Institutionalising intersectionality in the European Union? Policy developments and contestations[1]

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Abstract

European Union (EU) policies are a good case to explore the extent to which intersectionality has been institutionalised, as the EU has broadened its equality agenda from the 1997 Amsterdam Treaty onwards, and can be expected to impact on the trajectories of institutionalisation in the Member States. Situated in an analysis of the EU legal framework and machinery on gender and anti-discrimination, this article explores the interface between European institutions and civil society in relation to the treatment of intersectionality by analysing alliances and competition between groups representing different inequalities and the positioning of institutions in the debate, and investigates whether the EU's current institutionalisation may enclose positive developments in the treatment of previously neglected inequalities and thus promote more inclusive equality policies, or may create barriers and exclusions between different inequalities. The article concludes that the EU legal framework is merely juxtaposing inequalities rather than intersecting them, and is not giving equal importance to the different inequalities. Debates on the creation of recent institutions, such as the European Institute for Gender Equality and the Fundamental Rights Agency, show existing tensions between different positions and groups. Dynamics of interaction within European civil society show evidence of both contestations and alliances.

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Introduction

European Union (EU) policies are a good case to explore the extent to which intersectionality has been institutionalised, as the EU has broadened its equality agenda, from the 1997 Amsterdam Treaty onwards, and can be expected to impact on the trajectories of institutionalisation in the member states. Feminist theorising, particularly since Crenshaw (1989), has highlighted the need to pay attention to the interdependencies between different intersecting inequalities because strategies on one inequality are not neutral towards others. Her concept of political intersectionality urges policymakers and activists to reflect on the dynamics of privileges and exclusions that emerge when attention to people at the intersections of different inequalities is overlooked. It warns us of the risks of policies that, by privileging the treatment of some

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inequalities and ignoring that inequalities are often mutually constitutive, end up marginalising some people, reproducing power mechanisms among groups, and failing to address the creation of categories that is at the roots of the constitution of inequalities (Marx Ferree 2009). The adoption of a more intersectional approach to the treatment of inequalities could thus promote the development of more inclusive and better quality policies (Lombardo and Verloo 2009).

In this article we wish to understand the extent to which the EU is developing an intersectional approach. The EU legal framework and machinery on gender and anti-discrimination, analysed respectively in sections 1 and 2, has been a step forward in the public promotion of equality. However, it has also generated dynamics of inclusion/exclusion among groups advocating for different equality concerns. In section 3 we will explore the interface between European institutions and civil society in relation to the treatment of intersectionality by analysing alliances and competition between groups representing different inequalities and the positioning of institutions in the debate. Our conclusions will focus on the extent to which the EU's current institutionalisation may enclose positive developments in the treatment of previously neglected inequalities and thus promote more inclusive equality policies, or may create barriers and exclusions between different inequalities (Squires 2005; Verloo 2006). What is the balance of opportunities and constraints?

1. THE EU LEGAL FRAMEWORK FROM GENDER EQUALITY TO ANTI-DISCRIMINATION

From Article 13 of the Treaty of Amsterdam onwards, 'equality' in the EU has to do with combating discrimination on grounds of sex, racial and ethnic origin, disability, age, religion and sexual orientation. The difference in paths of development, scope of the policy instruments, and comprehensiveness of each inequality strand in the EU equality policy has led some scholars to talk about a 'hierarchy of equality', where 'gender' would be privileged (Bell 2002). However, for other scholars, the treatment of gender as one of the six inequality axes in the 'new' anti-discrimination approach has represented a 'downgrading' (Stratigaki 2008). The strategy of 'anti-discrimination' reveals limitations in the treatment of inequalities which have been discussed elsewhere (Verloo 2006; Kantola and Nousiainen 2009).

Gender equality has been part of the EU legal framework from the origins, and has progressively been articulated through Article 141, a series of Directives largely focused on the labour market, and non binding legislative instruments also going beyond market issues. Gender advocates have struggled for extending the EU promotion of gender equality beyond employment, but had little success. Directive 2004/113 ended up extending only to goods and services (which partially also includes healthcare), and the EU does not cover gender equality in education, social advantages and social protection beyond employment (except for social security). Enforcement and implementation have never been particularly strong in gender equality Directives, except for Directive 2002/73/EC and 2004/113/EC which require member states to designate a body for the promotion of equal treatment without sex discrimination.

Race and ethnicity inequalities have been protected in the EU more recently than gender by Directive 2000/43/EC, which implements the principle of equal treatment between persons irrespective of racial or ethnic origin. The material scope of the Race

Equality Directive is broader than that provided to other inequalities as it gives protection not only against discrimination in employment and training, but also beyond employment, in education, social security, healthcare and access to goods and services. The level of protection provided by the Race Equality Directive is stronger than for other inequalities, as it includes measures to improve implementation (Bell 2002). However, its model of enforcement through individual litigation and no obligation of positive actions might be insufficient. So far this limitation has been argued to exist in general (Shaw 2005; Verloo 2006), and in particular in the case of discrimination faced by historic national communities like Roma (Bell 2008). Parallel to the Directives on gender, member states must designate a body for promoting equal treatment.

The other inequalities of Article 13 are covered all together, less comprehensively than race and gender, under Council Directive 2000/78/EC, which implements the principle of equal treatment in employment and training irrespective of religion or belief, sexual orientation and age and requires employers to consider the needs of disable employees. Unlike the Race Directive, the material scope of the Framework Directive is limited to employment, and, unlike for gender and race, there is no requirement for member states to create a body to promote equal treatment in the fields covered by the directive. Finally, differences among the inequality axes are established as regards the implementation period of the directive and the exceptions permitted (Bell 2002). Yet, EU policymaking on anti-discrimination is in continuous evolution and a new proposal has been made to strengthen the protection of the inequalities covered by Directive 2000/78[1].

There are also differences in the EU political strategies for dealing with inequalities. Gender equality has been promoted in the EU mainly through the strategy of equal opportunities, but also through positive actions and gender mainstreaming[2]. Despite the difficulties of implementation, both these strategies have placed an emphasis on the active promotion of gender equality, not only on the prohibition of discrimination. Yet, there is little evidence that the EU is applying equality mainstreaming to other inequalities nor that gender is mainstreamed into all other inequalities. In this case, EU legal developments do not foster mutual progress in the inequality fields, not only because mainstreaming is not applied to religion or belief and sexual orientation, and scarcely applied to race, disability and age (Shaw 2005), but also because a mere anti-discrimination approach entails the risk of going backwards for inequalities such as gender, that had already adopted broader political strategies. Furthermore, the European Women's Lobby (2008) denounces that gender is not mainstreamed in equality initiatives like the new antidiscrimination directive. Scholars have further criticised the anti-discrimination framework for the little attention it pays to the specific dynamics of each inequality (Verloo 2006) or for the dilution of gender in other social inequalities (Stratigaki 2008).

In sum, the EU equality legal framework has broadened but has developed unevenly, differentiating the equality axes as to the scope and the level of protection. As this framework is constantly changing, so is the configuration of more and less privileged inequalities. If the new proposal for an antidiscrimination directive is adopted, the previously more neglected fields of sexual orientation, disability, age, religion or belief will acquire a stronger protection, while gender will receive the weakest protection of the six grounds of Article 13. The use of a mere 'anti-discrimination' approach may entail consequences for the promotion of equality due to the tendency to disregard specificities of inequalities, to its focus on individual litigation, and to the reduction of the use of strategies such as positive actions and mainstreaming. Thus, although the EU legal framework on equality has greatly

progressed since Amsterdam, it generates a perception of unjustice and creates tensions between people advocating for different inequalities. An overview of the EU institutional framework on equality will clarify some of these dynamics.

2. CHANGING INSTITUTIONAL TRENDS: FROM SPECIFIC TO INTEGRATED EQUALITY BODIES

Research on state feminism has shown that national women's policy agencies play an important role in advancing a gender equality agenda, particularly depending on the characteristics of the agency, the policy context, and the feminist movement (Stetson and Mazur 1995). Woodward and Hubert (2006) discuss the variety of women's policy agencies in the EU. However, the EU 'suprastate feminism', mentioned in Outshoorn and Kantola (2007), has not been exhaustively researched, except for Laatikainen (2001). In the current EU shift towards anti-discrimination, the analysis of equality policy machinery is particularly relevant to understand existing political dynamics, opportunities and constraints that may have implications for intersectionality. The questions we pose here are: what are the main EU institutional bodies dealing with gender and other inequalities? Is the equalities legislation consistent with the equalities machinery? How do the bodies deal with intersections of different inequalities?

Important changes in member states' gender and other inequalities machinery have occurred in the last decade. Women's policy agencies are affected by external processes of multi-level governance, globalisation, regionalisation, privatisation, and welfare state reform, and by internal shifts in gender equality policies towards gender mainstreaming and diversity (Outshoorn and Kantola 2007). New bodies in charge of other inequalities than gender have been established and controversies have emerged over the creation of unitary or separate equality bodies (Squires 2009). While the EU as a supranational actor influences national political contexts, some of these external changes affect the EU machinery too. This is influenced by neoliberal and New Public Management trends that promote single equality bodies as the most efficient 'single stop shop' for employers dealing with equality (Walby 2007). Internal gender policy developments in gender mainstreaming and diversity since the Amsterdam Treaty also create new opportunities and constraints for women's policy agencies. The contested shift in course is from 'unitary' to 'multiple' approaches to inequalities.

Unitary approach and contested gender bodies

The EU has originally developed a 'unitary approach' to inequalities (Hancock 2007; Kantola and Nousiainen 2009) centred on gender, by establishing dedicated policy units and committees in the European Commission and Parliament in the 1980s. The other area in which a separate approach to inequalities has been developed is disability, through the Commission's DG Employment, Social Affairs and Equal Opportunities Unit G3 on *Integration of People with Disabilities*. Within this DG, two other Units deal specifically with gender equality. Unit G1 on *Equality between Men/Women* is in charge of making policy proposals on gender equality and of coordinating gender mainstreaming policies. Unit G2 on *Equality, Action against Discrimination: Legal Questions* deals with matters of transposition and implementation of EC gender equality law[3]. The other key EU women's policy agency is the European Parliament Committee

on Women's Rights and Gender Equality, established in 1984 to promote women's rights and scrutinise legislative proposals from a gender perspective.

This 'unitary approach' focused on gender specific institutions was first questioned in the name of mainstreaming, when, in 1998 and 2000, the EP Committee was under threat of being dismantled. In both occasions it was saved, but the tendency towards an integrated approach and single equality bodies entails the risk that the Committee may be questioned once more, this time in the name of diversity (Stratigaki 2008; Woodward and Hubert 2006). While the shift from a unitary to a 'multiple approach' to inequalities (Hancock 2007) is at work in the EU, both tendencies have co-existed so far. The the controversies over the creation of the *European Institute for Gender Equality*[4] illustrate this well. Created in 2006 to deal specifically with gender equality, this expert body was proposed in a period that had opened windows of opportunities for gender advocates, after the Amsterdam Treaty and the increased support for gender policies that came from the new Nordic member states, especially Sweden, whose Minister for Equality submitted the first proposal of the body (Zippel 2008; Hubert and Stratigaki 2007). The Institute's objectives include strengthening the promotion of gender equality and gender mainstreaming in EU and resulting national policies, fighting sex discrimination, and raising awareness about gender equality among EU citizens.

The creation of a European Institute specifically dedicated to gender equality became a contested issue. From the time in which the body was proposed at the end of the 1990s to the time in which the proposal was discussed, the political climate in the EU was less sympathetic to gender equality, especially after the 2004 enlargement (Zippel 2008; Hubert and Stratigaki 2007). The current development of an EU anti-discrimination framework and institutional changes in member states such as the UK from separate to merged equality agencies also contributed to this political climate (see Squires 2009). From this trend emerge positions more favourable to the idea of treating all inequalities in one single anti-discrimination body, (in this case the Fundamental Rights Agency, see below), rather than establishing separate bodies for each inequality. The analysis of the European Parliament debate on the adoption of the Regulation on the Institute for Gender Equality exemplifies the different positions articulated on the issue, and reveals the underlying controversy taking place at the EU level on the institutionalization of gender and other inequalities[5]. EP Rapporteurs Gröner and Sartori from the Committee on Women's Rights and Gender Equality are in favour of a specific gender body because it would improve the *visibility* and *quality* of EU gender policies[6]. The position contrary to the creation of a specific gender institute and rather in favour of an integrated equality body is taken by the British MEP Ludford. She criticises the creation of a separate gender equality body because it would create an unbalanced model for addressing social inequalities, when in fact in her view *there is no hierarchy of oppression*. For this reason, Ludford defends the inclusion of the European Institute for Gender Equality within the EU Fundamental Rights Agency, reflecting the UK changes in the machinery that have led to the creation of a single Equality Commission. The European Women's Lobby (2005), during the EP debate, supported the creation of a specific Gender Institute, and, in a 2007 paper, expressed worries that creating integrated equality bodies would lead to *less money and resources*, and *less precise and adequate mechanisms* to deal with the complex issues of human rights, anti-discrimination, and equality between women and men. (EWL 2007)

In the end a specific European Institute for Gender Equality was created and it should have been operational by January 2008 in Vilnius. However, problems in the selection process for the Director of the Institute have delayed the beginning of its work with one year. Neither the tasks nor the goals of the Institute, of the Commission gender

Units, and the EP Committee on Women's Rights refer to intersections of gender with other inequalities. The end result of the controversies is a standstill in terms of attention for intersectionality, mainly because the controversy has been a territorial one, in which intersectionality has not been on the agenda at all.

Shifting towards multiple approach and single equality bodies

The EU trend towards a 'multiple approach' to inequalities (Hancock 2007; Kantola and Nousiainen 2009) is reflected also in the institutional changes that led to the creation of a Commission Unit G4 on *Action against Discrimination, Civil Society* and the broadening of the former European Monitoring Centre on Racism and Xenophobia (EUMC) into the Fundamental Rights Agency. Although these bodies cover several inequalities, they privilege the treatment of race/ethnicity. So far, G4 is the body that places a greater focus on 'multiple discrimination'. Being in charge of the 2007 Year on Equal Opportunities for All, it issued a publication on 'Tackling Multiple Discrimination. Practices, policies and laws', where the concept of multiple discrimination is discussed and recommended. The report also introduces the concept of an 'intersectional approach' (p. 17), but treats it as a way of dealing with the needs of victims of multiple discrimination in practice.

The EC's increased attention for multiple discrimination does not reflect a shift towards an approach that is based on intersecting inequalities but rather shows that a separate approach prevails in EC policy practice. The Units dealing with gender and with other inequalities can collaborate on specific issues, for instance when proposals concern 'special' groups like Roma women, and by setting up Steering Groups, such as the one created for the 2007 Year of Equal Opportunities for All. But there are no procedures to systematically coordinate work towards the intersection of different inequalities[7]. Steering groups gather units and NGOs networks according to a separate approach by which the gender Unit G2 consults with the European Women's Lobby, and the antidiscrimination Unit G4 consults with organisations such as ENAR (European Network Against Racism or ILGA (International Lesbian and Gay Association). Moreover, if Unit G4 works on 'multiple discrimination' but does not deal with the inequalities which have separate bodies (gender and disability), those may be left out of proposed actions that adopt a multiple discrimination approach. This separate model of coordination and consultation might not favour the mainstreaming of gender into multiple discrimination policy proposals and the mainstreaming of sexual orientation, race, age, disability, and religion into gender proposals.

The European Union Agency for Fundamental Rights, established in Vienna to provide EU and member states institutions with expertise to ensure respect of Fundamental Rights in their policymaking, will supposedly adopt a multiple approach too. It will work on '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)' (Art. 2b)[8]. However, since the Agency replaces the former EUMC, its main orientation is the fight against racism and xenophobia. Unlike the Gender Institute, FRA was operational from June 2008. The latest Work Programme (2009: 15) shows active engagement with intersectionality, especially through a project on "Multiple and intersectional discrimination on grounds of gender, age and ethnic origin in the EU Member States". The project will be initiated in 2009 by organising meetings with undefined 'selected key stakeholders from EU institutions, Member States, civil society and the Council of Europe' (p.15). Another 2009 project on 'irregular migrants' pays special attention to

women as well. FRA also does have an upcoming report on "Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States. Part II: The Social Situation (Spring 2009)", which seems to indicate that some gender issues are addressed. Parallel to a pattern at the level of movements, issues of gender identity are treated together with issues of sexual orientation.

While the EU development of an anti-discrimination approach raised debates on the need to establish integrated bodies to deal with all inequalities together, the latest changes in the machinery, with the creation of a specific gender body such as the Gender Institute, whose adoption was contested and whose operationalisation was delayed, and a body for all other inequalities but with an emphasis on race and ethnicity such as the Fundamental Rights Agency, reveal the existence of conflicting trends in the EU strategy to treat inequalities. These conflicting trends, in combination with the delay in the start of the European Gender Institute, appear to enable the FRA to take the lead in engaging in attention for intersectional categories, notably migrant women, Roma women and transgender persons.

The EU legal approach to inequalities is consistent with the machinery on equalities as the message sent mixes a call for separate and integrated policy measures and bodies, with an orientation towards an 'integrated approach' and single equalities bodies. Whether consistency between legislation and bodies is actually desirable is an open question, as such consistency does not necessarily equal to an effective promotion of equality. As Bell (2002: 212) states: 'Single equality laws can have internal hierarchies, and single equality bodies can have internal priorities. Conversely, different statutes and different bodies do not, by themselves, prevent equal protection standards across various discriminatory grounds'. Be the bodies single or specific, coordinated action among them on intersectionality, through procedures for dealing with intersecting inequalities among the Commission Units and other bodies, seems relevant not least to avoid excluding particular axes from policy measures. Intersectional policies have no institutional champions at the moment, and no machinery to drive the efforts of such development. The FRA seems to be mostly focused on race/ethnicity/minority, even if they have a growing understanding that there is specific discrimination for people at intersections. The diverse conflicting positions present in the debate on anti-discrimination at the EU institutional level are also identifiable in the dynamics of interaction of European civil society.

3. DYNAMICS OF CONTESTATION ON INTERSECTIONALITY IN THE EUROPEAN CIVIL SOCIETY

What is the role of European civil society organisations in the process of institutionalizing multiple inequalities? Are NGOs 'better' than EU institutions in dealing with intersectionality? We will explore dynamics of conflicts and/or alliances among the gender and other equalities NGOs to shed light on how civil society organisations practice intersectionality, what is at stake for them, and what type of territorial or cooperative mechanisms are at work. As equality movements can be regarded as communities where diagnostic and prognostic frames on inequality as a policy problem are articulated, struggled about and pushed forward through mobilisation, lobbying and political action, their positions and practices on intersectionality clearly matter. The analysis of the *interface* between institutions and civil society is interesting for this study firstly, because it suggests that EU institutions

have a potential impact on triggering or discouraging territorial mechanisms that influence civil society's cooperation on inequalities (Lombardo and Verloo 2009). For instance, the EU uneven legal framework on equalities (Bell 2002) and a simplistic Commission's 'one size fits all' approach to inequalities (Verloo 2006) may trigger competition between civil society groups. Secondly, because it is precisely through social struggles within European civil society and between the latter and the EU institutions that an intersectional approach can be developed. Williams (2003) shows how the intersection of gender and race in the 1990s was momentarily put on the agenda of European civil society and institutions thanks to the recognition struggle of Black, ethnic minorities and migrant women.

The EU institutions have established relations with a network of European-level NGOs that work on different inequalities. In the 1990s the European Commission started to provide financial support for the creation of European level organisations that worked in the areas of gender equality (European Women's Lobby EWL), race and ethnicity (European Network Against Racism ENAR), and disability (European Disability Forum EDF)[9]. The International Lesbian and Gay Association ILGA Europe, that is the main association dealing with homosexual rights at the EU level, and AGE (The European Older People's Platform), started to receive funding through the Community Action Program (2001-2006), then through PROGRESS (2007-2013). Other inequality axes are supported by NGOs that belong to the Platform of European Social NGOs, that includes European umbrella organisations working in different social areas (old people's rights, lesbian and gay rights, gender, children's rights, anti-racism, disable people's rights, etc). The Social Platform is a key interlocutor to the Commission, and partly funded by it. Through the Community Action Program and the PROGRESS, the Commission also funds five smaller European organisations that defend the rights of disabled people. While there are other Europe-wide networks (think of WAVE – Women Against Violence Europe), all the NGOs mentioned above, in different ways, have consolidated their position as 'representative' of different collectives and epistemic communities for the EU institutions and they spontaneously intervene with their proposals or can be directly consulted by the Commission in the policy-making process.

The EU institutional context strongly influences European civil society's mobilisation. The civil society actors most likely to participate at the transnational level are the most resourceful (mainly EU-funded organisations), most organised, and institutionally recognised. This already limits the range of claims that can be made at the EU level, promoting the emergence of a more 'domesticated European civil society' (Lombardo 2007). Moreover, institutions affect civil society's framing strategies. Rolandsen Agustín (2008) shows how the policy-making process prioritises institutional legitimation and efficiency over deliberation and pluralism of claims in the civil society. The organisations promoting gender and other equality policies need to employ framing strategies to make their claims on equality resonate with the EU dominant discourse.

Some European-level NGOs have started to work with intersecting inequalities. For instance, ENAR shows some evidence of the integration of other inequalities than race, as its newsletters also tackle issues of sexual orientation, gender, and religion. ILGA in its work looks at sexual orientation and its intersection with gender (see web and newsletters). EWL also refers to multiple discrimination, and works on issues of gender in relation to disability, ethnicity, sexual orientation, age, and religion (see newsletters and positions papers). In spite of these developing practices of intersectionality within European civil society, the EU anti-discrimination approach has also triggered some

controversies on the relation of gender with other inequalities that resemble the Parliamentary debate on the European Institute for Gender Equality.

The main point of contention for the European Women's Lobby is the development of the EU anti-discrimination approach and the exclusion of gender equality that it has generated. During the 2004 Commission's Green Paper on 'Equality and non-discrimination in an enlarged European Union', the EWL had been critical of the Green papers' integrated approach to combat 'multiple discrimination' (see Verloo 2008). It called instead for specific policies that could best tackle the specific dynamics of inclusion and exclusion of each inequality and defended the need for adequate resources and attention to face complex issues such as human rights, anti-discrimination and gender equality (European Women's Lobby 2004). This type of institutional consultation, though, does not promote the free articulation of diverse claims, but rather triggers strategic and defensive dynamics. The Green Paper's consultation - Rolandsen (2008) argues - shows that the Commission privileges responses to the consultation that best fit its own frame of an integrated approach and at times seems to play the NGOs out against each other giving more credit to some claims above others. The EWL and other European NGOs aim at protecting their own area of concern and thus frame their responses to the Commission strategically to fit their interests. However, recent research shows that the organisations that benefit from the integrated approach that the Commission legitimates (e.g. ENAR) have more chances to make their voices heard since their preferences fit the EU's sponsored approach (Rolandsen 2008).

Rolandsen's analysis of civil society's strategic behaviour in response to the Commission's dominant frame of an integrated approach contributes to the understanding of the EWL's concern of the risks that the EU anti-discrimination approach might entail for gender equality. While the EWL's discourse is opening up to the need to tackle intersecting inequalities where women and men are immersed (EWL 2005; 2007), the underlying tone of some statements (eg EWL 2007) that 'gender comes first' shows a defensive strategy in reaction to how the EU integrated approach affects the visibility of gender equality. The EWL fears the displacement of their position as other inequalities might receive more attention and a legal framework that goes beyond the labour market scope which they claimed for gender with little results, as in the case of the proposal for a new antidiscrimination directive which would leave gender as the least protected field (EWL 2008).

In response to a Commission 'Consultation on a possible new initiative to prevent and combat discrimination outside employment', the EWL (2007) also expresses concern that new EC initiatives to combat discrimination outside employment might exclude sex-based discrimination. The EWL denounces the EU increasing trend not to distinguish gender-based discrimination from discrimination on other bases, as appearing in activities related to the 'European Year of equal opportunities for all', where sex discrimination was excluded by events organised by the European Parliament. Community Action Programs on gender equality and the European Social Fund regulation since Amsterdam, that show the progressive dilution of gender equality into other social inequalities, reinforce the perception that the political context is currently not favourable to gender equality (Stratigaki 2008).

In general, gender advocates such as Stratigaki (2008) and the EWL (2007), also worry that the anti-discrimination approach is taking the EU away from a more holistic or structural approach to fighting gender inequality, and towards a more reduced scope of EU gender equality policy. The risk is not only losing a conceptual category useful for challenging power relations between women and men, but also losing a representation of inequality as a structural and institutional problem, instead of a

problem of discrimination between individual citizens. Moreover, the EU integrated approach could be used as an excuse to avoid broadening the EU gender policy approach to other areas outside employment.

Despite these constraints, the EC integrated approach has also opened opportunities for creating alliances among groups dealing with gender, race, sexual orientation, and other inequalities.All the organisations that belong to the European Social Platform have developed some kind of alliances or at least relations among themselves. However, some have been more active than others in creating alliances. At a recent Social Platform meeting called to discuss priorities, commonalities and specificities, it could be observed that ILGA was most active (also chairing the discussion), as was ENAR, while the Disability Forum was accentuating its specificities about reasonable accommodation and AGE taking a consumer interest perspective. The EWL on the contrary seemed blocked, not stressing the specificity of gender nor building coalitions with others during the meeting. Overall, there seems to be a gap between theory and civil society practice. While theory sees inequalities as intersecting and mutually constitutive, there is no practice of organisations articulating the need for intersectionality as connected to their own 'groups'.

4. CONCLUSIONS: INSTITUTIONALISING INTERSECTIONALITY IN THE EU POLICY PRACTICE?

Changes in machinery and debates on equality at the institutional level do not show practices of intersectionality in the EU. Although recently the Commission shows interest in 'multiple discrimination', we found no evidence of political practices currently incorporating an intersectional approach to the treatment of inequalities. The EU legal framework is merely justaposing inequalities rather than intersecting them, and is not giving equal importance to the different inequalities. The use of an 'anti-discrimination approach', moreover, may create some tension with the mainstreaming approach, especially since the latter has not been extended to all inequalities. There are also concerns of possible drawbacks for gender, where mainstreaming has been adopted. An exclusive emphasis on the anti-discrimination approach entails risks of going back to a mere equal opportunities approach which places the emphasis on the individual, of neglecting more structural strategies such as positive actions and mainstreaming, and of giving insufficient means to promote equality.

The list of inequalities covered seems broad as it includes six axes, yet it is unevenly developed through the EU legal framework, creating unfair conditions for the different groups and discouraging intersectional alliances among groups, and it excludes class. The exclusion of class and the reference to 'sex' rather than 'gender' suggests that the EU anti-discrimination approach moves the focus away from structural approaches to inequality. This disregard for the 'politics of redistribution' reveals that the EU competence in social policy, much needed in times of global financial crisis and welfare retrenchment, is still limited. This moves Kantola and Nousiainen (2009) to argue that anti-discrimination is largely a symbolic tool for a Union in search of legitimacy.

The institutional context is evolving from a unitary to a multiple approach to inequalities, but this is no guarantee of a shift towards political intersectionality. There are no official procedures to deal with intersectionality in the Commission Units working on gender and other inequalities, and the occasional ad hoc groups or meeting might not promote the formulation of intersectional policy proposals, since they adopt a bilateral consultation approach where various stakeholders do not meet together.

Moreover, if bodies that deal with multiple discrimination, such as Unit 4 and FRA, will not take all inequalities into account because there are other specific bodies dealing with them (e.g. for gender, Unit 1 and 2 and the European Institute for Gender Equality), policies that deal with 'multiple discrimination' could fail to include all axes. This could hinder any future development of attention for intersecting inequalities. Thus, procedures need to be established to systematically coordinate actions among the different EU equality bodies and NGOs to make sure that gender intersections with other inequalities are taken into account in policymaking.

Debates on the creation of recent institutions, such as the European Institute for Gender Equality and the Fundamental Rights Agency, show existing tensions between different positions and groups. Institutional machinery, on the one hand, suffers from the territorial reflexes that are emerging in the EU arena and the perception of gender as 'privileged' or 'downgraded'. On the other hand, though, institutions also trigger territorial reflexes themselves, by giving unfair treatment to inequalities, legitimizing certain claims above others or by limiting resources.

Dynamics of interaction within European civil society show evidence of both contestations and alliances (Tarrow 1998). One hypothesis to understand why ILGA and ENAR seem more open to alliances than the EWL (and the EDF) could be that it is the least powerful who are more open, as they see new chances to achieve their goals through cooperation, and have little to lose, triggering alliance mechanisms. Another hypothesis is that the integrated approach promoted by the Commission resonates better with how they frame their interests and enables them to be more heard. The EWL seemed so far less open to actively creating alliances, and while it does articulate the diversity of women's interests, it has not articulated how best to deal with gender and intersectionality. Yet, the EWL's organisation of a seminar on intersectionality in January 2009 shows that the debate is now on its agenda. In general, there seems to be a need for further articulation of intersectional strategies at the civil society level.

The EU equality context is constantly evolving, with new legislation proposed and new initiatives on the part of civil society. This suggests that, in spite of the aforementioned constraints, the launching of an anti-discrimination approach has opened a political 'moment' which represents an opportunity for institutional and civil society actors to learn how to deal with political intersectionality in the EU. It is an opportunity to understand the reasons and dynamics behind alliances, competition and hostility among groups representing different inequalities and the positioning of EU institutions in the debate. It is also an opportunity to bring the experience of this understanding into policymaking in order to deal with intersecting inequalities in more inclusive and cooperative ways. Contestations bring out the terms of the dispute and enable actors to debate issues related to mechanisms of inclusion and exclusion, issues of privileges, dynamics of competition and cooperation and the role of institutions in them, which are important issues to discuss when dealing with intersecting inequalities. To make the most of this political 'moment', the opening of a debate initiated by the EU to 'struggle' about equality and its multiple intersections within the EU institutions and with the active participation of different inequalities' advocates appears necessary.

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[1] Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation. COM(2008)426 final, Brussels 2.7.2008.

[2] The EU legal basis to take measures on positive actions (Article 141.4) and gender mainstreaming (Articles 2 and 3.2) is the Amsterdam Treaty.

[3] Other coordinating Commission bodies have emerged with a specific focus on gender, or a broader focus on gender, anti-discrimination and Fundamental Rights.

[4] Regulation (EC) No 1922/2006 of the European Parliament and Council of 20 December 2006 on establishing a European Institute for Gender Equality.

[5] European Parliament debate of 14 March 2006 on the European Institute for Gender Equality. Adoption of the Regulation of the EP and of the Council of March 2005 establishing a European Institute for Gender Equality as a new instrument for the European policy of gender equality, SEC(2005).

[6] The mentioned MEPs belong to the European people's party (Sartori), the Party of the European Socialists (Gröner), and the Alliance of Liberals and Democrats for Europe (Ludford).

[7] Interview with Commission staff from Units 1 and 4,Brussels, 28/10/2008.

[8] Council Decision of 28 February 2008 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.

[9] Unlike national civil society, that has usually benefited from a bottom up development that gives organisations certain autonomy in their relations with the state, European civil society has mainly been developed top down and with Commission funding. This explains why Commission's role in dealing with equalities is so important for the dynamics at work in civil society.