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Gender-based Discrimination and Labour in the Western Balkans



Implemented by:



Gender Alliance for Development Center
Qendra Aleanca Gjinore për Zhvillim



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About the Research

- By a coalition of 6 women's rights organisations in the WB
- Research part of 46-month regional Action to address gender-based discrimination and further women's labour rights, funded by EU, co-funded by Sida
- Report draws from longer reports for each country
- Aims to provide information where lacking
- Serves as a basis for regional advocacy strategy, grants
- Establishes a baseline for comparison in 2021



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Methodology

- Legal analysis
- Literature review
- Data from institutions (rarely available)
- Online survey
 - Total respondents: 6,948 people
 - 90% completed: 4,569 (77% women, 23% men)
 - Primarily urban, educated, women
- 57 in-depth interviews with women about discrimination at work
- 323 interviews with representatives of relevant institutions, CSOs





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Legal Analysis



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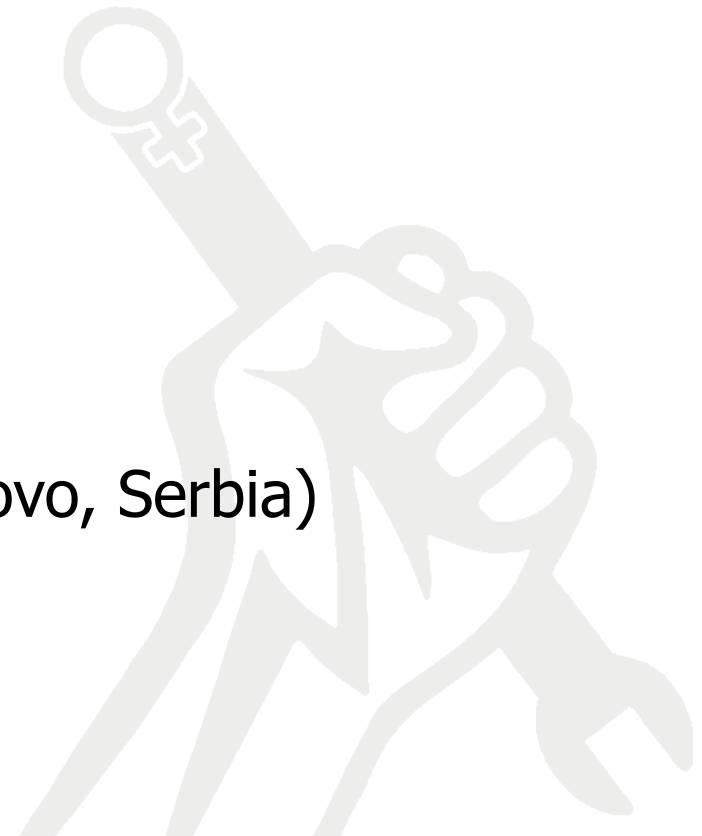
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Key Transposition Issues

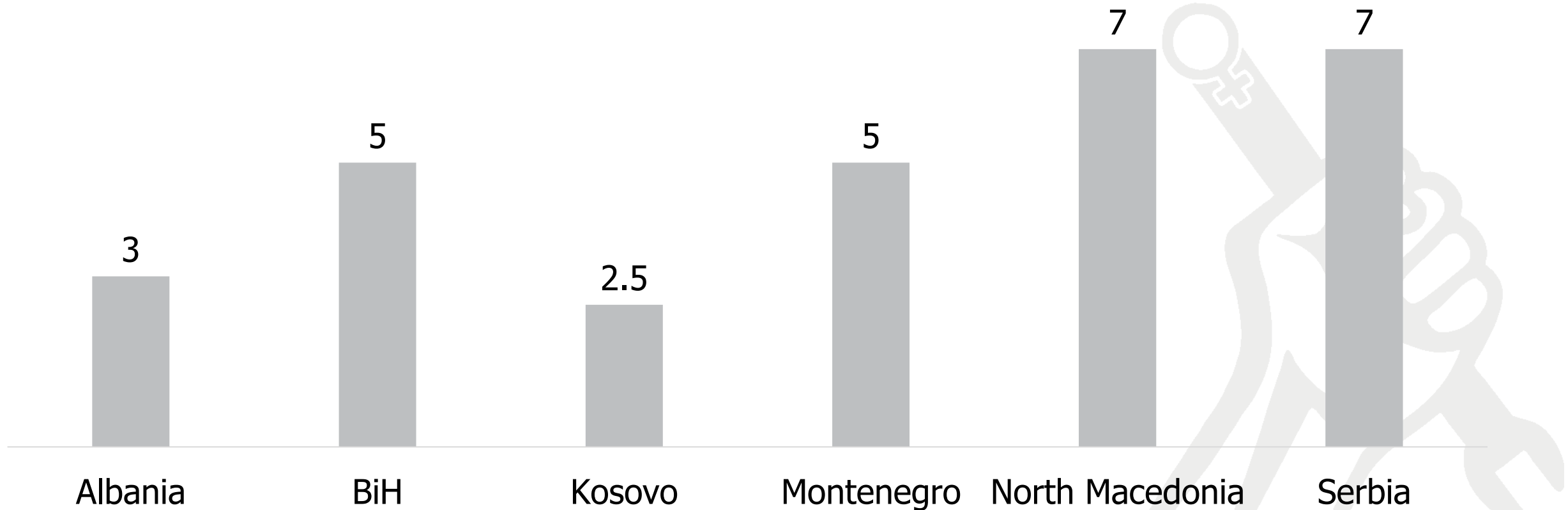
- Exceptions (Albania, BiH, Montenegro, Serbia)
- Victimisation (BiH, Montenegro, Serbia)
- Self-employment (Kosovo, Montenegro, NM, Serbia)
- Sharing the burden of proof (Albania, BiH, Serbia)
- Standing of associations (Albania, Montenegro, Kosovo, Serbia)
- Maternity, Paternity and Parental Leave (all)





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Paternity Leave Length in Days

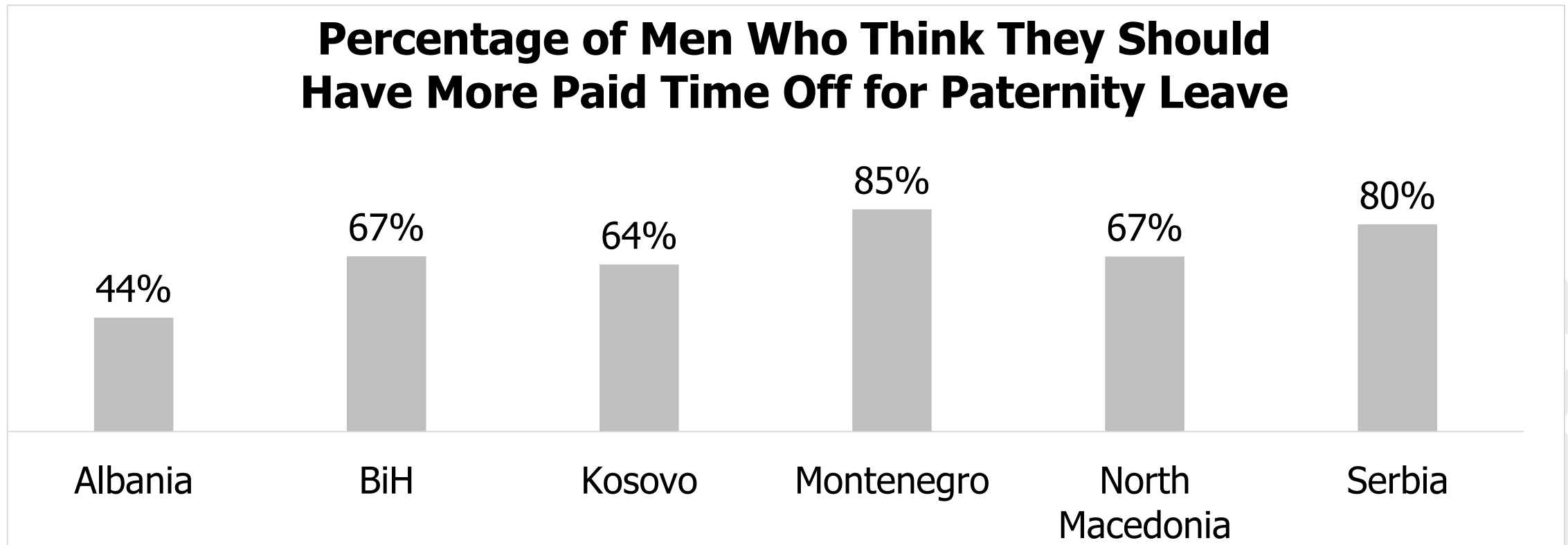




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Research Shows Many Men Support

Percentage of Men Who Think They Should Have More Paid Time Off for Paternity Leave





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Fragmentation and Overlap

- Labour Law
 - discrimination in labour
 - Law on Protection from Discrimination
 - discrimination in non-labour
 - Law on Gender Equality
 - furthering gender equality
-
- Fraczek, S., Huszka, B. and Körtvélyesi, Z. (European Commission, 2016)
 - Kacarska, S. (Routledge, 2016)





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Implementation and Enforcement

- Standards not applied evenly as part of the visa liberalisation process
 - (Sedelmeier 2009; Beveridge 2008; Bretherton 2006; Krizsan and Zentai 2006; Sloat 2006; Krizsan and Papp 2005)
- Sanctions seem low to be considered “effective, proportionate and dissuasive”.
- Implementation remains an issue





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Perceptions and Prevalence



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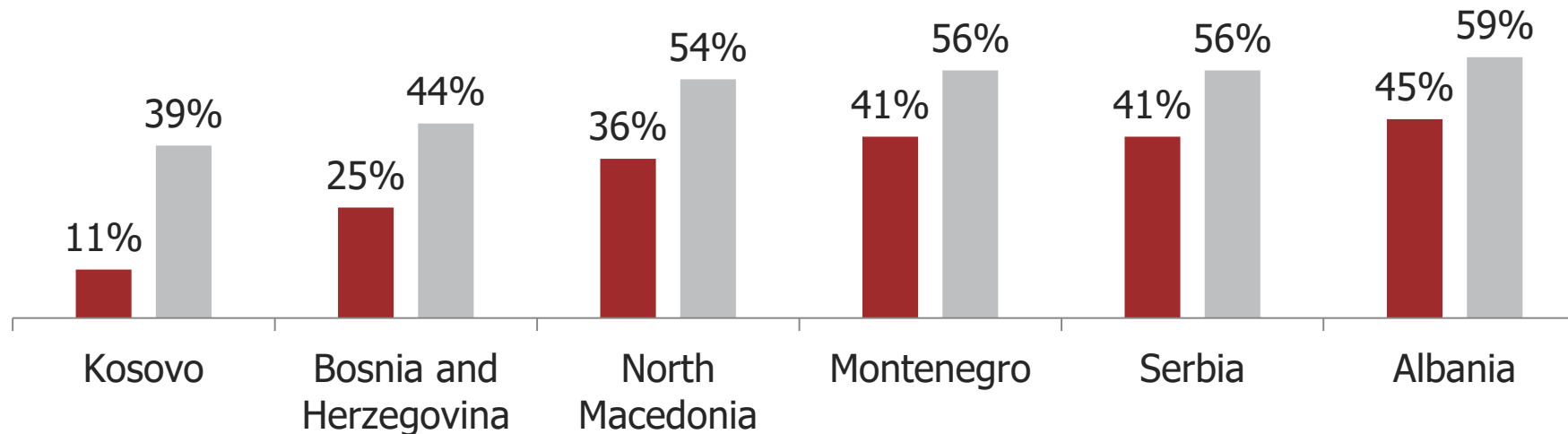


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Employment Rate 2018

% of population age 15-64

■ Women ■ Men



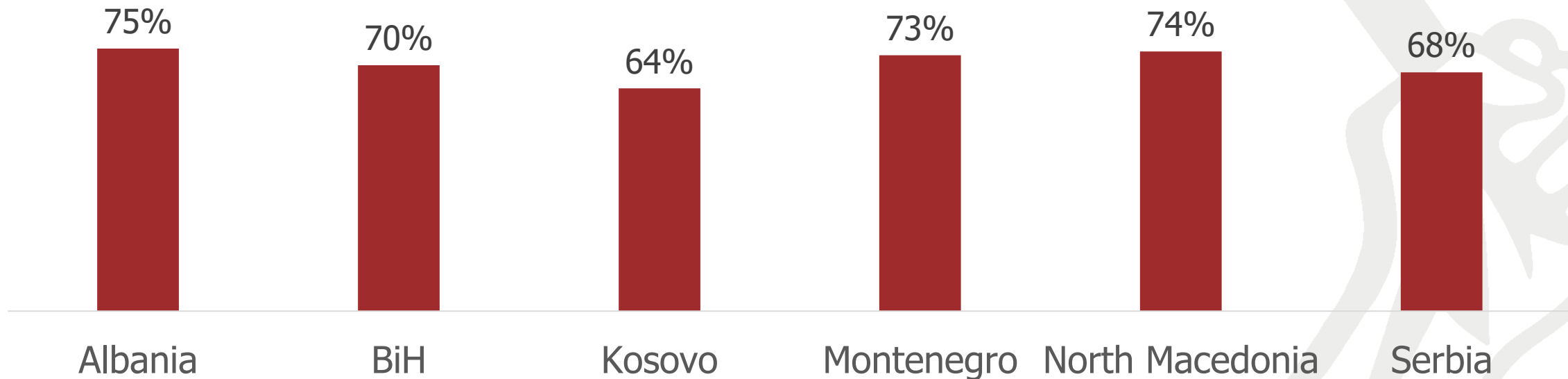
*Source: World Bank, SEE Jobs Gateway, based on data provided by national statistical offices and Eurostat, 2018



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Discrimination in Hiring

Experience with at least one potentially discriminatory interview question

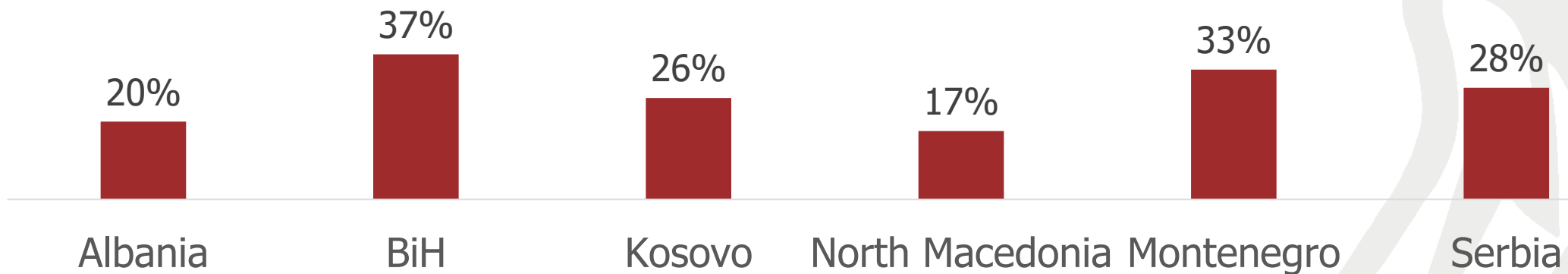




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Violations of Maternity Leave Rights

Neither Paid Nor Received Government Benefit during Maternity Leave





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“ I lost my job due to pregnancy and I worked three years in [the company]. I was four months pregnant when I told my superiors. I lost my job in a week.

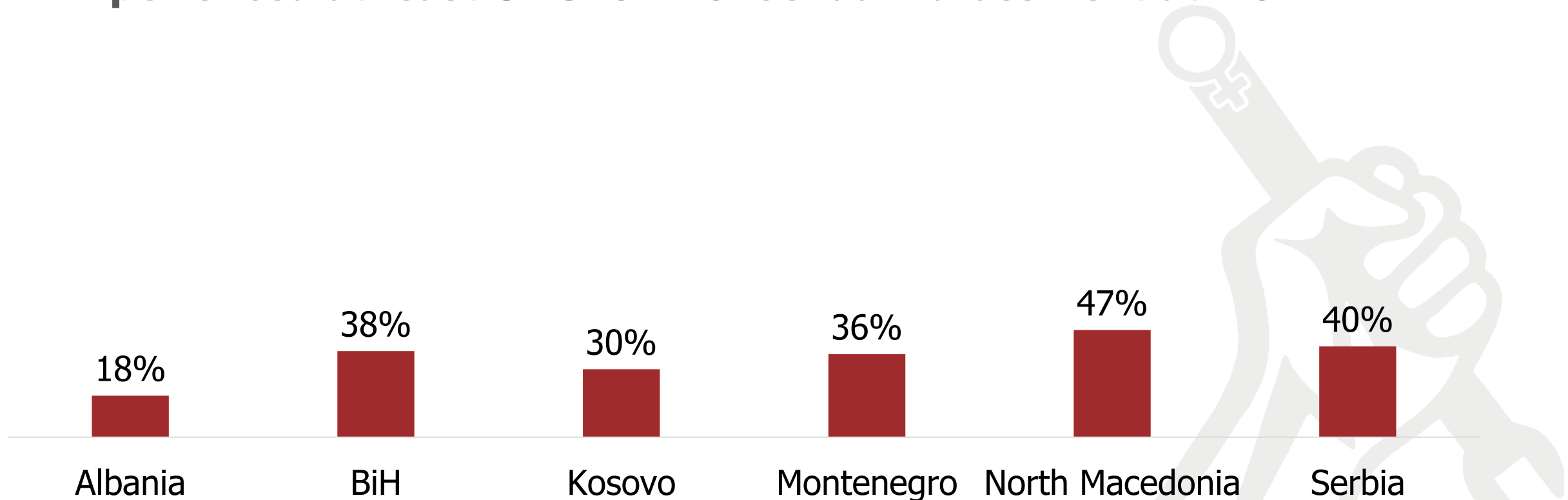
- Woman, 24, North Macedonia



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Sexual Harassment at Work

Experienced at least one form of sexual harassment at work





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“

The head of the company wanted to sleep with me for me to be promoted.

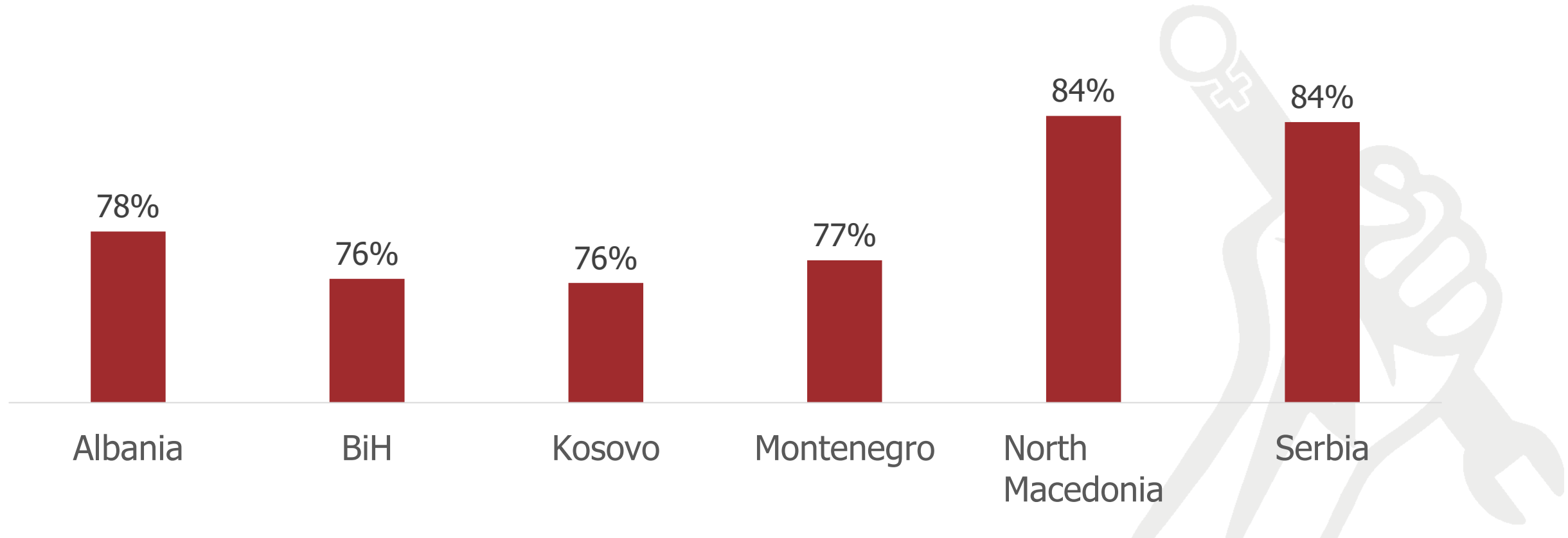
- Woman, age 30, Serbia



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Reporting Gender-based Discrimination

Experienced Gender-based Discrimination but **Did Not** Report It





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

- Woman, age 29, Serbia



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“ I don't want to lose my job. That's why I endure.

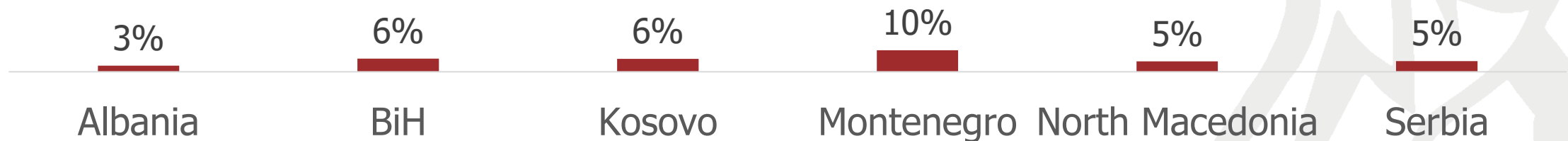
-Woman, 47, Montenegro



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Reporting Gender-based Discrimination

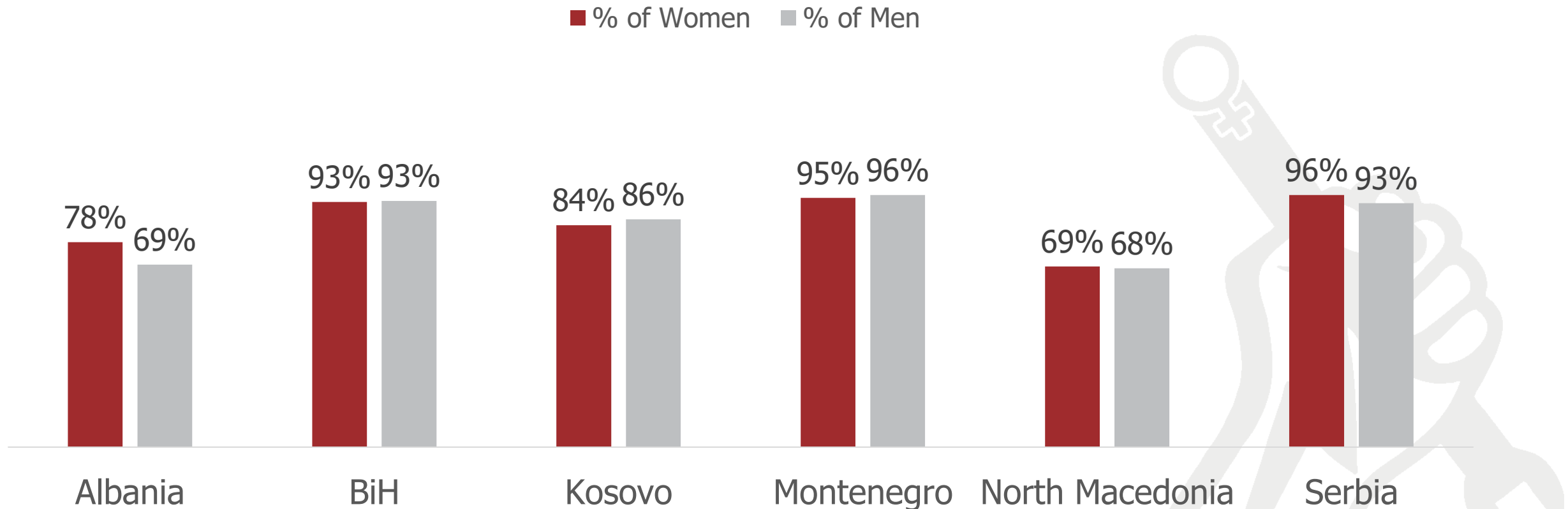
Reported Experienced Gender-based Discrimination to the Labour Inspectorate





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Aware Gender-based Discrimination Is Illegal





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Institutional Response



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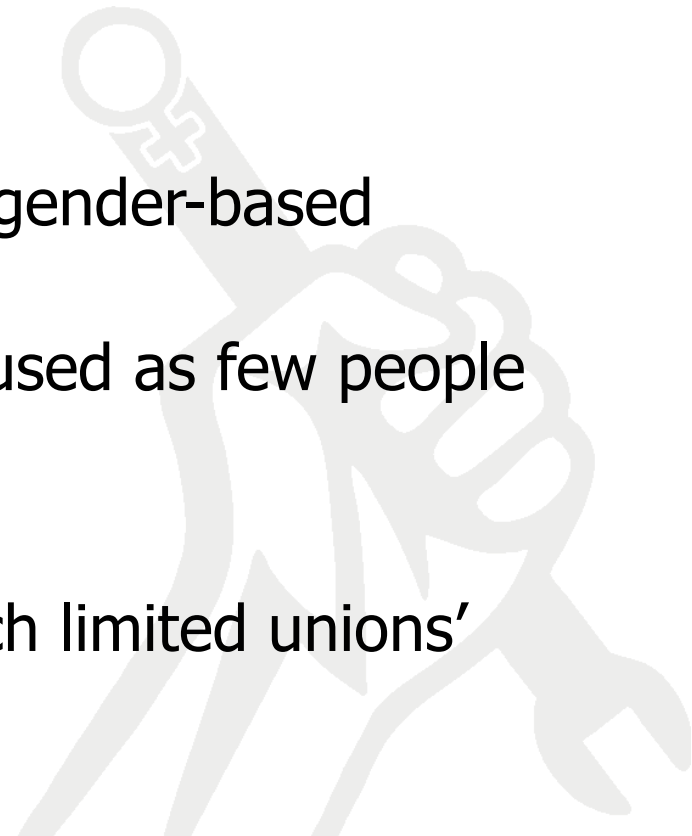
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Institutional Response in WB

- Lack of reporting hinders institutions' ability to assist
- Thus, lack experience, case law
- Labour Inspectorates did not seem to consider treating gender-based discrimination a priority
- Ombudspersons seemed very knowledgeable, but little used as few people know their role
- Generally, poor data management
- Workers had minimal knowledge or trust in unions, which limited unions' ability to offer support.





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Recommendations



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WB Legal Frameworks

- Amend to reduce fragmentation and ensure proper protection.
- Clarify and expand provisions related to victimisation consistent with EU Equal Treatment Directives (BiH, Montenegro, Serbia).
- Amend the anti-discrimination framework to protect self-employed persons as required by the Self-employment Directive (Kosovo, North Macedonia, Montenegro, Serbia).



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WB Legal Frameworks

- Improve provisions related to the sharing of the burden of proof in discrimination cases (Albania, BiH, Serbia).
- Increase financial sanctions to a level that reflects the severity of discrimination.
- Revise phrasing to better reflect the principle of third-party standing outlined in the EU Equal Treatment Directives, allowing CSOs to support victims in making complaints (Albania, Montenegro, Kosovo and Serbia).



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Key Recommendations for Institutions

- Improve data management regarding cases assisted, disaggregated by gender
- Institutionalize obligatory training (GBD, sexual harassment)
- Launch intersectoral awareness campaigns, increasing citizens' knowledge on how to file claims; improve trust
 - Target also employers
- Increase number, capacities and oversight of labour inspectors



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Key Recommendations for the EU

- Require **implementation of institutional reforms** to better address labour-related gender-based discrimination as a conditionality of the EU accession process.
- Encourage all WB countries to **amend their legal frameworks** in line with EU directives, including the new EU Work-Life Balance Directive.
- Continuously **monitor** gender-based discrimination in labour via Country Reports, using a consistent regional approach.
- Apply political pressure for governments to implement research recommendations via **policy dialogues** (GAP II)



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Key Recommendations for the EU

- Continue meeting women's rights organisations to monitor reforms (GAP II).
- Encourage contractors to cooperate with women's rights organisations, which have expertise to offer (GAP II).
 - E.g., furthering capacities of police, prosecutors, judges
- Continue supporting women's rights organisations to:
 - Raise awareness
 - Advise women
 - Provide legal aid
 - Monitor and hold institutions accountable