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Institutionalizing equality policy in new Central and Eastern European Members States of the EU**

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Abstract

The recent Europe-wide trend to move from equality policy and institutions focused on separate inequality grounds towards multi-ground equality policy approaches and related institutions was accompanied by hopes as to the potential of integrated approaches to give more attention to intersectionality. This paper analyzes the equality institutional setup in the ten new EU member states in CEE in order to understand to what extent these hopes are confirmed in their specific context. The paper starts from showing how in the framework of the EU accession process these countries used the multi-ground approach conveyed to them by the EU to shift their equality thinking away from a primarily ground-specific regulatory approach towards an individual complaints driven approach, and thus complementing or redrawing their institutional frameworks. Against this background, the paper argues, first, that the new institutions, with some exceptions, have failed to bring the expected benefits and largely missed to deal with intersectionality both at the statutory and the practical level. Intersectionality seems to occur rather from within established inequality grounds, particularly gender, and most often is brought to the agenda where there is a strong civil society or international involvement. But it is rarely discussed in merits in the multi-ground equality policy context and by the multi-ground equality institutions. These institutions facilitate parallel thinking about inequality grounds, but rarely address the meeting points between inequality grounds. Second, the paper also argues that where intersectionality reaches the agenda of policy thinking, it comes from within specific inequality grounds or, most often, from the specific structural issues faced by groups at points of intersection of different inequality grounds.

I. Introduction¹

One of the most important changes that the last decade brought to equality policy in Europe, both at the level of the European Union and in many of its member states, is the steady move away from policy approaches that deal with the different inequality grounds separately towards approaches that attempt to address inequality grounds in integrated ways (Lombardo&Verloo 2008, Squires 2008, EC 2007). This has been especially manifest in institutional terms, where equality bodies dealing with multiple inequalities came to replace or to complement previously existent ground specific bodies. The shift from single to multiple ground approaches is accompanied on the one hand by hopes that an integrated approach would be able to cover more inequality grounds than the separate approach, and would level the varying scope of protection given to the different recognized inequality grounds. On the other hand, scholars and policy makers alike express expectations that an integrated equality policy and institutional approach would be more favorable to deal with multiple, intersecting inequalities and thus would better capture the complexity of inequalities and disadvantages (Fredman 2005, Squires 2008, EC 2007). While the recency of changes makes the validation of these expectations quite problematic, the limited evidence available (EC 2007) seems to show that despite the increasing number of equality bodies covering multiple inequality grounds, often in open ended lists, engagement with intersectional inequality remains marginal across Europe.

Europe-wide processes of institutionalization in the equality policy field have also spilled over to the new CEE member states of the EU; however, the context of Europeanization that took place in this region was somewhat different. In the 1990s, the majority of Central and Eastern European New Member States (CEECs) had fragmented, unenforceable equality policies that focused on a few inequality grounds, including in most places gender, sometimes ethnicity or, from the end of the 90s onwards, disability. These policies had some constitutional backing but largely remained weak or dead letters in the absence of related enforcement and implementation mechanisms. From the early 2000s, the EU accession processes coupled with increased NGO mobilization have generated a cascading of norms and the increasing institutionalization in the field of equality policy. This implied a rushed process, during which in just about 10 years CEECs moved from socialist women's policy that largely reinforced notions of women's 'difference' from men (Fodor 2004) to acknowledging complex transformative equality policy strategies, such as gender mainstreaming. Therefore, one may argue that these countries formally joined in European equality policy processes. But does this mean that they can by now respond to the most novel challenges that equality policies face across Europe and globally, such as intersectionality, or otherwise termed diversity (Kantola Outshoorn 2008, Squires 2008)?

¹ This paper is based on Research reports written within the framework of the FP6 comparative project *Quality in Gender+ Equality Policies in Europe* (QUING) - www.quing.eu. We are very grateful to all country researchers from East and Central Europe for their enormous and extremely valuable work. In alphabetical order, they are: Magda Dabrowska, Tamas Dombos, Majda Hrzenjak, Martin Jaigma, Vlasta Jalusic, Erika Kispeter, Roman Kuhar, Marja Kuzmanic, Zuzana Ocnasova, Vilana Pilinkaite-Sotirovic, Aivita Putnina, Stanislava Repar, Ingrid Roeder, Elena Stoykova, Melinda Szabo.

The aim of this paper is to analyze what the Europe-wide policy shift described above means for equality institutions in the specific context of CEECs and what are the implications of this shift for the level of engagement of these institutions with intersectional inequality. Has the concept of intersectionality come along with equality policy changes? Have the newly established integrated equality bodies fulfilled the expectations attached to them in terms of intersectionality, or are they at least equipped to do so in the future?

The paper will proceed in two steps. First, it will analyze the nature of the institutional shift that Europeanization brought to countries of the region. Second, it will look at whether the new institutional setup proves favorable to engaging with intersectionality, and if not, what other policy actors come to play in placing the concept on the equality policy agenda, and within this context will consider occurring forms of framing intersectionality, thus reflecting on arguments about the inherent difficulties policies and laws have in engaging with intersectionality (Hannett 2003, Fredman 2005).

Intersectionality: reasoning and forms

Scholars and activists alike regard the notion of intersectionality as something akin to the next frontier in equality policies, which some groups of civil society advocates and policy makers are pushing for with a sense of hopefulness. The hopefulness in the concept of intersectionality comes from its promise to recognize differences within established social groups such as women or ethnic minorities, and at the same time bridge those differences in common political action or political claims for equality, non-discrimination, social justice or other contextualized goals (Crenshaw 1991, Yuval-Davis, 2006, Bunch 2002, Oprea 2006). In the most optimistic of versions, intersectionality seems to be the powerful idea equality advocates have been waiting for that both enhances the quality of equality policies, by recognizing the hitherto overlooked needs of specific groups, but also strengthens the domain of equality claims by exposing the interlocking nature of different inequalities. The notion of intersectionality also provides a new platform to pursue the ever-elusive goal of inclusiveness in democratic policy making.

For these reasons, emerging from theoretical reflection, but also social movements claim-making, it is important to examine whether and how intersectional thinking is making strides in the equality institutions that have emerged in CEECs during the EU accession process and beyond.

For the purposes of our analysis here, we propose to distinguish positions on intersectionality along the lines of depth (relation between inequality categories: whether parallel, additive or mutually constitutive) and scope (general: when all inequality axis can meet all other axis, hierarchical: when difference along different inequality axis are recognized within one specific ground, and specific groups at points of intersection: when two or more axis are seen to generate a specific problem group).

To spell out what the different positions would mean, an approach to intersectionality as *mutually constitutive inequalities* is a general level assertion of the mutual constitution of all inequality categories. This meta-level reasoning, without referring to social categories of inequality axes, is rarely the main scope of regular policy

texts. Nonetheless, specific group-related intersectional analysis may advance to the level of capturing mutually constitutive inequalities.

Intersectional discrimination approaches recognize the mutual constitution of categories, by identifying specific groups in intersectional locations. This form of intersectionality is the original Crenshaw analysis of the discrimination of ‘Black women’ as unique and distinct from other forms of discrimination. This type of intersectionality is produced when groups assert their specificity and distinct experience of inequality, for example policy documents dealing with Roma women (a typical group in CEE) specifically.

Hierarchical intersectionality typically emerges as a result of intra-group differentiation. One example would probably be the Beijing Platform for Action, which assumes the primacy of gender in the discrimination of women, but acknowledges the differentiations within the category “women”. The primary category of identity and inequality is gender, but other differences are acknowledged within the group.

Finally, *additive discrimination* is a form of intersectionality that acknowledges that discrimination can be experienced on more than one ground, but the grounds can still be neatly distinguished and the disadvantage suffered is the sum of the two or more disadvantages adding up. So it is an aggravated form of discrimination, but not a qualitatively different form of discrimination. Additive discrimination can be the framing of the meeting points between the inequality grounds in all three types above.

Scope of the paper

While it would be extremely interesting to look at how all the different inequality grounds and their institutions engage with intersectionality, given the limits of the paper and the large number of countries included in its analysis, this paper will primarily come to intersectionality from a gender equality perspective: it will analyze the institutional changes with emphasis on gender equality, it will concentrate on gender equality related NGO and international processes. Meanwhile it will attempt to mark important identified similarities with other core inequality grounds (particularly ethnicity and disability).

The pool of countries the paper will use for its analysis are: eight first round new member states - Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia - and two second round new member states - Bulgaria and Romania. Within the broader comparison, analysis of two countries, one first round new member: Hungary and one second round new member: Romania, will give more in-depth information for the analysis.

The paper argues, first, that the multi-ground approach of the new institutions has failed to bring the expected benefits and largely missed to deal with intersectionality both at the statutory and the practical level. Intersectionality seems to occur rather from within established inequality grounds, particularly gender, and most often is brought to the agenda where there is a strong civil society or international involvement. But it is rarely discussed in the multi-ground equality policy context and by the multi-ground equality institutions. These institutions facilitate parallel thinking about inequality grounds, but rarely address the meeting points between inequality grounds. Confirming some skeptical thinking on the feasibility of introducing intersectionality as a concept to policy thinking, the paper also argues that even where intersectionality reaches the agenda of policy

thinking it comes from within specific inequality grounds or, most often, from the specific structural issues faced by groups at points of intersection of different inequality grounds. The most common treatments of multiple inequalities in the new member states contexts rely on some additive understanding of inequalities, while some voices (Roma women) are pushing for notions of intersectional discrimination.

II. Institutionalizing Equality

Equality institutions are one of the most specific pillars of equality policies. They are meant to compensate, both in a declaratory and in a functional sense, the failures of regular policy making and policy implementation processes in protecting status based vulnerable groups in the society. In declaratory terms they stand to represent the recognition of the state that certain disadvantaged groups require special protection. Functions of equality bodies may range from remedying individual discrimination cases, and cases of structural discrimination, to empowering disadvantaged groups through giving them voice and access to policy making and instituting structural-systemic changes in the society, to better accommodate the needs of these groups. Equality institutions play a crucial role not only in implementing equality policies but also in defining and changing them. Therefore equality institutions are crucial stakeholders in responding to new challenges faced by equality policy: most relevantly for purposes of this paper, the recognition of the multiple constitution of inequalities. This section of the paper will discuss different types of equality institutions relevant for CEECs and will attempt to link them to intersectionality and show how they might bring different approaches to policy engagement with intersectionality.

Research on equality bodies discusses them from two main distinct angles. Research coming from specific inequality grounds, particularly gender equality policy, looks at equality bodies as embodiments of policy strategies pursuing voice concerns (Stetson&Mazur 1995, Kantola&Outshoorn 2007, Squires 2008). This literature argues that the main purpose of equality bodies is to give voice to politically disempowered groups, specifically women, in the policy making process. As such, gender equality bodies are one of several strategies that compound the “new politics of gender equality” Squires (2008). Squires distinguishes three strategies: women’s policy machineries, standing for voice, electoral quota, standing for representation and gender mainstreaming, standing for process. When set alongside other strategies for pursuing gender equality, equality bodies emerge primarily as agents of the women’s movements, capable to channel women’s interests into policy making from within state institutions. As the literature shows, there is a rather wide variety of institutional forms that may be counted as women’s policy machineries or agencies. These institutional forms may be classified as units with advisory, monitoring and implementation responsibilities, statutory bodies that are independent and have mandate to deal with complaints and advisory or consultative bodies with strongest ties to the women’s movement (Squires 2008; somewhat similarly Kantola & Outshoorn 2007). However, research shows that the better placed the machinery is within the executive the more influence it will have (Stetson&Mazur 1995), which means that for purposes of pursuing a voice strategy units with advisory monitoring and implementation responsibilities are much better placed than consultative or independent complaint bodies. The focus of the state feminism literature

remains mostly on what is common among these different types of bodies, namely, their role in representing women's interests in policy making. In this line of thinking women's policy machineries stand as embodiments of a positive action thinking (Rees 1998) and therefore are genuinely group oriented. This approach to equality machineries always comes from separate inequality grounds, specifically gender thinking. State feminism is therefore an approach that stems from a strong assertion of the distinctiveness and political salience of one inequality ground – gender.

The literature on anti-discrimination policy represents another approach to understanding equality bodies (MacEwen 1998, Krizsan 2004). This thinking, though recognizing the special importance of equality bodies in empowering victims of discrimination and tackling structural and hidden forms of discrimination against different vulnerable groups (Krizsan 2004, MacEwen 1998, Lustgarten 1980), focuses less on agency and puts more emphasis on a procedural approach. In this line of thought equality bodies can be seen as an embodiment of an equal treatment approach to inequalities (Rees 1998), which are meant to compensate for the weakness of victims of discrimination in the complaint procedures, but not in the overall policy making process. While this literature also recognizes some structural functions that equality bodies might have (such as initiating ex officio investigations into patterns of structural or institutional discrimination, raising awareness and generating knowledge on discrimination, or regularly monitoring and reviewing policy MacEwen 1998), overall they are not seen to have a role in giving voice to women's or other movements. Rather, equality bodies strive to establish legitimacy as independent arbiters, particularly in cases when they have the mandate to decide cases. The focus of equality bodies in this understanding remains generally much more individualist and complaint driven; the problem addressed seems not to be a group level problem. This approach to equality bodies seems to fit equally well with the separate inequality grounds thinking and with the multiple inequality grounds thinking.

The two lines of thinking on equality institutions seem to point to two different types of equality institutions, both present in current European equality thinking and policy practice. While arguments can be made about their points of overlap, for conceptual clarity this paper would propose to keep in mind their distinctiveness. For purposes of this paper we will call them ground specific equality policy machineries and, respectively, statutory complaint bodies. We propose as core distinctive features their mandate and their location within the state. Ground specific equality policy machineries will have a regulatory mandate to introduce the voice and interests of the vulnerable group they stand for into policy making, and will be embedded within the government, the more embedded the better. Statutory complaint bodies will have an investigatory and complaints driven mandate and will be independent in one way or another from the executive.²

Little research exists on equalities bodies in CEECs. The few existing studies focus on ground specific regulatory agencies, mostly women's policy machineries. These studies seem to converge in showing that women's policy agencies in this part of Europe do not easily fit the state feminism paradigm (Robinson 1995, Stetson & Mazur 1995). These women's agencies prove an uneasy fit either because they operate in contexts where there are no feminist movements, or they fail to engage with feminist groups in the

² For different approaches to how independence can be realized see ECRI 2001, Krizsan 2004.

country, and thus cannot be described as agents of movement voices (Robinson 1995), or because they are weak or resourceless advocates of women's interests with no influence at all on policy making (Krizsan&Zentai 2006). Furthermore, access of women's NGOs to women's policy machineries in the region is most often limited, if not controversial (Krizsan &Zentai 2006, EUMAP Reports 2005³). In light of these regional specifics a third type of equality institution that is present across the region gains relevance: council type consultative equality bodies. These are tripartite bodies that bring together experts, NGO representatives and representatives of some or all government ministries in an attempt to channel the voice of the civil society and of experts into the policy process, in what has been termed "velvet triangles" (Woodward 2004). While only consultative in their mandate, they often provide the only formalized state civil society interface for disadvantaged groups, and therefore their role in the equality institutional architecture cannot be neglected. While women's policy agencies and statutory complaint bodies may have mandates to consult with NGOs, the absence of formal structures and mechanisms for such an engagement make the relationship that these institutions have with NGOs very unstable and dependent on personal and political context.

There are different issues to consider and expect when analyzing the ways these three different types of institutions - equality policy mechanisms, statutory complaint bodies and consultative bodies – engage with intersectionality. Women's policy agencies approach intersectionality from within gender. What may be expected as a form of engaging with intersectionality is an understanding of gender that goes beyond a homogenous category to include variation and diversity within the category, but also the mutual constitution of gender and other inequalities. Along their mandate to give voice, engagement of women's policy machineries with NGOs representing diversity within gender can be seen as a good indicator of understanding intersectionality. Given the weak machinery-NGO relations prevalent in CEECs, women's policy machineries seem to start with a low potential for engaging with intersectionality. It is, then, the council type consultative bodies which seem to have a better potential for bringing up questions and demands from diverse constituencies. The potential of these bodies to bring intersectionality to the agenda comes from their NGO membership.

Multiple ground statutory complaint mechanisms by their mandates and scope have different level expertise and understanding of inequalities than women's policy machineries or council type bodies. While women's policy machineries focus on specifics of inequality grounds, statutory complaint mechanisms will strive to gain indepth understanding of what is a common denominator among inequality grounds: an equal treatment and non-discrimination approach. We may expect that these bodies will look at intersectionality coming from the individual victim, who often faces multiple forms of discrimination, but also pressure to channel these experiences into the available redress mechanisms that are not necessarily friendly to complexity (Fredman 2005, Hannett 2003).

In the following parts of the paper, we will use the threefold institutional typology for analyzing institutional development and we will interrogate and compare how these institutions engage with the concept of intersectionality in CEEC.

³ http://www.soros.org/initiatives/women/articles_publications/publications/equal_20050502

III. The EU Incentive : Shifting to multiple grounds in EU equality architecture

Before 1997, sex inequality was the only social inequality addressed by EU legislation. The equality domain expanded dramatically at the EU level over the past eleven years in terms of inequality grounds covered and protection offered to the different grounds – although some observers claim there are still hierarchies between gender and other grounds (Bell 2002), but also in institutional terms.

The general definition of the domain of anti-discrimination at the EU level is Article 13 EC of the Treaty of Amsterdam (1996) that applies to six (or eight, depending on whether religion and belief are distinguished, for example) different grounds of discrimination - sex, racial or ethnic origin, religion or belief, disability, age, and sexual orientation. More extensive lists of grounds are also available. The EU Charter of Fundamental Rights (2000), Article 21 (1) contains a list of seventeen grounds (sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation) of prohibited discrimination and the list is non-exhaustive. The European Convention on Human Rights, Article 14 is also open-ended, but lists twelve specific grounds where discrimination is prohibited.

The anti-discrimination provisions in the Treaty of Amsterdam and ensuing regulations, particularly the Racial Equality Directive (Directive 2000/43/EC) and Employment Directive (2000/78/EC), are significant in many ways that we cannot discuss in the scope of this paper. Scholars are in agreement that these developments mark a shift “from gender to diversity” in EU equality policies (Squires 2007: 157; Verloo and Lombardo 2006:1), but there is less agreement about the consequences of this shift or rather about the ways it has unfolded in EU equality policy. What is significant for our discussion here is that the shift has entailed the formulation of a firm position at the EU level on the need to address multiple discrimination.

EU legislation does not explicitly prohibit or provide means of redress for multiple discrimination: the concept is not defined in relevant Directives. But attention is paid to the intersection between grounds in relation to gender in both the Race and the Employment Directive, and the Employment directive also states that its protected grounds should work along with race and gender. However, a more firm position on multiple discrimination is expressed in a number of soft policy documents. In the 2005 *Framework Strategy on Non-discrimination and Equal Opportunities for All*, the Commission recommended consideration of “the development of an integrated approach to the promotion of non-discrimination and gender equality”, which should take into account the fact that “some people may experience multiple discrimination on several grounds” (European Commission 2005: 3). The European Year of Equal Opportunities (2007), which was envisaged by the *Framework Strategy*, provided perhaps the most prominent endorsement of the need to address multiple discrimination, which was formulated as one of the objective of the Year (Decision 771/2006/EC). The implementation of the European Year of Equal Opportunities enhanced the EU-defined message on multiple discrimination, as many EU Member States in fact declared multiple discrimination the main theme of the Year. The ways in which Member States have taken up the Year highlight a dynamic of Europeanization (but not conditionality), which seems

to be taking place in the recognition of a need for more adequate policy responses to multiple, intersecting inequalities.

While addressing multiple discrimination is not a hard requirement toward countries seeking EU accession or Member States, the EU legislation that was adopted in the aftermath of the Treaty of Amsterdam does formulate binding requirements for Member States to establish equality institutions. Three different directives require Member States to establish equality bodies. Article 13 of the Racial Equality Directive requires Member States to “*designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin*”. Article 8a in Directive 2002/73/EC, which amends the second Equal Treatment Directive formulates an obligation for Member States to “*designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex.*” Article 20 of the Recast Directive - Directive on Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (2006/54/EC) – reiterates the latter formulation.

Although these requirements are ground-specific and cover only race or ethnic origin and gender, a relatively homogenous shift towards multiple grounds equality bodies can be distinguished in EU Member States in the aftermath of the Racial Directive, with countries like Belgium, France, Luxembourg or the UK establishing equal treatment bodies that cover all multiple inequality grounds (Migration Policy Group 2004; Bell 2002: 167). The Commission readily welcomed the trend and encouraged it in soft law recommendations. European Commission Green Paper ‘Equality and non-discrimination in an enlarged European Union’ (2004), for example, supported the trend among some Member States to establish “single equality bodies dealing with all of the grounds of discrimination covered by the Directives” (p.12). Furthermore, there is some indication that EU policy makers share the view that “the most important advantage of a Single Equality Body [covering all grounds] is that it will be able to address multiple discrimination” (EC 2007: 22). In fact the two trends – establishing integrated equality bodies and addressing multiple discrimination – are very much intertwined.

Both trends have accelerated in the past two years (2007-2008) at the EU level. In July 2008, the Commission adopted a proposal for a directive which provides for protection from discrimination on grounds of age, disability, sexual orientation and religion or belief beyond the workplace. The new Directive would oblige Member States to “*designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation.*” Debates around the proposed new Directive also seem to be couched in discussions about recognizing and searching for ways to tackle multiple discrimination.⁴

The recent developments in the EU equality institutions also tell about the trends toward integrated equality bodies, which are also expected to be more able to address multiple discrimination. The Fundamental Rights Agency was created in 2007 building on the former European Monitoring Centre on Racism and Xenophobia and now works to provide assistance and expertise to the European Union and its Member States on

⁴ The proposed Directive was backed on Monday 16 March 2009 by the EP Civil Liberties Committee, which particularly highlighted the need to tackle multiple discrimination. (Press Release “Combating Multiple Discrimination”, http://www.equineteurope.org/20090316ipr51921_en.pdf).

fundamental rights issues, including “discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination)”.⁵ As specified by this mandate, then, the Fundamental Rights Agency (FRA) should specifically address multiple discrimination and has indeed started to take initiatives in this direction. So far, it seems that the FRA approach to multiple discrimination come mainly through “the gender lens”. This gender-based approach to multiple discrimination is illustrated, for example, by the FRA publication *Equal Voices: Equality and Discrimination through the Gender Lens* (December 2007) that hosts articles about migrant women, ethnic elder women and Romani women.

A seemingly unfitting development is the creation of the European Gender Equality Institute, in 2006.⁶ As Verloo and Lombardo (forthcoming 2009) show, however, the specific gender body was very much contested during debates in the European Parliament. The contestants argued that the European Gender Equality Institute should be integrated in the Fundamental Rights Agency (Lombardo and Verloo, 2009). The institute is still not operational, but it has at last a Director (Virginija Langbakk, since March 2009).

IV. Single Ground versus Multiple Ground Institutions in CEECs

What has the EU wave of equality institutional change brought to CEECs and how do the new/old structures respond to intersectionality? To answer this question, in this section, we analyze, with emphasis on gender equality, the core moments and the main trends in the development of equality institutions in countries of the region, specifically under pressure or perceived EU incentive to expand the coverage of grounds of discrimination. To this end, two main waves of equality institutionalization can be discerned in CEECs.

The First Wave: Ground specific policy machineries

The first wave of institutionalization brought to CEECs ground specific policy machineries. Following the early post-socialist neglect of the issue, the main impetus that brought gender equality policy and equality institutional mechanisms into most of the countries of our sample was the UN and processes related to it. In Poland gender equality arrived to the policy agenda with the establishment of the Plenipotentiary for Women as early as 1986, upon the Nairobi Third World Conference (Nowakowska 2000). The main influential momentum in launching gender equality institutions was the Beijing World Conference in 1995. Beijing placed gender equality initiatives on the policy agenda in basically all the countries of the region. Moreover, in Czech Republic, Estonia, Hungary, Romania, Lithuania and with some delay in Slovakia and Latvia has lead to the establishment of the first gender equality institutions. Somewhat differently, Slovenia, having a very active feminist NGO movement and some history of state support for

⁵ Council Decision (2008/203/EC) implementing Regulation (EC) No 168/2007 as regards the adoption of a Multi-annual Framework for the European Union Agency for Fundamental Rights for 2007-2012.

⁶ Council Regulation (EC) No 1922/2006 of 20 December 2006.

gender equality during socialism, launched its first gender equality machinery in 1992. The institutions established in this wave were without exception women's policy machineries, in the meaning discussed in the previous chapter⁷. Most of them had monitoring and implementation mandate. Lithuania constituted an exception in that along the women's policy machinery within the government in 2001 it also established a statutory complaint mechanism towards the implementation of the Act of Equal Opportunities between Women and Men: the Ombudsman for Equal Opportunities between Women and Men. Bulgaria stayed behind in this wave: after several failed attempts, amidst strong EU pressure to do so it has only created its first women's policy machinery in 2004 (Stoykova 2007).

Table 1: Women's Policy Machineries about here

Women's policy machineries that resulted from this wave of institutionalization show a lot of variation. A few common denominators can be discerned though. The mandate of these institutions reflected a targeted gender equality policy approach with focus on implementation of the often quite meager gender equality policy, and representation of the gender equality perspective within the government. Along these more traditional tasks their mandate, in almost all cases, allocated a central place to the responsibility to respond to international obligations (report writing to CEDAW, Beijing, representation at hearings and Committee meetings, and increasingly responding to EU requirements). This shows that the core motivation for the establishment of these bodies at this point was internationally driven. International obligations featured in a central place of the mandate in Slovenia, Czech Republic, Hungary, Latvia,⁸ Poland, Romania and to some extent Slovakia.

The lack of independence of these policy machineries from politics showed to be one of their most important problems, especially in the context of the marginality of gender equality on the political agenda. Women's policy machineries in most of the CEECs remained extremely exposed to political shifts in the countries. The number of name changes, shifts between and within ministries, and shifts in framing the policy issue within their mandate are illuminating in most of the cases, but have been particularly excessive in the Polish, Hungarian, Slovak and Latvian cases⁹. It is to be examined if the stability of the Slovenian and Lithuanian machineries demonstrates the stability of the gender equality issue on the agenda of their governments, and if so, why exactly these two countries stand out as exceptions.

Finally, another important and distinctive feature of the majority of women's policy agencies in CEECs, is their troubled relationship with the women's movements. While there have been instances and periods when cooperation was better and more

⁷ Similar institutionalization trends can be noticed in the late 1990s early 2000s for disability and ethnicity. Some examples: Hungarian Minority Ombudsman 1996, Hungarian Disability Department, Romanian Disability Agency. The focus seems to be on single ground equality policy machineries.

⁸ Hungary, Czech Republic, Latvia had periods when the unit belonged to the Department of European Integration and International Affairs

⁹ The prolonged Bulgarian failure to pass a gender equality law and establish a related policy agency to some extent also speaks to this point.

steady in a number of countries, the role of these bodies has not primarily been seen in giving voice to the feminist movement towards the state. Thus, these bodies can hardly be seen as embodiments of state feminism in the region (Stetson Mazur 1995 for Poland, OSI Reports 2005). It is reasonable to assume, that the weak relationship between the machinery and the movements at least partly legitimized the creation of an alternative consultative mechanisms for channeling the voice of NGOs into the policy process.

Council type consultative equality bodies were established in almost all countries¹⁰ in the sample mostly upon pressure coming from NGOs to have adequate representation in policy making processes (particularly Bulgaria, Hungary, Poland, Slovakia, Latvia). Others were created upon pressure from the EU to improve implementation of gender equality policies in place (Czech Republic, Bulgaria). In the majority of the countries, these bodies bring together the three main stakeholders of gender policy making: NGOs, experts and policy makers in order to improve policy implementation processes and to give better and more direct access for women's NGOs to the process. In most cases, they complement women's policy agencies, discussed above, with a formalized mechanism for inclusion of NGOs in policy making. Councils often are coordinated from within the women's policy machineries (Hungary, Czech Republic, Latvia, Romania). Especially relevant from the point of view of this paper is the potential of these councils to address the accountability dilemma faced by women's policy machineries: which women does the machinery speak for? (Kantola & Outshoorn 2007). Some of these councils are perceived as coordination bodies for gender mainstreaming (for example Latvia, Lithuania, Hungary). Meanwhile it is important to note that recent cross-country evaluations (QUING Reports 2008, Krizsan&Zentai 2006, OSI 2005) emphasized the weak mandate that such consultative bodies have, and similarly to women's policy machineries, their exposure to political will. The marginalization of gender equality in the broader policy agenda is also a major factor in determining their efficiency and many times even their very existence. Almost all council type bodies in the sample had periods when they stopped operating, most of them also suffered from shifts and frequent renaming and redrawing of mandate (especially Hungary, Poland, Bulgaria, Slovakia, Latvia). Council-type consultative bodies were established at different times in the different countries. In some places (Poland, Hungary), they were established, and after being dormant, reestablished, mostly upon the demand of NGOs for better consultation processes.

Table 2: Council Type Gender Equality Mechanisms about here

The Second Wave:

The second wave of equality institutionalization in CEECs revolves around the EU accession process and brings different types of equality institutions to these countries that most often come to complement the previously existent gender equality architecture, rather than amending it. In response to institutional obligations under the EU *acquis*,

¹⁰ Currently unoperational in Slovakia and Estonia. In Slovakia it existed before but stopped working. In Estonia is stipulated by the Law but has not been created due to lack of resources. Thanks for Martin Jaigma for this info.

from the beginning of the 2000s CEECs started to develop their anti-discrimination bodies. While the previous wave of institutionalization was almost exclusively ground specific, debates on anti-discrimination policy generated by the EU accession process have brought multiple-ground, in some cases even integrated, discussion of several inequality grounds. At the core of the discussions were the six EU recognized grounds, however, in several countries the discussion revolved around much more, often unrealistically large lists of grounds (see Table 4). Beyond the move from the single ground approach to an integrated approach, this second wave also generated a move from an executive regulatory and group based approach to a more individualist, equal treatment thinking driven approach (Rees 1998). This approach focuses largely on complaints and victim support, with the additional elements of conducting surveys on discrimination, publishing independent reports and making recommendations on discrimination, as required by the EU *acquis*.

Institutionalization under this wave took different forms depending on the national institutional contexts and the political will available for instituting real change in equality policy. Three main patterns can be differentiated. First, several countries, Romania, Hungary, Bulgaria and Poland¹¹ have opted for the creation of new statutory anti-discrimination law enforcement complaint agencies to work on all protected grounds. Second, several countries opted to allocate specific anti-discrimination law related tasks to already existent institutions designated to protect and promote human rights in general¹². Countries that followed this pattern are Latvia, Poland (until 2008), Slovakia, and, if the still pending anti-discrimination law is adopted, Czech Republic will join this pattern. Finally the third pattern is followed by countries which had a relatively stable and successful single ground gender equality bodies: Slovenia and Lithuania. In the Lithuanian case the Lithuanian Ombudsman for Equal Opportunities between Women and Men was originally established as a single ground statutory complaints body in 1999.¹³ Slovenia has established its women's policy machinery in 1992; it's mandate was amended it in 2003 to include handling complaints. In both cases the mandate of the bodies was extended around the accession to cover beyond gender also the additional protected grounds. All countries, regardless of which pattern they followed, placed the mandate related to the anti-discrimination law enforcement for all protected grounds in one integrated body. Estonia remained the only exception to this rule by following a hybrid solution¹⁴. In Estonia the mandate of the previously existent women's policy machinery was extended to cover gender equality related complaints as well (by adding to it the Gender Equality Commissioner), while complaints related to all other protected grounds were located with the long existent general ombudsman type institution (the

¹¹ 2008 change in Poland. There is no anti-discrimination law to set the mandate of the Plenipotentiary of Equal Status.

¹² For principles governing the creation of such bodies see the Paris Principles <http://www.nhri.net/pdf/ParisPrinciples.english.pdf>

¹³ A somewhat similar exception is provided by the Hungarian Parliamentary Commissioner (Ombudsman) for National and Ethnic Minorities established in 1995. It is similarly a statutory complaints body which acted as a predecessor for racial discrimination of the multi-ground Equal Treatment Authority established in 2004

¹⁴ This has been challenged and might be changing too. A Bill (currently??) before the Parliament proposes to extend the mandate of the Gender Equality Commissioner to all protected inequality grounds. Estonia Shadow Report to CEDAW (2007).

Chancellor of Justice), thus following up on the dual institutional model used by the EU lately (Lombardo & Verloo 2008).

Table 3: Statutory Complaint Mechanisms about here

Is there a Shift from Single Ground to Integrated Bodies?

In light of the threefold equality architecture and the two consecutive waves of institutionalization discussed above, understanding the policy shift from single ground institutional approaches towards integrated institutional approaches becomes somewhat more complex. Women's policy machineries in Table 2 show little overlap with complaint mechanisms created within the framework of EU accession processes as shown in Table 4. The second wave of institutionalization has created almost a full second set of equality institutions along the earlier established women's policy machineries. While there seem to be some meeting points between the institutions created by the two waves, in most of the cases, they remain separate layers in the equality institutional structure.

Have the institutional shifts brought by the second wave of institutionalization also resulted in an institutional shift from single ground institutions to multiple ground institutions? Only in a few cases. The institutional change that seemed to show the most commitment to the principles of the anti-discrimination laws newly introduced to these countries was the creation of new statutory complaint mechanisms, sometimes against already available ground specific complaint mechanisms¹⁵. Such mechanisms were created in Romania in 2002, in Hungary 2005 and in Bulgaria 2005. All three of these bodies have a mandate to cover beyond the six inequality grounds protected by the EU several other inequality grounds and have open ended lists. Two of them (Romania and Bulgaria) also specifically have mandate to deal with multiple discrimination. Poland joined this group recently in 2008 when prior to passing an anti-discrimination law a Plenipotentiary for Equal Status function was created in the Prime Ministers Chancellery. While the act here, as well, demarcates strong political will, the absence of clear mandate and lack of independence should also be noted.

Another type of change brought by the second wave was the amendment of the mandate of general human rights protection bodies to explicitly include anti-discrimination cases. These appeared to be a specific move in countries, which had a relatively limited political commitment to introducing comprehensive anti-discrimination policy, such as Latvia, Poland, Slovakia, Estonia for inequality grounds beyond gender and potentially Czech Republic. All of these countries are late-comers in the anti-discrimination law development processes and bad compliers (Poland, Czech Republic and Latvia have still not passed comprehensive anti-discrimination laws, Slovakia has passed but has extremely weak enforcement record (Repar & Očenášová 2007). While their solution followed the letters of the acquis, it failed to commit to the more general idea behind the need for specialized anti-discrimination bodies: namely the need for

¹⁵ For example the Hungarian Equal Treatment Authority was created as a parallel structure with the Hungarian Minority Ombudsman who had a mandate to deal with race discrimination cases.

specialized in-depth knowledge, expertise and focused attention (MacEwen 1998, Krizsan 2004).

The shift from single ground thinking to multiple ground thinking is marked by the third type of approach taken by only two countries: Lithuania and Slovenia. In both cases the competences of relatively steady and successful women's policy machineries are extended to cover the additional protected grounds. The mandate of the Lithuanian Ombudsman for Equal Opportunities, which was the only gender equality specific statutory complaint mechanisms operational since the end of the '90s, shifted to cover complaints based on all protected grounds. The Slovenian Office for Women's Policy was first upgraded to have mandate in complaint solving by integrating in it the Advocate for Equal Opportunities in 2003, and in a next step in 2005 the Advocate's mandate is extended to cover all protected grounds. While the change justified worries on the side of gender equality proponents that the gender equality component might be pushed in the background, worries are also voiced by defenders of other inequality grounds who fear that gender remains the privileged ground and others remain neglected in this institutional setup (Kuhar et. al 2007, Pilinkaite 2007, Pilinkaite 2008). The shift seems to fuel competition between inequality grounds rather than a celebration of their meeting points and diversity.

The earlier established women's policy machineries also respond to the European shift in equality thinking. In five countries: Bulgaria, Poland, Slovakia, Lithuania (Ombudsman)¹⁶ and Slovenia women's policy machineries shift from exclusive focus on gender equality to become integrated equal opportunities or anti-discrimination departments. In several countries, Czech Republic, Hungary, Lithuania (Department) the original machineries were brought under a unified umbrella department, but ground specific units were maintained. There is little or no evidence showing that a space would have been created where the different inequality grounds can institutionally meet and no evidence tells about interdepartmental thinking. The creation of equal opportunity umbrella departments seems to be efficiency and rationalization minded rather than motivated by intersectionality thinking. Finally, in Estonia, Latvia and Romania women's policy machineries remained in place or were consolidated as independent women's policy machineries to be complemented by other institutional structures responding to the second wave of institutionalization.

No tendency to shifting from single ground bodies to integrated bodies can be noted in the case of council type consultative bodies. Indeed it seems that there is a resurgent need for the creation of these bodies. They are established in the mid 2000s in Bulgaria, Estonia (not operational yet), Slovakia, Slovenia, and revitalized, made more efficient in Hungary, and come to incorporate NGOs in Lithuania in 2007. These bodies all cover gender as a single ground, with the exception of Slovenia where it has a more general mandate to promote equal treatment. This could be because of the increasing presence of new public management thinking in these countries and demand for inclusive policymaking, coming with the EU membership. Further, one could assume increasing need for expertise in gender policies (especially gender mainstreaming) but also the

¹⁶ In the Lithuanian dual structure the Ombudsman for Equal Opportunities between Women and Men becomes an integrated body, while the Government Department for Gender Equality (a relative latecomer 2001) remains separate, though integrated in an umbrella Department for Equal Opportunities and Social Integration.

gradual realization of the inadequacy of women's policy agencies to give voice to women's movements.

To summarize the shifts overall in the equality institutional architecture in CEECs, it can be argued that Europe-wide equality institutionalization trends have spilled over to countries of this region, as well. In the majority of the cases, they resulted in a duplication of institutional structures with one pillar geared towards more regulatory, policy making functions (includes both policy machineries and councils), the other geared towards complaint solving and victim support. While in the complain solving institutional pillar the institutions that resulted from the shift are almost without exception integrated, covering all or most protected inequality grounds, in the policy making pillar the shift towards integrated thinking is not unequivocal. Council type consultative bodies remained entirely single ground driven. Whereas some women's policy agencies shifted from the single ground thinking towards integrated approach, several others came out with a consolidated single ground approach, and several were placed within umbrella integrated departments but without merging the ground specific units.

V. Intersectionality: Institutional beginnings, Voices and Frames

Are equality institutions, and especially multiple ground institutions the main voice to place intersectionality on the policy agenda in CEECs? Do the different institutions engage differently with intersectionality and if yes, how? What other voices come to play an important role in parallel or in cooperation with equality institutions in this process? This section of the paper looks at voices that are relevant in bringing intersectionality to the policy agenda and framing it. First it will examine how the above presented equality institutional structure engages with intersectionality and second looks at alternative or complementary voices that play a role in this process. Our research has identified some institutional potential for intersectionality, as well as several specific voices that are advancing an agenda of intersectionality in CEE.

Equality Institutions

The significant shifts in and reconfigurations of the equality institutional mechanisms in countries of CEE that we have discussed in this paper - most importantly, the emergence of multiple grounds equality bodies - have largely not induced a leap ahead in intersectional thinking, either in terms of recognizing the needs and including the voices of specific groups at intersections or in terms of building frameworks that treat inequality categories as interdependent. Our analysis shows however that the different institutional forms have different responses to and different levels of engagement with intersectionality.

Multiple ground statutory complaint mechanisms are seen by the literature as most promising in terms of tackling multiple discrimination (Fredman 2005, EC 2007). However, we have found that out of the eleven institutions reviewed in this category, only two have an explicit mandate to address multiple discrimination: the Commission for Protection against Discrimination in Bulgaria and the National Council for Combating Discrimination in Romania, both newly created bodies, in 2005 and 2002 respectively. The Bulgarian Commission for Protection against Discrimination goes probably furthest

among all bodies analyzed in the previous chapter; this body has five specific panels designated for the different inequality grounds, and a sixth one that deals specifically with multiple discrimination cases and issues (CPD Bulgaria 2007: 16). This isolated example is, nevertheless, very much the exception and not the rule among the ten countries we have analyzed. Meanwhile, the lists of protected grounds defined by the anti-discrimination legislation in the majority of the ten countries are open ended; exceptions are Lithuania, Poland and Czech Republic¹⁷. This might open windows to multiple discrimination cases, as Fredman (2005) argues, by making the case that particular intersections, such as minority women, constitute additional protected grounds.

For the two bodies that have a mandate to address multiple discrimination - those from Bulgaria and Romania - there is little comprehensive data available on the specific discrimination cases they have examined so far. The available information contained in annual reports (CPD Bulgaria 2007; NCCD Romania 2007) or secondary studies (Society for Feminist Analyses 2007) seem to indicate that the general tendency is toward framing multiple discrimination as *additive discrimination* or *hierarchical intersectionality*. In the case of the Commission for Protection against Discrimination in Bulgaria (CPD Bulgaria 2007: 59-65), the cases considered by the special panel on multiple discrimination have dealt with the additive effects of discrimination on several grounds, such as “age and education”, “disability and education”, or “sex, marital status and membership in a trade union organization”. While the special panel noted the different grounds, it is not entirely clear whether the effects were indeed considered additive, or the cases were categorized as ‘simply’ discrimination in the presence of several grounds. In the case of the National Council for Combating Discrimination in Romania, the reported tendency is for the Council to establish a dominant ground in cases that involve multiple grounds (Society for Feminist Analyses 2007: 38). The tendency toward *hierarchical intersectionality* - where various grounds are noted, but one is considered dominant - possibly accounts also for the absence of any decisions on multiple discrimination by the NCCD, despite the specific mandate established in the law. A light review of the cases considered by the Hungarian Equal Treatment Authority (EAT) shows similar tendencies. Decisions made by the EAT are organized into groups according to inequality axes, without any reference to multiple discrimination. This lack of attention is striking because in several cases even the short description of the complaint makes it clear that more than one axis of inequality is involved. Two examples from 2008 illustrate well what seems a random choice of the type of inequality that is taken as primary in complex cases. The case of an older woman who complained of harassment at work on the basis of her age, marital status and gender is seemingly randomly listed under the heading of “discrimination on the basis of family status”; whereas the case of a Romani woman whose family was evicted from a council flat is listed under class-based discrimination.¹⁸ The handling of the cases shows a tendency to establish hierarchical relations between grounds and prioritizing the most feasible one for deciding in the case.

Existing general human rights bodies, such as those in Slovakia, Estonia, and Poland, are modestly equipped to even address discrimination in general, not to speak of the more complex issue of multiple discrimination. However, what we do witness is a

¹⁷ Poland and Czech Republic in absence of passed anti-discrimination laws regulate discrimination through different sectoral laws (Labor Codes for example) which have closed lists.

¹⁸ <http://egyenlobanasmod.hu/zanza/43-2008.pdf> and <http://egyenlobanasmod.hu/zanza/54-2008.pdf>

certain inclination of general human rights bodies to take up ‘burning issues’ that are related to groups at points of intersection of inequality grounds. The Polish Ombudsman, for example, who acted as statutory complaint mechanism before the recent appointment of the Plenipotentiary on Equal Status, has addressed extensively the problems of older or retired women (Dabrowska 2008). This particular focus may be marking an incipient tendency towards *additive* or *intersectional discrimination*.

In countries that followed a specific institutional path from gender to multiple inequalities, which is the specific situation of Lithuania and Slovenia, the lack of ground specific responsibilities seems to lead, perhaps inevitably, to favoring of gender equality and competition between the grounds for priority (Pilinkaite 2008, Neubauer 2004, Official website of the Office for Equal Opportunities in Slovenia). It is notable that a forerunner on gender equality like Slovenia failed to integrate intersectional thinking in the already developed gender equality policies. The engagement of the Office for Equal Opportunities with intersectionality issues comes mainly “through the gender lens” leading to an articulation of *hierarchical intersectionality*. This engagement is not well institutionalized, but once again seems to emerge at the interface between the institution and civil society. From 2003 onwards, the Office for Equal Opportunities has co-financed NGO projects in the field of equal opportunities for women and men. Among the 34 projects supported between 2003 and 2005, about a fifth were focused on disabled women and addressed issues of violence and access to the labor market, and in one year (2003) some projects were focused on equality between women and men in rural areas. (Slovenia’s Fourth period Report to CEDAW, 2007).

Furthermore, the limited preliminary data that we have examined on women’s policy machineries shows, more generally, that their engagement with intersectionality is the exception rather than the rule. These findings are very much in line with recent conclusions by Outshoorn and Kantola (2007) who found that “many [women’s policy] agencies still tend to take women as an undifferentiated category as their point of reference, with the attendant danger of paying too little heed to minority voices” (280). The one good practice example for a more in-depth involvement of a women’s policy agency with the issue of multiple discrimination is that of the National Agency for Equal Opportunities between Women and Men in Romania, in the context of the European Year for Equal Opportunities (2007). The gender equality agency in Romania chose multiple discrimination as the core issue of the European Year for Equal Opportunities and specified that “actions [would] focus on those vulnerable social categories that suffer discrimination at the intersection of many deprived positions”.¹⁹ To meet this priority, the agency commissioned a major report on multiple discrimination and it supported several events and projects with the same topic. This is again an isolated example and we have found no other such involvement of women’s policy machineries with the issue of multiple discrimination.

Women’s policy machineries may develop intersectional statements or analyses in the context of international processes. The CEDAW reporting process is a particularly important international influence, both because of trends at the level of the CEDAW

¹⁹ *National Strategy and Priorities for 2007 – European Year of Equal Opportunities for All*, p. 14.

Committee to increasingly recognize differences among women²⁰, but also because one of the chapters of the CEDAW Convention (Article 14) actually identifies a specific group – rural women. In line with the international framing, the *CEDAW 2006 Report* from Hungary gives a relatively well developed description of the intersectional nature of the category of rural women. It captures the main structural conditions for regional/micro-regional and urban/rural inequalities in the country and discusses the main gender related aspects of these regional (in the professional jargon often called spatial or territorial) inequalities. The *CEDAW Report 2008 by Lithuania* argues that assessing employment of women, elderly women and rural women must be singled out as constituting a specific category. In rural residential areas the number of women among the long-unemployed as well as among the job seekers registered at the labour exchange for 6 to 12 months was also higher than that of men. Latvian government's *CEDAW Report 2004* elaborates on the conditions in which certain groups of women (elderly, rural elderly, rural pre-pension) become subject of increasing threat of poverty. Poland's *Shadow Report 2007* discusses rural women by highlighting the traditional division of labor in rural societies, the greater risk to unemployment and dependency track.²¹

Further research on other ground specific equality agencies may reveal further engagements with intersectionality. In particular, agencies that focus on ethnicity and disability seem to provide an institutional context for developing the practice of intersectionality. Documents related to the Decade of Roma Inclusion (a region wide international cooperation for promoting Roma inclusion²²) which considers gender equality a horizontal issue might be of relevance. Or national strategies developed in response to the UN Convention on the Rights of Disabled persons, a Convention that is by far the most sensitive to issues of intersectionality, might mark another internationally driven starting point for engaging with intersectionality. But given the emphasis of this paper on gender, and length constraints these fall outside its scope.

Finally, council type consultative bodies may be open to engagement with intersectionality, due to their important NGO component. Comprehensive, up-to-date information on the NGO membership of these bodies is not available. In the absence of such data, we rely on examples. One good example is the Hungarian Council for Gender Equality, which, after recent consolidation, has eight NGO members elected to the council to represent different specializations in gender equality. The NGO members address human rights (including violence), employment, participation in public life, media and prejudices, health and reproduction, family policy, regional development and finally, multiply disadvantaged women. The formal appointment of a member of the Council to address the latter issue is an example of how intersectionality is institutionalized. No such clearly formalized requirement for including intersectional voices in council type bodies is set in any of the other countries. Yet, representatives of intersectional groups can be found among the members of other council type consultative bodies (Poland, Slovakia in earlier stages but not in Romania or Slovenia). While councils do have a strong potential to introduce intersectional thinking to the policy

²⁰ This assessment is based on statements at the 25th anniversary of the CEDAW Committee, July 2007 and the overview of the Committee's work that was published for the anniversary:

<http://www.un.org/womenwatch/daw/cedaw/25anniversary.htm>

²¹ <http://www.iwraw-ap.org/resources/pdf/Poland%20final%20SR.pdf>

²² <http://www.romadecade.org/>

agenda, the limited power and general inefficiency of these bodies largely qualifies this potential. More targeted research on council type consultative mechanisms is needed in order to assess their true potential for intersectionality, which is beyond the scope of this paper.

In brief, the first steps of equality institutions to engage with intersectionality are modest at best in CEECs. The post-EU accession developments in equality institutions in CEE have brought largely parallel thinking about inequality grounds, both at the level of the institutional pillar working on complaints and assistance to victims and at the level of women's policy machineries. It has only exceptionally inspired policy makers to think of how different inequality grounds meet and constitute each other. The few good examples that come through from the data are located at the crossroads of institutions and specific international influences or NGO voices, respectively. As far as difference between countries are concerned, strikingly advanced engagement with multiple discrimination occurred in the two second-wave accession countries: Bulgaria and Romania. This may be an accurate mirror of EU developments, as policy work on multiple discrimination gained momentum at the EU level after 2004, when the first round of accession of CEECs was already completed. At the same time, at least in the case of Romania, the EU incentive met with national level advocacy of Roma women's groups.

Civil society voices

In the analysis of the scanty role played by equality institutions in bringing intersectional thinking to the policy agenda the crucial role of other policy voices transpires, that engage with intersectionality either in parallel to the formal equality thinking or as partner and initiator to it. NGOs and international voices are the two main other voices that need to be considered here.

Civil society actors, and specifically minority women's organizations and groups are most vocal in pushing intersectionality on the policy agenda, confirming some of the old EU member state's experience (Williams 2003). Roma women's movements in Central and Eastern Europe are spurring Europe-wide policy attention and are connected to broader transnational policy advocacy. Starting from a *Manifesto of Romani Women* drafted in Seville 1994, which discussed the situation of Romani women in both Western and Eastern Europe (Bitu 1999), Romani women activists have been defining a language and new concepts to describe the situation of their group. Their advocacy has been mainly transnational and has focused on the major inter-governmental institutions – the Council of Europe (CoE), the European Union (EU) institutions, the United Nations (UN) system, or the Organization for Security and Cooperation in Europe (OSCE).

One particular framework in which Roma women's groups have developed an intersectional analysis of their specific situation of exclusion and inequality with assistance from transnational advocacy networks (the European Roma Right Center - ERRC²³) was the CEDAW reporting process. ERRC has participated in the drafting of shadow reports in four out of the ten countries examined: Hungary, Romania and Czech Republic. Has been sole author in Hungary where the Roma Women report became the second CEDAW shadow report, co-author with local Romani organizations in Romania, and co-author with local women's organizations in Czech Republic. The Hungarian

²³ www.errc.org

Shadow Report on Roma Women²⁴ submitted to the CEDAW with the involvement of the European Roma Rights Center centers on the multiple inequalities experiences by Roma women. It proposes a sophisticated understanding of intersectionality through the lens of a specific group at intersection of two inequalities: race and gender. The Report attempts to formulate general policy recommendations on intersectionality in the Hungarian policy context. In a similar vein, *CEDAW Shadow report 2006* on Czech Republic has specific chapters on Romani women and mentions intersectionality and multiple disadvantages in a broader conceptual scheme.²⁵ Beyond the Shadow Reports written in close cooperation with the ERRC the Shadow Report of Slovakia²⁶ is written in cooperation between mainstream women's NGOs and Roma NGOs. The report contains a separate section on Roma women, where specific problems related to this group are discussed. While the issue of Roma women in all of these reports is discussed as intersectional discrimination, understanding both the additive and the mutually constitutive character of the two inequality grounds involved, none of the reports looks at the issue of Roma women as having implications for the wider category of gender. These framings go deep but they remain limited in scope.

Somewhat similarly in Slovenia in 2008 organizations of lesbian women produced an alternative shadow report to the mainstream one in which they criticized the legal framework on gender equality and on equal treatment for failing to respond to multiple discrimination claims (Slovenia Shadow Report/B 2008).

Roma women's advocates have advanced intersectionality on national policy agendas as well. The specific position advocated by some Roma women's groups is in line with what we have termed in this paper *intersectional discrimination*. In a letter addressed to the National Agency for Equal Opportunities between Women and Men in Romania, for example, a coalition of Roma women activist argued that "Roma women, due to multiple discrimination, are confronted different experiences of inequality than majority women".²⁷ In Slovakia, Roma women activism has increasingly taken on gender equality issues thus pushing for an awareness of the relations, if not mutual constitution of racism and sexism. The advocacy of Roma women's groups has been particularly effective in Romania. The 2006 amendment to the Law on Equal Opportunities between Women and Men that first introduced the notion of multiple discrimination in Romanian legislation was a direct result of the pressure that Roma women's groups, and in later stages in coalition with mainstream women's organizations and human rights NGOs, exerted on the National Agency for Equal Opportunities between Women and Men. In this particular case, the advance of the intersectionality agenda (multiple discrimination) is an interesting local development at the interface of the gender equality mechanism and a minority women's movement.

Coalitions of women's organizations, which often have intersectional NGOs among their constituencies, are also at the forefront of the intersectionality agenda. In an advanced statement for all CEE countries, the Hungarian Women's Lobby proposed an

²⁴ A second shadow report submitted in parallel with the mainstream one. See document at <http://www.errc.org/db/03/7A/m0000037A.pdf>

²⁵ http://www.iwraw-ap.org/resources/pdf/Czech%20Republic_SR.doc

²⁶ http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/IWRAW_Asia_Pacific_Slovak41.pdf

²⁷ Open letter to the National Agency for Equal Opportunities between Women and Men, from a group of Roma activists, on the occasion of debates around changes to the Law on Equal Opportunities between Women and Men, February 8, 2006.

understanding of intersectionality ‘through the gender lens’ (*hierarchical intersectionality*). The organization’s *Position Paper on the Law on Equal Treatment and the Promotion of Equal Opportunities*²⁸ recognizes the mutually constitutive nature of gender and other inequality axis, and explicitly discusses the qualitatively different problems of multiply disadvantaged women that cannot be explained by an additive approach. The specific groups at intersection whose problems are explicitly addressed are Roma women, disabled women, immigrant women, single mothers and lesbians. While the statement from the Hungarian Women’s Lobby provides a general definition of multiple inequalities, it establishes a special hierarchy for the inquiry: other inequalities are all embedded in or emanated from gender disparities (Dombos et al. 2008).

A similar intersectional analysis was developed by women’s organizations in Lithuania. In June 2006, a coalition of women’s NGOs drafted a petition to the Prime Minister calling on the government to undertake effective measures to implement de facto gender equality policies. The petition addressed social structural inequalities linking them to feminization of poverty (class), vulnerability of young mothers (age), discrimination of ethnic minority women (ethnicity), and social exclusion of immigrant (citizenship). Moreover, some women’s NGOs in Lithuania tried to create an informal network of leading human rights, ethnic minority rights, and women rights organizations to address issues of multiple discrimination and provide a united front for campaigning and lobbying. However, these efforts did not meet with a response from the office of the prime minister (Pilinkaite 2008).

Civil society voices are by no means unanimous in their support for intersectionality. In but one example, a recently established Coalition of NGOs against Discrimination in Romania has established a procedure whereby, upon receiving a request for assistance from a victim of discrimination, the victim would be asked to choose the most relevant ground for him/her (Society for Feminist Analyses 2007: 38). Such an approach seriously limits the potential for developing the concept of multiple discrimination.

The NGO initiatives discussed above show on the one hand the potential for development of complex policy engagement with intersectionality coming from the NGO sector. On the other hand these initiatives also indicate the struggles that go on within the women’s movement over the issue of one voice/homogeneity vs. diversity. CEDAW reporting is an especially good example to show how in some cases the need for alternative reporting is felt on the side of intersectional groups, other times coalitions of NGOs are better at cooperating, nevertheless the chapters of intersectional issues might still end up as separate chapters and not mainstreamed ideas across documents. Patterns of coalition forming vs. competition between women’s NGOs would be of special interest for the topic, but should constitute the topic of another paper.

International Influence

Besides civil society voices the other important catalyzer in bringing intersectionality to the policy agenda of CEECs are different international voices such as the EU, CEDAW, or the Decade of Roma Inclusion. These voices are often very much interrelated, as civil society organizations often times act as transmitters and translators

²⁸ http://www.noierdek.hu/home/files/eselyegytkritikaja_Noierdek.pdf

of norms from the international level to the national policy making. However, some pressure or incentive originates in international voices rather than national contenders.

As we argued in section III above, the EU, while successful in promoting the creation of statutory complaint bodies for the enforcement of anti-discrimination policies, and in some cases also the establishment of women's policy machineries, has been far less perseverant in promoting multiple discrimination during the EU accession process of most CEECs. Nevertheless, the EU can still be counted as a major international influence, through soft law mechanisms and even beyond that wider Europeanization processes. Perhaps the most important initiative to consider in this vein is the European Year of Equal Opportunities for All.

The EU-wide initiative of the European Year of Equal Opportunities for All provided a framework for most of the countries for engaging with the issue of multiple discrimination, which was an explicit goal of the year (Decision 771/2006/EC). In some countries, the EU Year of Equal Opportunities was implemented by multiple grounds bodies or executive units addressing multiple grounds – Bulgaria; Czech Republic; Hungary; Latvia; Lithuania; Slovakia and Slovenia. In other countries, the National Implementing Body was the gender equality mechanism – Estonia, Poland and Romania.²⁹ In some cases (Bulgaria and the Czech Republic), where the multiple grounds bodies assumed leadership, gender was a marginalized category, despite of the strong language on multiple discrimination in the EU decision (Stoykova 2008). In the case of the Czech Republic, the marginalization also meant that projects focused on gender did not get funding (Roeder 2008). However, in the majority of cases, the National strategies for the European Year of Equal Opportunities provide in each country one of the very few documents that develops a language that recognizes the *mutual constitution* of inequality categories.³⁰ In many instances (Bulgaria, Czech Republic, Hungary, Slovakia) the notion of intersectionality articulated in the national strategy is a quite general statement on the mutual constitution of categories, which may be suspected of lip service to the European frame, without much elaboration on the ground. The National Strategies mirror the policy makers' struggle to define the concept of multiple discrimination by using both a *multiple constitution of inequalities* approach and an *intersectional discrimination* approach that identify specific groups that face multiple discrimination (disabled children or elderly, Roma women). In Romania and Estonia, where the implementing bodies are the gender equality machineries, the Strategies place gender as a focal category in addressing multiple discrimination. The Romanian Strategy goes even further and views the issue of addressing multiple discrimination as interlinked with gender mainstreaming, which is clearly the voice of the gender equality mechanism.

The example of the European Year for Equal Opportunities for All also shows that frames that originate in international voices are subject to significant local adaptation, especially when their articulation is not very strong at the international level,

²⁹ In Romania, the appointment of the National Agency for Equal Opportunities between Women and Men as the National Implementing Body of the Year met with significant resistance from the multiple grounds body, but also from civil society. See Letter on the Year of Equal Opportunities sent to the Minister of European Integration, the Prime Minister, the Ministry for Labor, Social Solidarity and Family, the Romanian Parliament, the European Commission, the Embassy of Finland, and the Embassy of Germany by a Coalition of human rights NGOs in Romania, August 24, 2006.

³⁰ All National Strategies of the European Year of Equal Opportunities are available on the official website of the year: http://ec.europa.eu/employment_social/eyeq/index.cfm?cat_id=NI&

which is the case of the notion of multiple discrimination. Through the significant variations in the definition and elaboration of the notion of multiple discrimination, the National Strategies for the Year record the process of policy makers struggling to define and adapt this notion to their specific contexts.

CEDAW reporting processes described above provide another international impetus to engage with the issue at least at the level of specific groups at points of intersection between inequality grounds such as rural women or Roma women. On the issue of rural women, the CEDAW acts as a direct international influence. On the issue of Roma women, however, the CEDAW voice is itself shaped by Roma women's advocacy, in a typical boomerang pattern (Zwingel 2005). The Shadow Reporting that Roma women's organizations or activists from Czech Republic, Romania, and Hungary undertook in cooperation with or at the initiative of (Hungary) the European Roma Rights Center, or the Slovak shadow report, illustrates this process of interaction. The CEDAW Committee, while initially not focused on the issue of Roma women in its relation to the Czech Republic, Hungary, Slovakia or Romania, took up the issue both in the "Issues and Questions" raised by the Committee in examining the report and, more importantly, in the Concluding Comments.³¹

The Decade for Roma Inclusion or the 2006 UN Disability Convention at least in some of the countries in the sample (Dombos et. al 2008) are also adding to the sites in which intersectionality thinking is pushed forward through international influence.

Intersectionality is a dynamic concept both in national and international settings. International influences and international voices, while important in providing the opportunity (CEDAW reporting), the incentive and sometimes the pressure (EU Year of Equal Opportunities) to develop the intersectionality agenda, do not also provide strong frames to substantiate it. This is largely because multiple discrimination, attention to the diversity of women and other conceptual sites where intersectionality is being developed are themselves in motion, at the international level. That is, there is no one approach or one frame of intersectionality that would be associated with international voices and these voices seem to support the process of developing intersectionality, rather than a particular outcome. As international influences meet with national policy making, but also with particular civil society claims, it seems however that the most frequent outcome is that intersectionality gets framed as *hierarchical intersectionality*, stemming from within one specific inequality ground or, most often, as *intersectional discrimination*, stemming from the specific structural issues faced by groups at points of intersection of different inequality grounds

V. Conclusions

Engagement of equality institutional structures with intersectionality has not come a long way in CEECs. We have been able to identify isolated examples of institutionalizing intersectionality, such as the special panel on multiple discrimination of the Commission for Protection against Discrimination in Bulgaria or the special seat for

³¹ See Concluding Comments of the CEDAW Committee: Czech Republic (36th session, 2006); Concluding Comments of the CEDAW Committee: Romania (35th session, 2006); Concluding Comments of the CEDAW Committee: Hungary (39th session, 2007). Concluding Comments of the CEDAW Committee: Slovakia (41st session, 2008)

intersectional groups in the Council for Gender Equality in Hungary. The few good examples that come through are located at the crossroads of institutions and specific international influences or NGO voices, respectively.

These examples do not amount to a trend yet and at this point we are only able to formulate some hypotheses about how the institutionalization of intersectionality may move forward in the coming years. The research has identified NGOs and international influence as the main voices that in parallel to equality institutions or in partnership might prompt intersectional thinking about inequality grounds. Following from these findings those bodies that have a strong NGO component like council type consultative bodies, seem to be the best candidates for institutional sites that would advance intersectionality. The statutory complaint bodies that are mandated to address multiple discrimination would be in a stronger position to develop the concept and the practice of intersectionality, but the development of litigation on multiple discrimination seems to be meeting with the tendency of adjudication to reduce complexity and uniqueness to thinking that most easily fits given categories. Findings on cases dealt with by these bodies seem to confirm earlier findings on the tendency of adjudication practices to reduce multiple disadvantage to easy cases (EC 2007, Fredman 2005). The reluctance to open the Pandora's box of intersecting inequalities (Fredman 2005) is quite strong for the moment in most of these bodies. Lastly, women's policy machineries, as they developed in CEECs seem to be least equipped to integrate and develop intersectionality in their institutional frameworks.

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