled" experiences may be restricted. All variables were cross-tabulated with gender, not only because this was a key variable, but also because the sample was imbalanced in terms of gender. A total of 827 participants clicked the online questionnaire and 380 participants (45,9%) completed approximately 90% of the questionnaire. In the sample of persons that completed 90% of the questionnaire, five times more women respondents than men completed the survey.

This means that the observed distributions of answers in the sample were based more on the responses of women participants than on men respondents. This gender disproportion could constrain the possibility of observing gender-based differences. However, where indicative, established relationships (i.e., gender-based differences) were interpreted, but the conclusions remain "restrained" in terms of generalizability.

In addition, the inferences are biased because the samples of men and women surveyed are significantly different in terms of place of residence, educational level, and sector of employment. Men are overrepresented among those who live in rural areas (9,6% of women and 22,2% of men), among those with secondary or vocational education (4,2% of women and 19,4% of men) and among those who work in the private sector (24,4% of women and 43,7% of men). Consequently, women are overrepresented among those with Master's degree or PhD (76,5% of women and 49,1% of men) and among those employed in civil society organizations (21,5% of women and 7,0% of men).

Third and related, the sample involved more respondents who were educated and living in urban areas (see Annex 3). Thus, the sample was rather homogenous in terms of education and geographic location. Therefore, 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. 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.

Reflexivity

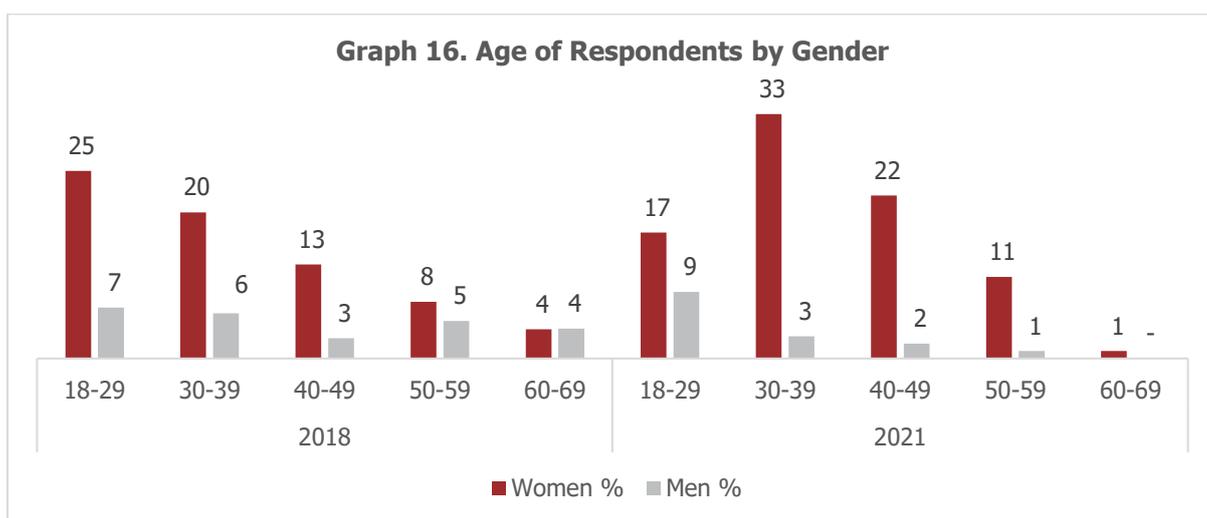
GADC envisions a more gender equal society, and, based on experience, believes that affirmative measures, such as those foreseen in the LGE, are necessary to further gender equality in Albania. From this position, the GADC research team conducted research and analysed results from the position of an organisation that seeks to further gender equality. This means that the research team in a few, rare instances chose not to reflect some perspectives that arose from interview respondents. GADC has made recommendations from a gender perspective, towards improving the legal framework for addressing gender-based discrimination. GADC acknowledges that education, awareness-raising, and penalties for institutional failures must accompany legal changes for them to be implemented properly. GADC's recommendations result from this particular position and approach to social change.

Validity

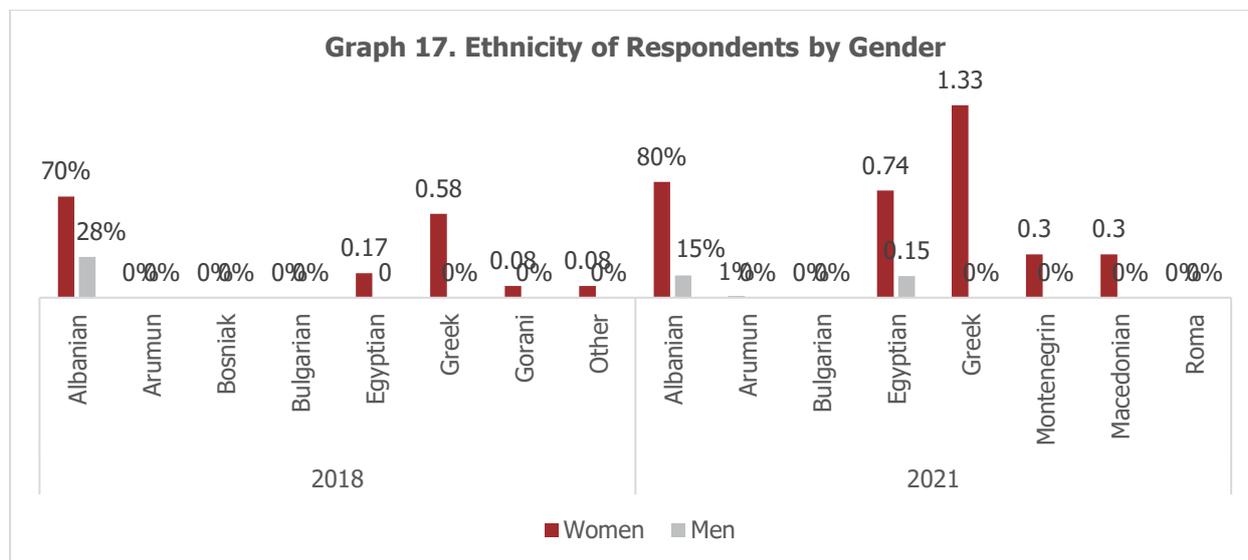
The research team sought to enhance the validity of the findings through triangulation of data sources (e.g., diverse people, institutions, CSOs, statistics), methods, and researchers. Peer review of findings by diverse experts also sought to identify any potential error prior to finalising the report. These steps sought to enhance the validity of the findings.

Annex 3. Demographic Information about the Sample

Of the respondents that completed 90% of the survey (677 respondents), 84% were women and 16% were men.¹⁸⁷ As Graph 16 illustrates, most respondents were women ages 30-39 (33%), followed by women ages 40-49 (22%). Most men respondents tended to be ages 18-29 (9%). In 2018 many women respondents were ages 18-29 (30%), while in 2021 most women respondents tended to be between 30-49 (55%). Meanwhile, most men in 2018 were 30-49 (6%).

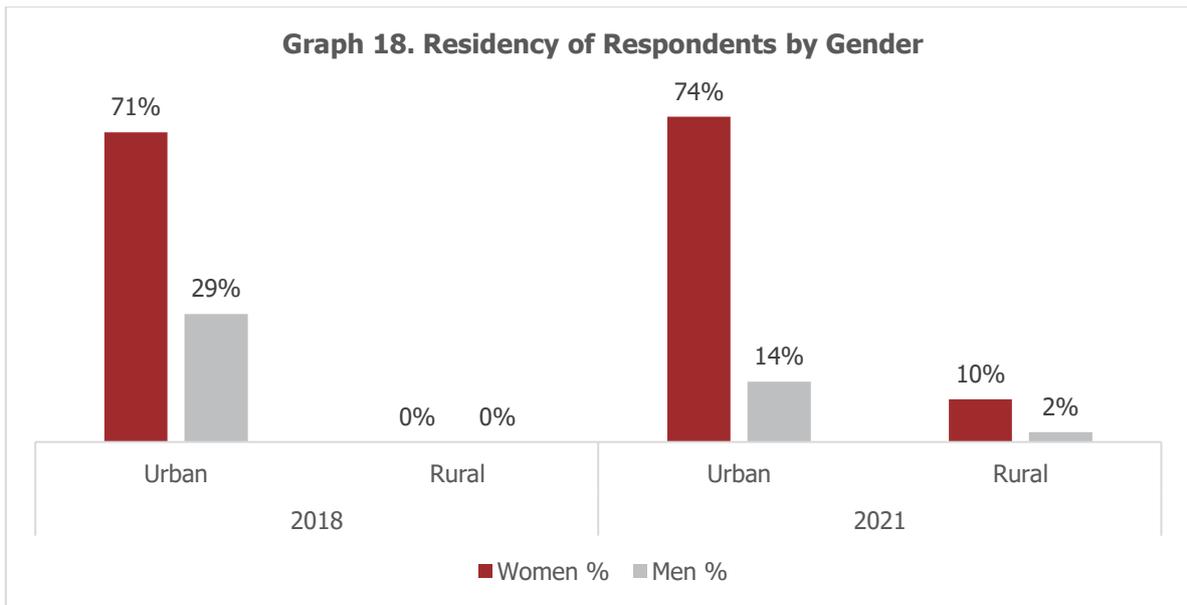


Concerning ethnicity, 95% of respondents (80% women and 15% men) identified as Albanians; 2% as Greek; and 1% as Roma and Egyptians. Altogether, fifteen participants or 3,9%, consider themselves as persons with disabilities.



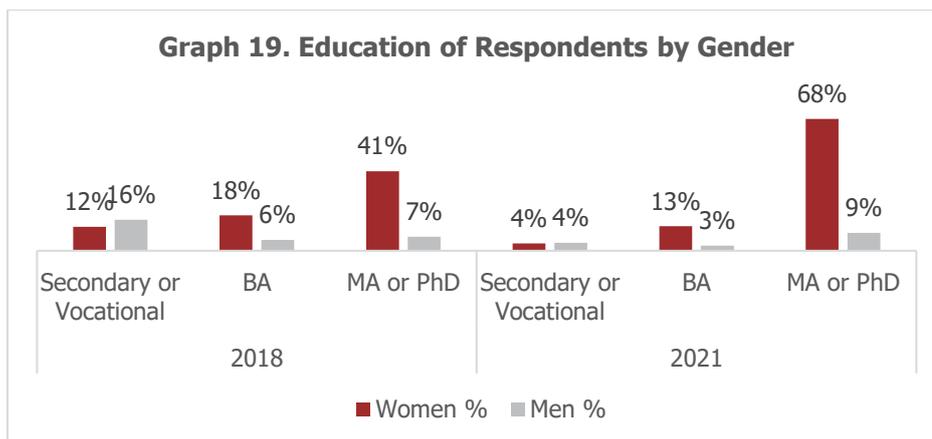
In 2021, the majority of participants live in urban areas 88% while 12% live in rural places, while in 2018 all participants were from the urban areas (as per the graph 18 below).

¹⁸⁷ N = 677.



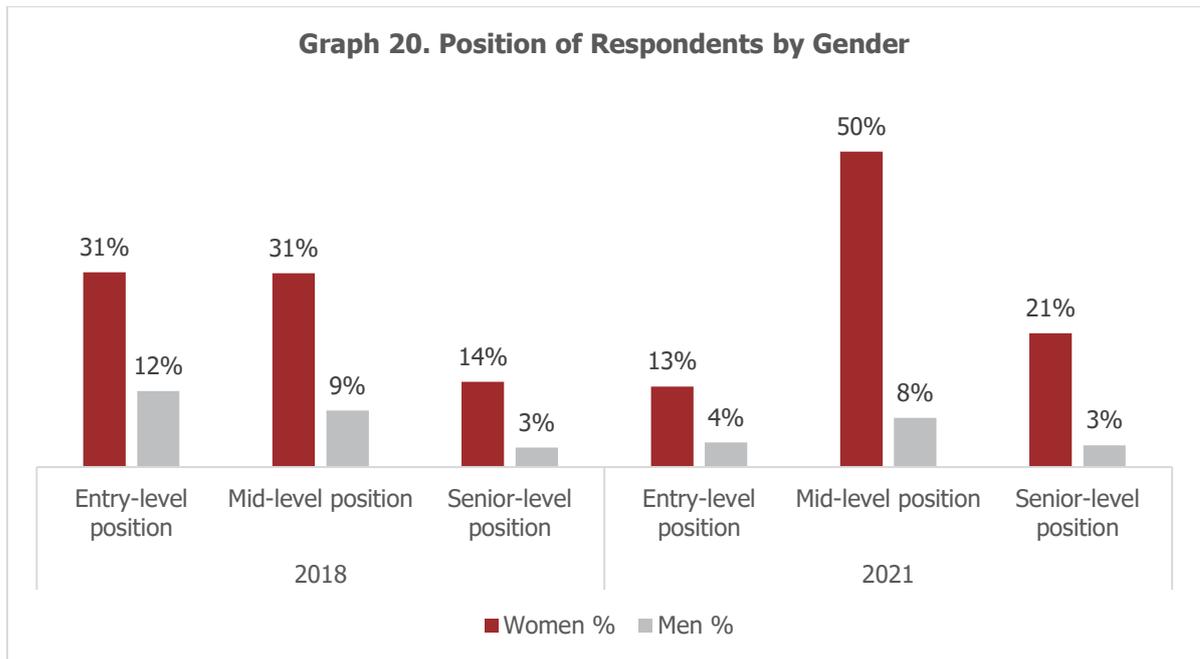
Most respondents held a Masters’ or a PhD degree (87%) and 16% held a Bachelor’s degree. More specifically, 68% of women and 9% of men respondents had these higher levels of education, while only 4% women and 4% men had secondary or vocational education (Graph 19). Educational level and age category significantly determined the probability of completing the questionnaire. Participants with lower levels of education (secondary or vocational school) and those under 30 years old were more likely to discontinue before the survey was finished.

Most respondents in 2018 held a Bachelor’s degree (24%) Master’s degree and/or PhD (41% women and 7% men).¹⁸⁸ While only 12% of women and 16% of men had secondary or vocational education (Graph 19). Thus, most women respondents were highly educated in both years.

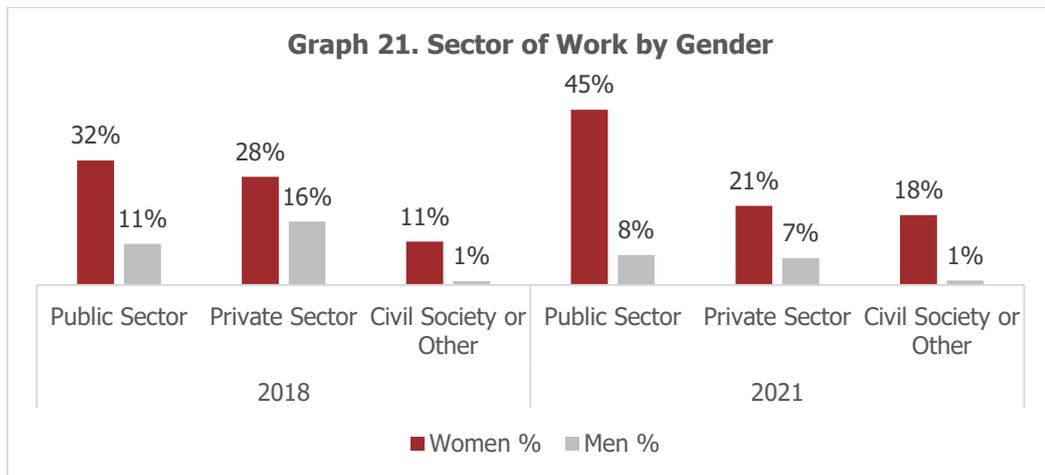


Regarding employment, 90% of the sample were employed, 82% full-time employed (78% of women and 68% of men), 5% part-time employed (6% of women and 4% of men), and 4% self-employed (3% of women and 7% of men). Meanwhile, 6% (6% of women and 9% of men) were unemployed and looking for a job, while 3% (3% of women and 2% of men) were not looking for work. Students comprised 2% and pensioners 0.5%. Persons performing unpaid work who were unemployed officially were 0.5%.

¹⁸⁸ N = 1,191, 2018; N = 677, 2021.

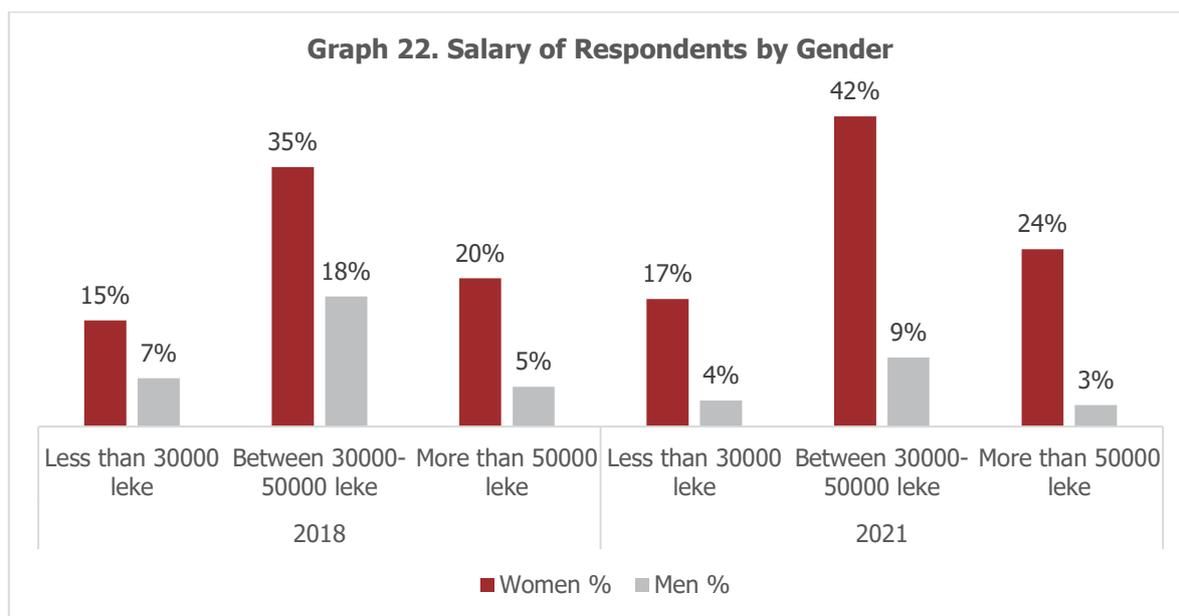


As Graph 20 illustrates, most respondents in 2021 worked in the public sector (32% of women and 11% of men).¹⁸⁹ Only 28% of women and 16% of men respondents worked in private sector and 12% worked at civil society or other international bodies (e.g., EU, UN, UN agency, foreign embassy, etc.).



¹⁸⁹ N = 680, 2018; N = 677, 2021.

As Graph 22 illustrates, 17% women and 4% men in 2021 compared to 15% women and 7% men in 2018 received less than 30,000 Albanian lekë¹⁹⁰ net per month.¹⁹¹ Approximately 52% of women and 9% of men in 2021 and 35% women and 18% men in 2018 of respondents received between 30,000 lekë and 50,000 lekë, including a higher percentage of women 24% than men 3% received salaries amounting to more than 50,000 lekë.



¹⁹⁰ Please use the exchange rate 1€=120 Albanian lekë.

¹⁹¹ N = 607, 2018; N = 677, 2021.

Annex 4. Survey Instrument

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

SURVEY ON DISCRIMINATION AT WORK

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

If you have any questions or concerns about this survey, please contact: [...].

By clicking "Next", you consent to participate in this important research. Thanks so much!

You can change the language of the survey by choosing from the drop-down menu below the title of the survey.

GENERAL INFORMATION

Where do you live?

Kosovo

Abroad

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

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

Do you live in urban or rural area?

Urban

Rural

What is your gender?

Woman

Man

Other

In which year were you born?

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

Albanian

Serbian

Bosniak

Montenegrin

Croat

Macedonian

Roma

Ashkali

Egyptian
Gorani
Turkish
Hungarian
Slovak
Vlach
Greek
Other (please write) _____

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

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

What is your current marital status?

Single
Engaged
Married
Divorced
Co-habiting
Widowed

How many children do you have under age 10?

Do you consider yourself to have a disability?

Yes
No

EMPLOYMENT INFORMATION

Are you currently:

Employed full-time
Employed part-time
Self-employed
Unpaid family worker (working on a farm or small family business)
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.
Other (please write)
[If unemployed/family worker are you]

Registered as unemployed with the employment agency, and looking for work

Not registered in the employment agency, but looking for work

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.

[If not looking for work]

What is the main reason that you did not look for employment?

You are waiting to be invited to your previous employment

Seasonal type of work

Illness (your personal)

Disability (your personal)

Takin care of children

Taking care of adult disabled person

Other personal or family obligations

School education or training

Retired person

You think that there is no available job

Other reason (specify)

In the last three years (so since 2018), has any of the following been true for you? Please check all that apply:

I was unemployed and not looking for work

I was unemployed and looking for work

I was employed part time

I was employed full time

I was in school/university

I was self-employed

I worked without pay for a family business or farm

Where do you work? Please check all that apply.

Private sector (business, including family business or farm)

Government (including ministry, municipality, health institution, public school, university, etc.)

Local civil society organization

International civil society organization

Other international body (EU, UN, UN agency, foreign embassy, etc.)

Which of the following best describes your current position?

Entry-level position (e.g., assistant, worker)

Mid-level position (e.g., coordinator)

Senior-level position (e.g., manager, director)

I'm my own boss

Other (please write)

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

When I was sick with COVID-19

When a fellow household member was sick with COVID-19

When I was sick for another reason

For personal leave (e.g., death in family)

For national holidays

For vacation/ annual leave?

COVID-19

Now we have some questions about COVID-19 and how it has affected you and your work.

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

0 days (workplace never closed)

1-7 days

8-15 days

16-30 days

30+ days

Not applicable to me

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

I was not paid

I was paid at reduced salary

I was paid at actual salary

Not applicable to me

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

Yes

No

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

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

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

Caring for persons with disabilities

Caring for elderly persons

Living and working in a small space with others

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

Not having strong enough internet for everyone's needs

Difficulties concentrating

Psychological violence at home

Physical violence at home

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

Stress

Accessing safe transportation to get to/from work

Other (please write)

I did not face any challenges

Have you had COVID-19?

Yes

No

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

Yes

No

How many days did you take off? _____

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

Fully paid medical leave

Partially paid medical leave
Unpaid medical leave
Annual vacation days
Other (please write)
I don't know

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

Yes, always

Yes, sometimes

No

Not applicable as I was not working

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

Yes

No

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

Yes

No

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

General layoffs of all workers

I had no contract so employer said to stop working

My employment contract was not renewed

I had to take care of my children and my employer pressured me to quit/fired me

I was a woman

Other reasons (please write)

Of the Government's relief measures related to COVID-19, have you been DENIED the right to any of the following (meaning you didn't receive the benefit)? Please check all that apply.

Not applicable: I did not qualify for any of benefits

Paid absence from work for parents with children under age 10

Additional salary (e.g., for essential workers)

Unemployment benefits

Other (please write)

Of the Government's relief measures related to COVID-19, have you been DENIED the right to any of the following (meaning you didn't receive the benefit)? Please check all that apply.

Not applicable: I did not qualify for any of benefits

Double payment of the social scheme value for all beneficiaries of social schemes for March, April, and May
Withdrawal of 10% of the funds saved in the Pension Trust for contributors

A salary bonus in the amount of €300 for employees of essential sectors (fieldworkers who are directly exposed to the risk of infection in their line of work) for two months

Extra payment in the amount of €100 for employees of grocery stores, bakeries, and pharmacies in April and May

Monthly assistance amounting to €130 for citizens who lost their jobs due to the public health emergency for April, May, and June

Extra payment in the amount of €30 per month to all beneficiaries of social and pension schemes receiving monthly payments lower than €100 for April, May, and June

Government payment of monthly assistance in the amount of €130 for citizens with severe social conditions, declared as unemployed by the competent institution, who are not beneficiaries of any monthly revenue from the budget of Kosovo for April, May, and June
Other (please write)

CONTRACTS AND PAY

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

Yes
No

Do you currently have a written contract?

Yes
No

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

Three months or less
4-6 months
7-12 months
More than 1 year, but less than 3 years
4 or more years
Indefinite
I have never had a written contract

In your workplace, who tends to have longer contracts?

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

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

Yes
No

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

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

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

Less than or equal to 129
130 – 170
171 - 200
201-300
301-400
401-500
501-800
800 or more

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

Yes

No, my employer tells the authorities something else

I don't know

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

Health insurance

Social security / pension paid by the employer

Neither of these

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

Yes

No

Usually, how are you compensated for overtime worked? *

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

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

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

I receive time off

Not applicable: I never work overtime

YOUR VIEWS

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

Yes

No

I don't know

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

The employer

The Labour Inspectorate

The Ombudsperson Institution

The police

None of the above

I don't know

HIRING

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

Never

Once

2-5 times

More than 5 times

Don't remember

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

	Yes	No
Your marital status or marriage plans		

Your plans to get married		
The number of children you had at the time/If you have or plan to have children		
Your future plans to have children		
Medical proof that you are not pregnant		
Your sexual orientation and/or gender identity		
Something else not related to your skills, education or work experience that felt inappropriate (if yes, please elaborate):		

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

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

	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		
Your place of residence (for example, rural)		
Your sexual orientation and/or gender identity		
Other criteria not related to skills, education or experience		

PROMOTION

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

Yes, all employees have an equal opportunity

No, some employees are treated differently than others

Both - It differs depending on the employer I have had

Don't know

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

Your appearance

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

You were pregnant

You have children or were planning to

Your ethnicity
Your sexual orientation or gender identity
The employer had a personal preference
Your age
Your religion
Your place of residence (for example, rural)
I don't know
None of the above happened to me
Other (please write):

WORKING CONDITIONS

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

Yes
No

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

Yes
No

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

COVID-19
Bad air quality
Dangerous chemicals
Lifting heavy objects
Not being allowed to use the toilet
Other (please write)

PREGNANCY AND MATERNITY LEAVE

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

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

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

Yes
No

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

Yes
No
I am still on maternity leave

Why not? Please mark all that apply.

I did not want to work anymore
I started a new job
The employer terminated my contract/fired me
My contract expired while I was on maternity leave
The employer decided to employ my replacement instead

I have no one to take care of my children or childcare is too expensive
I could not find work
Due to illness or injury
Another reason (please write)

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

Yes
No

When you returned to work, did you have:

More responsibilities
Fewer responsibilities
The same responsibilities

Did you have:

Higher pay
Lower pay
The same pay

Did you have:

More working hours
Less working hours
The same working hours

When you returned, were you:

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

PATERNITY LEAVE

Would your employer give you paternity leave?

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

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

Yes
No

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

When you returned from leave, were you:

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

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

Yes
No

SEXUAL HARASSMENT AT WORK

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

	-Yes, this is sexual harassment. -No it's not. -Depends	-Yes, this happened to me, more than once. -Yes, this happened to me once. -No, this never happened to me.
Making sexual gestures, jokes, or sounds		
Sending emails or text messages of a sexual nature (including after work hours)		
Touching intimate parts of another worker's body (bottom, breasts, etc.)		
Touching body parts on purpose (hand, shoulder, back, etc.) in a situation in which touching is unnecessary		
A colleague or superior proposing to have sex with him/her		
A colleague or superior forcing someone to have sex with him/her		

Were the persons who did this to you:

- Women
- Men
- Both

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

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

Have you talked about this situation to anyone?

- Yes
- No

Who did you tell? Please check all that apply.

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

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

I was ashamed

I'm afraid of losing my job

I did not want to

I think I have to take care of it myself

Other (please write):

UNIONS

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

Yes

No

I don't know

Are you a member of any workers' union?

Yes

No

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

Very well

Good

Somewhat

Poorly

Very poorly

OVERALL REFLECTIONS

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

Yes

No

If no

Do you have any comments, stories or examples you want to share, including cases of discrimination that may have happened to someone you know? Please provide details?

If yes

Please, can you describe in detail any experience(s) that you have had with discrimination at work since 2018? We greatly appreciate any information you can share. Your identity will remain anonymous.

In which sector were you working when this occurred?

Private sector (business, including family business or farm)

Government (including ministry, municipality, health institution, public school, university, etc.)

Local civil society organization

International civil society organization

Other international body (EU, UN, UN agency, foreign embassy, etc.)

Other:

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

None
Labour Inspectorate
Police
Courts
Prosecution
Ombudsman
CSO that provides legal help
Lawyer
Other (please write)

What happened when you reported discrimination to the relevant authorities?

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

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

Yes
No

FOLLOW-UP

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

Yes
No

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

Phone:
Email:

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

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

Annex 5. Sample Interview Guide

This annex shows a sample of an interview guide that was used in the interviews conducted in 2018 and 2021. The questions that were only used in 2018 are in **grey**, the questions that were used only in 2021 are in **red**, the questions that remained the same are in **black**.

(For the Labour Inspectorate)

1. Interview code number: K ___ ___ ___
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 KWN, thank you for agreeing to be interviewed and to be part of this research.

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./**To what extent do you think that knowledge about discrimination as a rights violation has improved in the last three years (so since January 2018), if at all?**

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. **To what extent do you think that attitudes about discrimination as a rights violation have improved in the last three years (so since January 2018), if at all?**
20. 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]

Laws and Implementation

21. To what extent do you think that the Law on Labour is being implemented in practice, in relation to certain provisions that might affect women more?
 - 21.1. What about maternity leave provisions?
 - 21.2. What about the prohibition on pregnant and breastfeeding women from labour that is classified as harmful for the health of the mother or the child?
 - 21.3. What about the protection of pregnant women, mothers of children under 3, and single parents with a child under the age of 3, and/or a child with a serious disability and guardians (where both parents have died or abandoned the child) who are not obliged to work more than full-time working hours (40 hours per week, Article 20.2) or night shifts?
 - 21.4. What about equal pay for women and men?
22. To what extent do you think that the Anti-Discrimination Law is being implemented in the labour market?
23. To what extent do you think that the Law on Gender Equality is being implemented in the labour market?
24. Other comments related to this:

Filter: Gender-based discrimination cases reported

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

25. Have you seen any change (increase or decrease) in the number of cases reported since January 2018? For what reason do you think this is?

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

[If the answer is Yes, ask:]

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

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

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

Gender-based discrimination cases reported

27. Please tell me about the cases you have dealt with?
 - 27.1 If yes, how many approximately?

- 27.2 What was the gender of persons who suffered discrimination [women, men, both]?
 - 27.3 What was the gender of the alleged perpetrator?
 - 27.4 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.
 - 27.5 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?
 - 27.6 What types of discrimination did you encounter?
 - 27.7 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.
- 28. How many were investigated based on appeals that employees have submitted?
 - 29. What steps have you taken?
 - 30. Were any disciplinary measures taken?
 - 31. If so, which?
 - 32. What was the biggest challenge?
 - 33. 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.
- 34. What are the strengths and weaknesses of data collection practices related to logging these cases?
 - 35. What are the current practices of collecting and tracking data related to gender-based discrimination in your institution?
 - 36. Does the institution you work in disaggregate cases based on gender (the victim and the perpetrator)?
 - 37. Do you have any other comments or things you'd like to add?
 - 38. [Researcher notes (reflexivity)]

the \mathbb{R}^n is a linear space over \mathbb{R} with the usual addition and scalar multiplication. The inner product is defined by

$$\langle x, y \rangle = x_1 y_1 + x_2 y_2 + \dots + x_n y_n \quad (1)$$

where $x = (x_1, x_2, \dots, x_n)$ and $y = (y_1, y_2, \dots, y_n)$ are vectors in \mathbb{R}^n .

The norm of a vector x is defined by

$$\|x\| = \sqrt{\langle x, x \rangle} = \sqrt{x_1^2 + x_2^2 + \dots + x_n^2} \quad (2)$$

The distance between two vectors x and y is defined by

$$d(x, y) = \|x - y\| = \sqrt{(x_1 - y_1)^2 + (x_2 - y_2)^2 + \dots + (x_n - y_n)^2} \quad (3)$$

The angle between two vectors x and y is defined by

$$\cos \theta = \frac{\langle x, y \rangle}{\|x\| \|y\|} \quad (4)$$

The orthogonal projection of a vector x onto a vector y is defined by

$$\text{proj}_y x = \frac{\langle x, y \rangle}{\|y\|^2} y \quad (5)$$

The orthogonal distance from a vector x to a vector y is defined by

$$d_{\perp}(x, y) = \|x - \text{proj}_y x\| \quad (6)$$

The orthogonal distance from a vector x to a subspace S is defined by

$$d_{\perp}(x, S) = \inf_{y \in S} \|x - y\| \quad (7)$$

The orthogonal distance from a point x to a line L is defined by

$$d_{\perp}(x, L) = d_{\perp}(x, S) \quad (8)$$

The orthogonal distance from a point x to a plane P is defined by

$$d_{\perp}(x, P) = d_{\perp}(x, S) \quad (9)$$

The orthogonal distance from a point x to a hyperplane H is defined by

$$d_{\perp}(x, H) = d_{\perp}(x, S) \quad (10)$$

The orthogonal distance from a point x to a subspace S is defined by

$$d_{\perp}(x, S) = d_{\perp}(x, S) \quad (11)$$