



Quality in Gender+ Equality Policies

European Commission Sixth Framework Programme
Integrated Project

Ana Fernández de Vega, Emanuela Lombardo,
and Lise Rolandsen Agustín

Report Analysing Intersectionality in Gender Equality Policies for the EU

Institute for Human Sciences (IWM)
Vienna
2008

Preferred citation: Fernández de Vega, Ana, Lombardo, Emanuela, and Rolandsen Agustín, Lise (2008): *Report Analysing Intersectionality in Gender Equality Policies for the EU*, QUING Project, Vienna: Institute for Human Sciences (IWM), available at http://www.quing.eu/files/results/ir_eu.pdf.

CONTENTS

| | |
|---|-----------|
| 1. Introduction | 3 |
| 2. Literature review | 7 |
| Questions | 13 |
| 3. Framing intersectionality in the EU | 16 |
| 3.1 Naming intersectionality at the EU level | 16 |
| 3.2 Intersectionality in non employment issues | 18 |
| 3.3 Intersectionality in intimate citizenship issues | 29 |
| 3.4 Intersectionality in gender based violence issues | 37 |
| 3.5 Conclusions on framing intersectionality in the EU | 45 |
| 4. European institutionalization of intersectionality | 46 |
| 4.1 The EU legal framework on equality | 46 |
| 4.2 Unitary and Multiple approaches in European Union equality legislation machinery | 48 |
| Specific gender equality bodies and their contestation | 48 |
| Other equality bodies: towards multiple approaches | 51 |
| 5. Interface between EU institutions and civil society organizations | 55 |
| 6. Main changes and relevance of different forms of intersectionality | 58 |
| 6.1 Changes in gender legislation and machinery | 58 |
| 6.2 Changes in non employment | 60 |
| 6.3 Changes in intimate citizenship | 62 |
| 6.4 Changes in gender based violence | 63 |
| 6.5 Conclusions on main changes on intersectionality in the EU | 68 |
| 7. Conclusions: Implications of intersecting inequalities in the EU | 70 |
| Annex: References to intersectionality in European Union policy debates | 78 |
| Bibliography | 81 |

1. Introduction¹

This STRIQ report on intersectionality in the EU shows that, although from Article 13 of the Treaty of Amsterdam onwards the EU expanded its legal remit on equality to areas other than gender (including also sexual orientation, ethnicity, age, disability, religion or belief), and has created institutional bodies for the treatment of inequalities, intersectionality is not yet a very established and entrenched trend in EU gender+ equality policies. The issues and the findings discussed in this report are based on the analysis of the EU selected documents for the previous QUING reports as well as on additional documents specifically chosen to update the EU STRIQ conclusions on intersectionality. This has enabled us to include further considerations on intersectionality complementing those achieved in the EU LARG report.

The EU has adopted mainly a separate and unitary approach to inequalities and is developing a multiple and additive approach (see Hancock 2007). The concept of “multiple discrimination” is increasingly used to refer to additional social inequalities faced by people. But intersecting social inequalities are most of the time treated from separate different political approaches, far from addressing the multiple factors causing female social disadvantages together. A legal framework on inequalities is in place, which covers important fields with legally binding directives (2000/43/EC and 2000/78/EC). However, this legal framework currently gives uneven protection to the different inequalities under Article 13, to the extent that scholars like Bell (2002) speak of a ‘hierarchy of equality’ (see point 4). Bodies have been created to deal specifically with gender (Commission Unit G1 and G2, the European Institute for Gender Equality) and with all other inequalities (Commission Unit G4 and the Fundamental Rights Agency), which have raised debates on the appropriateness of specific or single equality bodies. However, there is little evidence that such bodies are currently coordinating their activities to employ an intersectional approach to the treatment of inequalities (see points 5.1 and 6.1). The European civil society is also intervening in the debates, criticising the pitfalls of the Commission ‘one size fits all’ approach to the treatment of inequalities that pays insufficient attention to the specificity of each inequality (see Verloo 2006) and showing different dynamics of alliances and competition (see point 4). These dynamics reveal not only existing privileges within European civil society dealing with specific inequalities but also the role of EU institutions in triggering cooperation or competition among the groups representing different inequalities. For all these reasons, the EU is an interesting case study to assess the extent to which intersectionality has been put into practice and to engage with political intersectionality in a context that offers both opportunities and constraints.

While still at a very embryonic stage, there is increasing attention to the interplay of intersecting inequalities (through the concept of ‘multiple inequalities’ or ‘multiple discrimination’) in EU gender+ equality documents produced by institutional and civil society voices. Summarising the range of intersectional inequalities tackled in the previously

¹ We would like to thank Raluca Maria Popa for her helpful comments on a previous draft of this report.

selected LARG documents but also updating our research through the analysis of additional documents, we found that age and marital status combined with gender are considered in all of the QUING issues, reflecting the main trend found in general legislation policies. In addition to these two kinds of intersections, class is also a significant inequality addressed in non-employment documents, although it is not explicitly mentioned as 'class'. In the intimate citizenship issue, national/migrant status is the third most mentioned intersection whilst in GBV documents age and nationality/migrant status are the most often mentioned inequalities. Another characteristic that we found in the framing of inequalities is the tendency to use a de-gendered language when certain inequalities are increasingly used (young people, older workers or groups at risk).

As concerns the framing of the EU gender equality policies, we found that they present some similarities amongst the issues. Generally speaking, *equality* is the main frame identified across the documents. *Economic development* is, in addition to *equality*, the dominant frame in non-employment. The former is as well a main frame underlying the other issues whilst additional frames are present as well. *Female specificities* and *anti-discrimination* are underlined general legislation discourses whilst the latter in combination with *rights* are present as a dominant frame in intimate citizenship. *Justice/crime* and *human rights* are identified within GBV.

Taking into consideration the frame most commonly identified across the four issues (*equality*), the prominence of the sameness and equal treatment visions and policy strategies are quite remarkable. However, these are more important in both general legislation and non-employment related topics. In general legislation and machinery there is a clear prominence of the sameness vision and equal opportunities strategy, but also difference and transformation are highlighted. This latter tendency can be seen, for instance: in the aims of reinforcing the gender equality machinery; in the demands of developing gender mainstreaming; and even in the demands for the extension of EU gender equality policy beyond the labour market (civil society organizations, especially the EWL, put particular emphasis on this point– see point 3.1).

Also in non-employment policies a sameness vision and equal treatment strategy prevail, though a transformation vision is to some extent also present in the issue. This is exemplified, for instance, in the need to change gender roles in both the care work and the reconciliation topics. The intimate citizenship issue presents some divergences from the other issues. Here the sameness vision and equal treatment strategy, although distinguished, are not the main trends. On the contrary, a greater tendency towards a transformation vision and strategy is most developed. This tendency is predominantly exemplified in the aim presented by certain civil society voices to redefine legal approaches to marriage and the concept of family in order to extend social and civil rights to homosexual couples. In GBV the trend is quite similar. The sameness vision and the equal treatment strategy are mostly developed when dealing with gender equality. However, special programmes are also present. References to the transformation perspective are, however, hardly mentioned.

This report on intersectionality in the EU aims at answering one general question concerning the extent to which intersectionality is put into practice in the European Union. To do so it discusses the three following issues: the institutionalisation of intersectionality; the framing of intersectionality; and the interface between institutions and civil society, which covers issues of alliances, competition and controversies in the EU context. The structure of the report reflects this three-fold approach. After a literature review that highlights the main theoretical questions in section 2, the report focuses on the framing of the meanings of gender+ equality in the QUING issues in section 3. Naming intersectionality in the European Union is discussed through the prevalent use of the 'multiple discrimination' term by EU institutions in section 3.1. Section 3.2 focuses on non employment and explores issues such as the range of intersecting inequalities, the visibility of intersectionality, processes of de-gendering, the role of civil society, the EU consideration of differences in employment rates between women and men and between and disaggregated by different intersecting inequalities, and the tendency to treat inequalities through separate approaches. The issue of intimate citizenship is discussed in section 3.3; this is the issue showing a higher presence of an intersectional perspective and for this reason the analysis of intersectionality is divided into the different sub-issues. Summarising the findings, we have distinguished the following trends. Within the "divorce, marriage and separation" sub-issue, the most frequently mentioned intersecting inequalities are family/marital status and migrant status. The sub-issue on "discrimination based on sexual orientation" shows a greater presence of sexual orientation inequality and a trend to de-gender discourses when intersecting inequalities are introduced. In the sub-issue on "reproductive rights", age and class are the most mentioned inequalities. The analysis also shows that same sex partnerships and families are still a controversial issue in the EU context. Finally, section 3.4 deals with the issue of gender-based violence, where analysis shows that intersectionality is rather marginal. The section describes the presence of inequality categories in terms of policy diagnosis and prognosis and it further explores the most commonly encountered ones (gender, age, class, ethnicity). It also addresses the inclusion of economic and global aspects in the policy documents to explain the problems and the solutions. Finally examples of neutralised intersectionality, covering all of the categories, and de-gendering of both perpetrators and victims are given, and the combination of equal treatment and a few special programmes as overall strategies are explained.

The report follows in section 4 with an analysis of the European institutionalisation of intersectionality by addressing the current EU gender+ equality machinery created to deal with different inequalities. The interface between European institutions and civil society organizations is discussed in section 5, by tackling the way in which both EU civil society and institutional voices deal with intersectionality in its practices and discourses.

The analysis of the most relevant changes for the understanding of intersectionality in the EU is carried out in section 6, by placing the emphasis at times on context (see section 6.1 on changes in the gender legislation and machinery) and other times on shifts in frames in non employment (in 6.2 the 'age' inequality emerges in the context of the EU demographic

change), intimate citizenship, which does not present any significant change (6.3), and gender based violence (6.4). The section ends with a summary of the main changes in the framing of intersectionality in the QUING issues (6.5).

Conclusions (in section 7) discuss implications of the process of institutionalisation of intersectionality in the EU, and draw some concluding remarks on the framing of intersectionality at the EU level and the interface between European civil society and institutions, thus tackling some of the questions posed at the beginning of the report in section 2. Four tables (one for each issue) summarising occurrences of intersectionality codes in the EU analysed policy texts are included in an Annex at the end of the report.

2. Literature review

In this literature review on intersectionality in the European Union, we first highlight the contributions that influenced this study of intersectionality in the EU, then summarise the main findings of the QUING State of the Art of the literature on the EU, and finally present a list of questions that we will explore, together with the QUING questions raised in the guidelines to the STRIQ report (point 7).

Relevant works on intersectionality in the EU

We can divide the most relevant contributions for this report into four sets: a first set that focuses on theoretical works on intersectionality, reviews of intersectionality literature that also include the EU, and studies that theorise political intersectionality in the context of the EU anti-discrimination approach; a second set that is centred on the institutionalisation of intersectionality both through the legal framework and the machinery created for dealing with inequalities; a third set of scholarly work on the framing of intersectionality in the European policy discourse; and a fourth set of contributions that places its emphasis on the interface between institutions and civil society, including the analysis of political struggles within European civil society.

Theorising intersectionality

At a theoretical level, Crenshaw's concept of political intersectionality is relevant for the study of intersectionality in the EU (Crenshaw 1989). It highlights the interdependencies between different intersecting inequalities (because strategies on one axis of inequality are mostly not neutral towards other axes) and in this way it helps to understand the limitations of the EU equality policies and the emerging dynamics of competition and alliances within the EU institutions and civil society. Crenshaw's example concerning the US context where the information about statistics on domestic violence police interventions broken down by district was blocked by domestic violence activists because of fears that such information might reinforce racial stereotypes helps to understand how political strategies by EU institutions and civil society might promote some social groups while marginalising others. For instance, EU gender equality policies can marginalize women from ethnic minorities, lesbians or disabled women, and EU measures on racism can marginalize women. The analysis of how intersectionality is put into practice in the EU needs to take into account the extent to which political intersectionality is addressed in the EU context, by reflecting on the risks of policies that, by privileging the treatment of some inequalities and ignoring that inequalities are often mutually constitutive, end up marginalising some people and reproducing power mechanisms among groups.

If on the one hand we are indebted to Crenshaw for her concept of 'political intersectionality', on the other hand, Crenshaw's perspective is less helpful in understanding the different type of approaches that can be adopted to apply political intersectionality. On this point, the analysis developed by Hancock (2007: 64) is useful in differentiating between

a 'unitary approach', a 'multiple approach' and an 'intersectional approach' to the study of inequalities. The unitary approach addresses one inequality at a time (for instance gender only, or race only) as the predominant or most explanatory one. The multiple approach addresses more than one inequality (for example race and gender), and all categories matter equally in a predetermined relationship to each other. Intersectional approaches also address more than one inequality (analysing, for instance, how race interacts with gender), but the relationship between the categories is an *open empirical question*. Categories are conceptualised in a dynamic interaction between individual and institutional factors, for instance by conducting more holistic research analysing potential cross-cutting roles of race, class, and gender in people's lives (Hancock 2007). While we do not conduct in this report a detailed analysis of this dynamic interaction, we nevertheless understand the 'intersectional approach' in a similar way to Hancock. We define an intersectional approach as one that treats inequalities by intersecting them rather than simply adding them up and/or considering them separately. But we do not have strong predetermined ideas of how an intersectional approach should look like. Rather, we think that political intersectionality should be treated as an 'empty signifier' (see Verloo 2007 for the concept of gender equality as an empty signifier) and then analysed empirically to assess how policymaking and civil society dynamics articulate it in specific contexts.

Hancock's analysis is also helpful to understand the EU case because it argues that the additive and multiple approaches lead to competition rather than cooperation between groups advocating for different inequalities. The additive and multiple approach treats categories separately and adds them up. Similarly to the unitary approach, it considers each category as relevant for political explanation and also assumes that individual memberships are permanent. This leads to 'Oppression Olympics' where groups compete for who is the most oppressed in order to gain political attention and economic resources (Hancock 2007: 68). This contributes to the understanding of processes occurring at the EU level with regard to institutional and civil society dynamics of competition (see sections 4 and 5).

To explore the type of approach that the European Commission has developed to the treatment of inequalities we also draw on Mieke Verloo's analysis of the 2004 Green Paper *Equality and Non-Discrimination in an Enlarged European Union*. Verloo (2006) contributes to the reflection on structural and political intersectionality in the EU by criticising the European Commission's simplistic approach to the treatment of inequalities. She argues that the Commission has adopted a 'one size fits all' approach that assumes an unquestioned similarity of the social categories connected to inequalities and of the mechanisms and processes that constitute them. By comparing inequalities of class, race/ethnicity, sexual orientation and gender, Verloo explores where and how structural and political intersectionality might be relevant and argues that focusing on similarities ignores the differentiated character and dynamics of inequalities. The article is relevant for this report not only for its theoretical contribution to the study of intersectionality, but also because it provides a critical account of the European Commission's anti-discrimination approach that makes us reflect about the importance of institutional mechanisms in setting

the terms for the (complex or simplistic) treatment of intersectionality and in reproducing social inequalities.

Finally, Walby's literature review on intersectionality is also a background for this paper due to the comprehensive analysis of current theoretical work on the issue and the focus on studying intersectionality by looking at the interface between institutions and civil society (Walby 2007). The review also includes a specific section on intersectionality in EU equality policies with the broadening of the grounds of inequality under the EU remit which resulted from Article 13 of the Treaty of Amsterdam.

Institutionalising intersectionality

Relevant scholarly work for this report includes studies that focus on the institutionalisation of intersectionality in the EU, in terms both of the legal framework created around it and the machinery that has been established to deal with the treatment of inequalities.

The EU legal framework on anti-discrimination has been studied in particular by legal scholars such as Bell (2002; 2000; 1999), Shaw (2005; 2004), Fredman (2005), Ellis (2005), and McCrudden (2005). The work of Mark Bell (2002; 2000; 1999) and Jo Shaw (2005; 2004) has been especially relevant for this report. In his detailed analysis of the EU legal framework on anti-discrimination from Article 13 to the race equality Directive 2000/43/EC and the Employment Directive 2000/78/EC, Bell (2002) argues that the EU equality legal framework has developed unevenly, with differentiation between the various equality axes by scope and even the level of protection. The difference in paths of development, level of protection, scope of the policy instruments, and comprehensiveness associated with each inequality strand in EU equality policy has led him to talk about a 'hierarchy of equality', where gender is privileged. Shaw (2005; 2004) develops an analysis of EU concepts of non discrimination, mainstreaming, equality, and diversity and problematises the different legal treatment that the EU has given to the inequality axes under Article 13. In her discussion of political strategies, Shaw (2005; 2004) analyses the extent to which the EU has mainstreamed equality and not only gender. She concludes that the only emerging EU application of a mainstreaming strategy away from gender has been in the field of race and ethnicity and, to a lesser extent, disability and age, but she also admits that these initiatives had limited success and revealed a confused approach to addressing the issues.

Drawing on the literature on the EU legal framework on intersectionality and on the direct analysis of the EU political context on equality, Lombardo and Verloo (2009 forthcoming) explore the extent to which intersectionality has been institutionalised in the EU. They do so by considering the legal and political framework that has been developed around intersectionality, and the type of institutional machinery that has been established to deal with different axes of inequality in the EU. They conclude that while the Commission and the European Parliament have recently shown interest in 'multiple discrimination', there is little evidence of political practices currently incorporating an intersectional approach to the treatment of inequalities.

Framing intersectionality

Research on the framing of intersectionality in the European Union policy discourse has been developed by a group of scholars working in the European MAGEEQ project. Verloo's edited volume (Verloo 2007) maps the diversity of meanings of gender equality across Europe and reflects on the contested concept of gender equality. It comparatively explores the different meanings of gender equality in the European Union and six member states (Austria, the Netherlands, Hungary, Slovenia, Greece and Spain) in relation to the issues of family policies, domestic violence, and gender inequality in politics, while specific national contexts enable a focus on the issues of prostitution (Austria, Slovenia), migration (The Netherlands, Greece), homosexual rights (Spain), and anti-discrimination (Hungary). Lombardo and Verloo (2008 forthcoming) draw on MAGEEQ research to explore the framing of intersectionality in European gender equality policies in order to understand the extent to which gender equality policies refer to intersectionality in their policy discourses and, if they do so, how they conceptualize it.

MAGEEQ's findings reveal absence and biases in the treatment of political intersectionality in European gender equality policies; this shows that political intersectionality is still at an embryonic stage when it comes to European policy making and that the existence of racist, ethnic, or homophobic bias in the formulation of equality policies could hinder the mainstreaming of intersectionality in official gender policy documents. The project reflects on what the framing of intersectionality in gender equality policies, or its absence, suggests about the nature of the process of stretching gender equality to other inequalities, pointing to the difficulties that public policies show in stretching gender equality to address multiple forms of inequality.

Citizenship and interface between institutions and civil society

A final set of work that was considered in this paper explores issues related to citizenship and intersectionality in the EU and to the interface between EU institutions and civil society. Gender scholars have paid some attention to the intersection of gender and ethnicity in the EU. Hoskyns' notorious study from 1996 had already included an analysis of how EU policy affected black and migrant women. Sales and Gregory (1996) analysed the impact of the increasingly exclusionary policies adopted by EU member states in relation to migrant women, particularly refugees, and drew attention to the consequences of such policies for minority ethnic groups. Walby (2004) tackled some issues related to the intersection of gender and inequalities of class and ethnicity when analysing how changes in EU gender policy are affecting women's employment and education.

Williams (2003) is particularly interesting for our analysis of political intersectionality in the EU for the account she provides of the struggle of Black, ethnic minorities and migrant women to make their voices heard in the European Union. In order to make their claims for recognition in the European Union polity, organisations of Black, ethnic minorities and

migrant women had to open a way on two fronts. On the one hand, they had to struggle within a European Women's Lobby whose representatives in the 1990s were mainly white, middle-class, professional women, not particularly open to different women's voices, and with the European Migrants' Forum's disinterest in gender issues (Williams 2003; but also Hoskyns 1996). On the other hand, they had to deal with EU institutions that in the 1990s had just started to discuss issues of racism and xenophobia, but did not see race and gender as intersecting inequalities (Williams 2003).

Thus, Black, minority ethnic and migrant women had to advocate for the inclusion of their experience of sexism and racism in EU politics and in the EWL mobilisation strategies. The 1990s campaign of Black and migrant women within the European Women's Lobby challenged the position of the EWL by activating an internal discussion that moved the NGO to a greater recognition of different women's experiences (Williams 2003; Hoskyns 1996). But it also contributed to the emergence of a discourse on race equality in the EU political arena that led to the development of an EU anti-discrimination policy, starting from Article 13 of the Treaty of Amsterdam in 1997 and continuing with the Directives 2000/43 and 2000/78 (Williams 2003). Williams' contribution to the study of intersectionality in the EU shows how new social struggles enable a continuous challenging of hegemonisation processes that take place not only within the EU institutions but also within European civil society.

The analysis of the interface between institutional actors and civil society also suggests that EU institutions, through their policy measures, have a potential impact on triggering or discouraging territorial mechanisms that limit civil society's cooperation on gender and other complex inequalities (Lombardo and Verloo 2009a; Lombardo and Verloo 2009b). When policymakers dealing with gender or women's NGOs are asked to pay attention to multiple inequalities in the articulation of their policies and demands, they can be discouraged by the limited economic and political resources available and/or by particular institutional procedures that provoke the appearance or reinforcement of territorial mechanisms. The European Women's Lobby's criticism of the Commission Green Paper's approach of addressing inequalities through a general anti-discrimination strategy that squeezes all inequalities together shows that insufficient resources and neglecting the social, cultural, and political dynamics of each inequality might easily lead to conflicts and power struggles within different discriminated groups (see European Women's Lobby 2004; Verloo 2006). Hence, territorial reflexes can be triggered by particular institutional practices that favour or discourage intergroup competition or solidarity. Reflecting on the dynamics within European civil society triggered by the EU anti-discrimination approach, Lombardo and Verloo (2009a) support the work of Butler (1993) on productive antagonism, Mouffe (2000) on radical democracy and agonism, and Schmidt-Gleim and Verloo on "Princesse" (2003). Lombardo and Verloo (2009a) argue that antagonism is not only unavoidable, but can be destructive or productive depending on the institutions created to accommodate the antagonistic struggles. This body of literature can suggest ways of looking at how EU institutions frame the terms of debate on equality, and the demands institutions make of policy actors. Are these terms and demands framed so as to promote deliberative / cooperative activities among groups or to foster territorial mechanisms?

Particular articulations of political intersectionality on the part of EU institutions are more conducive to triggering territorial mechanisms than others. For instance, the EC use of a unitary approach to inequalities centred on gender, which is in the process of shifting towards a multiple and additive approach to different inequalities (Hancock 2007), has resulted in competition among the different inequality groups. In particular, it has created dynamics of competition between gender (the previously privileged unitary approach) and other inequalities (with an emphasis on race as a more privileged category than sexual orientation and religion or belief). The institutionalisation of intersectionality in the EU through the creation of separate bodies for the treatment of some inequalities (gender, disability) and single bodies for the treatment of all inequalities but which privilege *de facto* one inequality (race/ethnicity), can also trigger competition dynamics (see section 4 and 5). Finally, the Commission's privileging of NGO approaches that are closer to its favoured integrated approach to inequalities also puts civil society groups that prefer unitary approaches (such as the EWL) against those favouring integrated ones (e.g. European Network Against Racism, International Lesbian and Gay Association).

The institutional context of the EU can both enable and constrain civil society participation. The civil society actors most likely to participate at the transnational level are the resourceful ones, those with the most organisational strength and recognition. The participation processes do not result in the inclusion of a diversity of claims if they are not accompanied by organisation-building processes from below. Rolandsen Agustín (2008) shows how the policy-making process prioritises institutional legitimation and efficiency over deliberation and pluralism of claims in civil society. The organisations promoting gender+ equality policies need to employ framing strategies to make their claims on equality resonate with the dominant discourse of economic growth found in EU policies and are therefore constrained. Furthermore, by prioritising an integrated approach to diversity (considering several inequalities together), the EC uses the different preferences of the transnational civil society networks in the equality field to promote a particular approach as the legitimate one. Some organisations or networks benefit from the integrated approach whereas others prefer to maintain a separated approach to dealing with inequality-generating categories. The former more easily make their voice heard since their preferences correspond with the *a priori* established approach of the EU. Gender-related organisations seem particularly challenged by the change in policy focus; they could take the opportunity to include marginalised women or they could resist the integrated approach since it poses a risk of mitigating the position of gender equality as a privileged policy issue. All in all, these strategic interests challenge the notion of 'women's interests' and the practices of gender-related civil society actors. They have to use their voice in a strategic way in order to defend their interest and make their claims fit a particular frame, and to seize the new opportunities this implies (Rolandsen Agustín 2008).

QUING State of the Art on the literature on gender+ equality in the EU

In the State of the Art of the literature on gender+ equality in the EU carried out in the first stage of the QUING project (see Espírito-Santo, Reglero and Lombardo 2007) we reviewed a number of works related to the study of intersectionality in the EU. We will mention here only a few of the contributions from the State of the Art that have not thus far been discussed to give an outline of the main areas of inequality that have been studied in the EU case. The studies reviewed in the State of the Art seem to focus on the following inequalities, which are sometimes treated as intersecting: ethnicity, migration, nationality, sexual orientation, gender, and the intersection between sexual orientation and migration or between gender and migration.

A number of legal studies discuss inequalities of race (Shaw 2004; Bell 2002), sexual orientation (Bell 2002) and the gender+ equality aspects of immigration within the EU (Apap 2002), with particular reference to gender, migration and ethnic minorities (Knocke 2000), gender and race/ethnicity (Kofman et al 2001), and class, race/ethnicity, sexual orientation, age, and gender (García-Ramón and Monk 2002).

In the same vein, Elman (2007) discusses the notion of sexual equality in EU politics, considering aspects and intersections of race, ethnicity, class, sexuality and gender. Through an analysis of combating violence against women, trafficking, racism and heterosexism, the author concludes that policies are constructed as a result of complex influences in a multilevel governance system. Policies are created in interaction and cannot only be attributed to intentional, planned efforts by specific political actors. This has implications for intersectionality and the handling of different inequality-generating categories since responsibility for the problems and solutions in EU politics are 'scattered and elusive' which leads to a virtual, not a substantive, sexual equality in practice (Elman 2007).

Issues of intimate citizenship have been of particular concern in scholarly work on gender and other inequalities in the EU: the rights of same-sex partners (Bell 2002; Stychin 2001; Elman 2000), and the rights of international migrants in the European Union in relation to partnership rights, residence permits, family reunification and same-sex sexual rights (among others Elman 2000; Kofman and Sales 2000; Morris 2002; Toner 2003). Bell (2000) discusses 'citizenship' and EU 'nationality', addressing the issue of transnational partnerships, migration, and other inequalities beyond sexual orientation. Stychin (2001) also deals with issues of nationality and citizenship status in the EU in relation to race/ethnicity and sexual orientation.

Questions

We would like to suggest a number of other questions that could integrate the QUING questions prepared for this report. Some of them have been inspired by readings included in the literature review on intersectionality in the EU and others have emerged during the

Vienna debates on intersectionality. While we will answer some of the questions in this report, others will be kept open for future research (e.g. the WHY and STRIQ reports which focus more specifically on the “why?” questions). Our questions tend to follow the triadic structure that underpins this report: the framing of intersectionality, the institutionalisation of intersectionality, and the interface between institutions and civil society.

A first general question is:

- to what extent is intersectionality put into practice in the EU?

This can be translated to correspond to the three different levels:

- to what extent do changes in the framing of concepts of equality (often reflected in changes in the legal framework), in the machinery, and in the debates and dynamics both at the institutional and civil society levels show practices of intersectionality?

We can further specify our questions by distinguishing the focus on the framing of intersectionality, on its institutionalisation, and on the interface between institutions/civil society.

The first set of **questions focusing on the framing** of intersectionality in the EU has emerged particularly from the experience of the previous STRIQ workshop in Vienna, as well as from previous QUING research:

- How do European Union policies construct/frame intersectionality?
- To what extent do European Union equality policies include intersectional approaches?
- Why is an intersectional approach applied, or not applied, in EU equality policies?
- To what extent do European gender policies reproduce inequalities in their discourses?
- To what extent do European equality policies maintain invisibility of social inequalities in their discourses?
- What do the absences (of relevant intersecting inequalities) in political discourses mean? That is: what do absences tell us about the underlying concept of equality that the EU is promoting? And what implications does a particular EU framing of equality have for people in Europe?

The question of the invisibility of social inequalities, which is a key point to consider from an intersectional approach, is also addressed in Lombardo and Verloo (2009a). Here the authors suggest that stretching the notion of gender equality to other inequalities is a necessary step for reaching the goal of equality. The chapter drives us to reflect on the following points:

- How is the interdependency between gender inequality and other social inequalities constructed in EU policy discourses?
- Can this interdependency of inequalities be tackled through a unitary or rather a differentiated political strategy?

- How do European civil society organizations frame intersectionality in their policy discourses?

Questions on the framing also concern specifically the EU legal framework on intersectionality:

- How is intersectionality named, and how broad is the meaning of intersectionality in the EU legal framework?
- What differences in the level of protection and scope have been established among the various inequality axes?
- What political strategies have been adopted to deal with different forms of inequality?

A second set of questions focuses on the **institutionalisation of intersectionality** in the EU:

- What are the main institutional bodies dealing with gender and other inequalities?
- What were the main contentious points in debates around the creation of the latest bodies on gender and other inequalities?
- Is the EU legal framework on equality consistent with the political machinery (e.g. separate legislation for each strand, separate equality bodies, or integrated legislation, integrated equality body)? And does consistency matter for the application of intersectionality anyway?
- How do EU equality bodies deal with intersectionality?

Finally, a third set of questions is centred on the study of the **interface between institutions and civil society**. The aim is to better understand the reasons behind alliances and competition between different groups representing different inequality axes and the positioning of institutions in the debate (Walby 2007). The questions we ask are the following:

- How do civil society organisations at the EU level deal with intersections of inequalities?
- What dynamics of alliances or competition between gender and other inequalities are at work in European civil society?
- What do civil society's dynamics tell us about the practice of political intersectionality in the EU?
- How do the different institutional responses to the treatment of inequalities affect existing groups' dynamics?

3. Framing intersectionality in the European Union

In order to understand the meaning and practice of gender + equality practices and discourses at the EU level, in this section we address the implications of different versions of intersectionality in all of the four QUING issues. Thus, we try to identify the main inequalities having an impact on European gender + equality policies and the most visible intersections considered in each of the issues. In addition, we aim to distinguish whether intersectional perspectives are central or marginal in EU documents. A couple of points that will be highlighted in this section are whether there is a tendency for intersectionality to be present in particular types of documents and whether an increased focus on some intersectional groups may be de-gendering European policies and discourses.

3.1 Naming intersectionality at the EU level

The approach used in the EU to treat the different inequalities covered under Article 13 is that of ‘anti-discrimination’, which gives a definition of the policy field that focuses on the prohibition of discrimination. However, when referring more specifically to intersectionality at the EU level, we have found an unquestionable prevalence of the term “multiple discrimination”. This concept is used by European institutions in official documents, by civil society organizations, and in expert reports whilst the concept of intersectionality is not used.

To present a broader perspective of the multiple discrimination approach in European Institutions, we have centred our attention on three main bodies, namely: the European Commission Units G1 on Equality between women and men and Unit G4 on Action against Discrimination, Civil Society, and the Fundamental Rights Agency.

Within the European Commission Directorate-General of Employment, Social Affairs and Equal Opportunities the Unit G1 on Equality between women and men aims to mainstream gender equality into all Community policies. With this purpose, several gender strategies have been developed. The current gender equality plan adopted by the Commission is the European Roadmap for Equality between women and men 2006-2010². The document takes into consideration several intersectional inequalities combined with gender such as marital/family status, ethnicity, migrant status, age and class. However, these inequalities are not deeply addressed and the concept of intersectionality is not used to show their interplay with gender. “Multiple discrimination” is the concept referred to in the document, even though this does not imply itself the development of an entrenched intersectional approach within the Unit.

A shift in the development of an intersectional perspective has been found in the European Commission Unit G4 on Action against Discrimination, Civil Society, where a larger focus on

² http://ec.europa.eu/employment_social/gender_equality/gender_mainstreaming/roadmap_en.html

“multiple discrimination” can be identified. This is reflected in the 2007 publication “Tackling Multiple Discrimination. Practices, policies and laws”³ in which recommendations are made to “address and combat Multiple Discrimination effectively from both a legal and from an awareness-raising point of view” (page 53). Based on several publications, the document provides an outline of the concepts of intersectional discrimination, compound discrimination and multiple discrimination. Differences between these concepts are also explained. Following what expert scholars on the issue have said, the document states that “multiple discrimination” describes the situation where, on the basis of several grounds working separately, discrimination takes place. In contrast, “intersectional discrimination” is defined as the situation where, on the basis of several grounds interacting together and thus being inseparable, discrimination exists. The concept of an ‘intersectional approach’ is then mentioned (p. 17), but it is treated as a way of dealing with the needs of victims of multiple discrimination in practice.

The third European body that is relevant to address in relation to intersectionality is the Fundamental Rights Agency (FRA). Following the regulation implementing its adoption⁴, the FRA 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). The FRA does not use the term intersectionality, but rather that of multiple discrimination. In spite of its reference to multiple grounds of discrimination, the Agency is mainly focused on inequalities based on ethnic origin and migrant/national status and must include among its areas of activity the fight against racism and xenophobia. This is not surprising considering that the Agency replaces the former European Monitoring Centre on Racism and Xenophobia (EUMC).

At the EU governmental discourses level, the Lisbon Strategy⁵ (the current EU economic and employment strategy) also provides insight into the terms and intersections considered by EU institutions. Unlike the inequalities considered by the above mentioned bodies specialised on equality issues, the Lisbon strategy is more focused on issues of age and disability. Considerations of other kind of inequalities are simply omitted and made invisible within the term “minority groups”.

Regarding civil society, we have selected a couple of key organizations to find out the main trends developing at this level. Firstly, the EWL tends to confirm the institutional way of referring to the interplay of related discriminations; the term “multiple discrimination” is used by the Lobby and defined as the concept used “to indicate the fact that many women face multiple barriers and not only discrimination based on sex and gender”⁶. Some examples of

³ http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/multdis_en.pdf

⁴ 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.

⁵ http://www.europarl.europa.eu/summits/lis1_en.htm

⁶ http://www.womenlobby.org/site/1Template1.asp?DocID=20&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=&parentCat=20

the groups facing double or multiple discrimination given by the Lobby are⁷: young women or, for instance, black young women (suffering discrimination on the employment market and particularly in the access to decision-making positions); lesbians (suffering discrimination in the labour market as well⁸); migrant women (suffering discrimination in the labour market and regarding social and civil rights) and, finally, women and girls with disabilities (suffering discrimination on rights about their own bodies, and facing violence).

Secondly, it is worth considering the discussion of the European Network Against Racism (ENAR) around the concepts of multiple, compound and intersectional discrimination in its “Multiple Discrimination Fact Sheet 33”⁹. This report does not show a clear position of the organization in favour of one or another term. Nevertheless, it is useful in reflecting the increasing awareness of the intersectional perspective which takes into account that, more than separately, discrimination occurs simultaneously and at various intersections between grounds of inequality.

3.2 Intersectionality in ‘non employment’ issues

Two main questions are addressed within this section. On the one hand, we cover the development of European legislation on intersecting inequalities and the role of civil society in the consideration of multiple inequalities. On the other hand, we examine the employment rates considered by European actors in order to identify possible divergences between institutional and civil actors when dealing with different social inequalities within the European labour market. Do civil society and EU institutional documents similarly articulate social inequalities? Is there any difference in how civil society and institutional voices focus on intersectional employment rates? Is there any difference in the social inequalities considered by EU institutions and European civil society organization? We finalize the non employment section with a general conclusion.

Intersecting inequalities, visibility of intersectionality, de-gendering, and civil society role in ‘non employment’ issues

As stated in this report, attention to intersecting inequalities in European equality policies is not a broadly established trend at the moment. Furthermore, gender inequalities tend to be treated through a separate gender approach, far from considering and giving visibility to other important factors causing social inequalities among women. The same occurs in non-employment documents; in addressing intersectionality, only specific social inequalities are considered which does not reflect the real social scope of combined inequalities existing in the current European multicultural society.

⁷ Ibidem.

⁸ These underlined grounds of discrimination are highlighted by the Lobby, not by the authors, who in fact find limited the grounds considered (e.g. what about discrimination against lesbians in family issues?).

⁹ http://cms.horus.be/files/99935/mediaarchive/pdf/fs33_multipliediscrimination_july2007_en.pdf

From its beginning, the EU centres its equality strategies on *gender* inequality (mainly focused on the concept of equal opportunities and equal treatment in the labour market) – as the several legal measures agreed in the EU show. The articulation of *class* first (though implicitly), and *marital/family status* second, appear as the main intersections of social inequalities between women and men included in European legislation. While gender and class inequalities have been addressed in EU legislation from the 50s (Article 119 on equal pay for equal work, 1957 Treaty of Rome -now article 141 of the Treaty of Amsterdam¹⁰), marital/family status intersecting with gender was not included in EU legislation until the 1970s (Council Directive 79/7 EEC of 1978, article 4.1¹¹).

Between the end of the 90s and the first decade of the 21st century, two key shifts take place in the European policy arena. One is that other intersections apart from gender, class and marital/family status began to be included in European employment equality policies. The other is that equality policies started to extend in scope to fields other than the labour market. Notwithstanding these significant factors, intersectional approaches in the fields of employment and beyond cannot be said to characterise EU equality policies.

¹⁰ This provision has been reinforced and complemented by: Council Directive 75/117 EEC of 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women; Communication from the Commission, COM(96) 336 of 1996 on “A code of practice on the implementation of equal pay for work of equal value for women and men”; Article III-214 Charter of Fundamental Rights of 2000 On equal pay for equal work; European Parliament and Council Directive 2002/73 /EC (amending Directive 76/207 EEC) of 2002 On equal treatment as regards access to employment, self-employment and occupation, including working conditions and vocational training and promotion; Directive 2006/54 /EC – recast (bringing together Directives 75/117 EEC, 76/207 EEC as amended by 2002/73, 86/378 EEC as amended by 96/97 and 97/80 EEC as amended by 98/52) of 2006 Introducing principle of equal opportunities and equal treatment of men and women in relation to employment and occupation.

¹¹ In Directive 79/7/EEC the principle of equal treatment means that there shall be no discrimination whatsoever on ground of sex either directly, or indirectly by reference in particular to marital or family status, in particular as concerns: - the scope of the schemes and the conditions of access thereto, - the obligation to contribute and the calculation of contributions, - the calculation of benefits including increases due in respect of a spouse for dependants and the conditions governing the duration and retention of entitlement to benefits. This measure considering the intersection of gender and marital/family status has been reinforced by the following laws: Council Directive 86/613/EEC of 1986 on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood (Article 3 for the purposes of this Directive the principle of equal treatment implies the absence of all discrimination on grounds of sex, either directly or indirectly, by reference in particular to marital or family status); Council Directive 86/378/EEC of 1986 on the implementation of the principle of equal treatment for men and women in occupational social security schemes (Article 5. 1. Under the conditions laid down in the following provisions, the principle of equal treatment implies that there shall be no discrimination on the basis of sex, either directly or indirectly, by reference in particular to marital or family status...); Council Directive 92/85 EEC of 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding; Council Directive 96/97/EC of 1996 amending Directive 86/378/EEC; Directive 2002/73/EC of the European Parliament and of the Council of 2002 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (Article 2 shall be replaced by the following: "Article 2. 1. For the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status).

Regarding the extension of the material scope of equality policies to areas *beyond employment*, the Treaty of Amsterdam (1997) included a provision for combating discrimination based on sex outside of the labour market field (article 13.1). In addition, Directive 2000/43/EC was approved to combat discrimination on the grounds of race or ethnic origin not only in employment but also outside of the labour market (education, social protection and access to goods and services, including housing, were introduced in the law). The fact that this Directive does not mention any other kind of social inequality intersecting with ethnic origin¹² could suggest the European tendency to develop separate approaches in addressing social inequalities.

With regard to the introduction of *other social inequalities* in addition to gender, class (implicitly) and marital/family status in European equality policies, the Treaty of Amsterdam also included a provision expressing the will to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation (article 13). This provision was implemented three years later through the Council Directive 2000/78/EC establishing the legal framework for equal treatment in employment and occupation irrespective of religion or belief, disability, age or sexual orientation.

In spite of the fact that EU legal measures introduce some kind of *intersection between gender and class* inequalities, the intersection is articulated in an implicit way and is not deeply addressed in the documents selected for the analysis: class and gender are most frequently considered as separate categories.

The *intersection of marital/family status with gender* is much more developed in the documents. It is interesting to highlight how legal documents and parliamentary interventions are the texts mostly addressing this intersection. Concerns regarding reconciliation and the lack of public care services are the most common issues in which marital/family status is considered to be intersecting with gender.

These conclusions show a general characteristic: the non consideration of intersectionality as a key concern of European policies in non-employment. A particular feature of this is the tendency to use *de-gendered language*. Certain European documents analyzed for the QUING project tend to emphasize the trend of naming de-gendered intersectional groups at the same time as attention to intersectionality is slightly increasing. Examples of this are documents where concepts such as “migrant domestic workers” are used instead of *female* migrant domestic workers. Another significant example to highlight is when age and class are addressed as minor inequalities (poverty risk among elderly because of minimum pensions and minimum incomes) but a gender vision is not developed, even though it is well

¹² Gender (mainstreaming) is only once mentioned, in Article 17.2, when referring to the Report that Member States should direct to the Commission on the progress made in the application of the Directive: “In accordance with the principle of gender mainstreaming, this report shall, *inter alia*, provide an assessment of the impact of the measures taken on women and men...”

documented that the feminisation of poverty is one of the key features of current gender inequalities.

In non-employment issues, intersectionality is slightly more articulated in *civil society* documents than in institutional ones. In addition to class, age and marital/family status as inequalities intersecting with gender, disability and migrant status are broadly considered as well. The tendency to use de-gendered notions is not so extensive in civil society texts. For instance, the intersection of gender with migrant status is recognized when addressing the precarious labour situation of domestic workers. In addition to the findings highlighted in the document analysis report, it is worth noting that the EWL, as the main civil society actor considered in the EU study, is increasingly paying attention to intersectional factors such as migrant/citizenship status, an inequality that was specifically tackled in EWL's Guiding Principles Report on Migrant Women's Rights of January 2007¹³. In spite of this evolution, and the emerging references to the diversity of women's experiences as disabled, lesbian, and women of minority ethnicity, the EWL has not clearly articulated how to deal with gender and intersectionality.

More recently than class and marital status intersecting with gender, *age* has also been considered a significant axis of inequality in EU non-employment issues. After the introduction of Article 13 in the Treaty of Amsterdam and Directive 2000/78, several measures have also been taken regarding the protection of elderly people in non-employment-related issues. For instance, the European Employment Strategy, in its aim to help certain disadvantaged social groups (such as women) to get into the labour market, seeks to have 50% of older workers in employment by 2010. This concern about the elderly employed population is mainly related to the problems that a general decrease in the employed population in European societies creates for the labour market and the need to adapt social protection systems to current demographical tendencies. The Roadmap for Equality between women and men (2006-2010) gives visibility to *gender and age intersections*, with the purpose of developing indicators that show the gender pay gap by age.

However, neutral and de-gendered concepts such as elderly people are more often mentioned in the Roadmap as well as in the other non-employment European documents. The use of these concepts reinforces the tendency to *de-gender* intersectional groups at the same time that a focus on some groups at intersections is increasing. For instance, it is significant that in the will to increase care services regarding the growing ageing population, the documents analyzed do not mention the fact that this elderly population is mostly composed of women who are, in fact, also in greater danger of social exclusion and poverty. In this respect, the European Older People's Platform (AGE) states that "gender discrimination is a particular problem to older women and implementation of EU legislation has so far proved inadequate to ensuring that equality between women and men turns from

13

http://www.womenlobby.org/site/1abstract.asp?DocID=1917&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=&parentCat=534

principle into practice". Although "gender policies are essential in mitigating the consequences of demographic ageing"¹⁴, it seems that European equality policies do not undertake an integrated approach to gender and age intersections.

Thus, we can conclude that the lack of a gendered intersectional approach in non-employment related equality policies and data is a common characteristic at the EU level. This is particularly noticeable in the *absence of employment data* related to women disaggregated by minority ethnic or religious origins while data on different gaps between genders is slightly more common (for more details see the next section on 'Differences in employment rates')¹⁵. This results in the *absence of accessible employment rates* reflecting the diversity of the female working population. It is the gender social inequality- between women and men- in a non-intersectional perspective which is mostly addressed by institutional documents. Recognition of the more disadvantaged labour position of women belonging to minority groups in the European Union is provided in institutional texts but data on employment rates amongst women of different ethnic groups is not easily accessible. An exception to this has been found in the 2006 European Parliament Committee on Women's Rights (CWR) report on women's immigration¹⁶ where references to employment and unemployment rates, earnings and educational qualifications for migrant women (from third countries and those from EU Member States) are provided in comparison to EU-national women.

To respond to this lack of labour data amongst women, some civil society organizations such as the EWL provide certain significant data on the issue, focusing attention on migrant female groups. As it is stated, the differences in employment rates between nationals and non-EU women are pronounced: "Whereas 68% of women nationals in the Union aged 25 to 39 were employed in the year 2000, the figure for non-EU women nationals is only around 44%. At the same time, the unemployment rate for the latter averaged 19% as opposed to 10% for nationals"¹⁷.

The Lobby frames these differences in terms of the disadvantaged social position of migrant women. Poverty, displacements and other external factors over which migrant women have little control are highlighted by the Lobby as major reasons for migrating. In addition to this and in a broader perspective, the EWL emphasizes the necessity of developing gender

¹⁴ AGE Report on the Introduction to the European Institutions and the European Union policy-making processes of relevance to older people, <http://www.age-platform.org/EN/IMG/AGE-UK-brochure-web.pdf>

¹⁵ See, for instance, the Eurostat provided data and the European Commission database on Women and Men in Decision-Making (http://ec.europa.eu/employment_social/women_men_stats/indicators_in5_en.htm),

¹⁶ Committee on Women's Rights and Gender Equality "Motion for a European Parliament Resolution on Women's Immigration: the role and place of immigrant women in the European Union" (2006/2010(INI)). PDF file, 17 pp. Available at: http://www.afrikas-perspektive.de/fileadmin/user_upload/downloads/Dokumente_EU/Europaeisches_Parlament/EP_Report_on_women_s_immigration.pdf

¹⁷ http://www.womenlobby.org/site/1abstract.asp?DocID=301&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=&parentCat=534

disaggregated statistics for the migrant population in employment in order to identify gaps and develop efficient employment policies¹⁸.

Differences in employment rates

As we argued above, European Institutions do not seem to pay particular attention to different employment rates between women and men by different intersectional inequalities. Very often, the use of intersectional inequalities is contrasted with the use of de-gendered notions or non-intersectional considerations. The use of a moderately multiple discrimination perspective is at the same time present in the same study or document. Several documents have been selected as examples of this.

The most recent European Council Joint Employment report¹⁹, for instance, does not provide any data reflecting intersectional differences between women and men. Instead of using concepts differentiating the gendered features of people, notions such as older workers, young people or people with disabilities are used. By contrast, the 2007 European Commission report on employment in Europe²⁰ employs a gender perspective to note the differences between the female and male labour force, even including recognition of the age factor in the female and male employment rates. Nevertheless, no intersectional perspective is developed in the study. The same characteristic (non intersectional approach but gender-age data) can be found in the 2006 EU Labour Force Survey²¹.

The European Foundation for the Improvement and Living Conditions annual review on working conditions 2005-2006²² does not pay much attention to intersectional employment data either. Again, non intersectional notions such as disadvantaged groups or workers are mostly used. Even so, the relation between age and sex²³ is considered in the text as is the relation between disability and sex²⁴. However, this is only slightly significant because different employment rates are considered from a general and not an intersectional perspective of gender. In another study on employment guidance for people with disabilities²⁵, this EU body also uses de-gendered concepts. 'Persons with disabilities' is the frequently used notion and no mention of the different situation of disabled women and men is made in the report. However, the relation between disability, illness and age is to some

¹⁸ EWL Report of January 2007 on the Workshop "Equal Rights, Equal Voices. Migrant Women in the EU", 68 pp. Available at: <http://www.womenlobby.org/SiteResources/data/MediaArchive/Publications/1817%20BR%20en%20MP01LR.pdf>

¹⁹ Council of the European Union Joint Employment Report 2007/2008 on the annual progress of the European Employment Strategy, <http://register.consilium.europa.eu/pdf/en/08/st07/st07169.en08.pdf>

²⁰ http://ec.europa.eu/employment_social/employment_analysis/employ_2007_en.htm

²¹ http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-07-010/EN/KS-QA-07-010-EN.PDF

²² <http://www.eurofound.europa.eu/pubdocs/2006/20/en/1/ef0620en.pdf>

²³ I.e. Figure 10 and Table 3.

²⁴ I.e. Figure 21.

²⁵ European Foundation for the Improvement of Living and Working Conditions report on Employment Guidance services for people with disabilities, <http://www.eurofound.europa.eu/pubdocs/2006/33/en/1/ef0633en.pdf>

extent addressed in the document when referring to the lesser presence of these groups in the workforce. The frame underlined the document is again a combination of anti-discrimination goals and economic growth intentions.

With regard to employment rates by *sex and age*, several European studies provide current data on the intersection. The gender-age interplay is thus the most referred one in the consulted documents. A European Commission report based on Eurostat data²⁶ highlights different employment rates of women and men by age group. However other different employment averages provided in the study (part-time, unemployment, temporary work, etc) are only presented by sex omitting reference to other intersectional factors.

In addition, the European Foundation for the Improvement of Living and Working Conditions has recently published a report²⁷ in which differences between the male and female workforce are emphasized. The European Lisbon Strategy goal to increase the overall employment rates to 70% in 2010 is used as the main reference of the study. The concrete goal of achieving an average employment rate among older people aged 50-64 years reflects the specific interest of the report. Additionally, the report makes references to the working conditions of young workers. Age discrimination in employment towards the youngest and oldest age groups is highlighted as one of the main causes for not remaining in the labour market. However, a decrease in the proportion of workers reporting age discrimination is mentioned. The findings of the study also point to the incidence of multiple forms of discrimination. To some extent, an intersectional approach is confirmed although the use of this term is missing. The interplay between gender discrimination and age discrimination is clearly distinguished in the study²⁸. Other factors of employment discrimination intersecting with gender, such as education, nationality, type of contract, sexual orientation, ethnic origin and religion, are mentioned in the study. Even so, no in-depth considerations are made in this respect²⁹.

Remaining in the labour market seems to be one of the key goals to be achieved by EU institutions in order to overcome the challenges related to the increasing expenditure of health and care for elderly people, the proportion of who are notably increasing within the EU population. Therefore, the different employment rates by sex and age are framed not only in terms of discrimination but further in terms of the *sustainability of pension systems* and *economic growth*. In order to encourage workers to remain in the labour market and thus achieve the Lisbon Strategy employment targets by 2010, four factors are distinguished as key to shaping the age structure of Europe's workforce: ensuring career and employment

²⁶ The Social situation in the EU 2007, Social cohesion through equal opportunities, http://ec.europa.eu/employment_social/spsi/docs/social_situation/ssr2007_en.pdf

²⁷ Working Conditions of an ageing Workforce, 2008, <http://www.eurofound.europa.eu/pubdocs/2008/17/en/1/ef0817en.pdf>

²⁸ The concept of "gendered ageism" described by Itzin and Phillipson (1995: Itzin, C. and Phillipson, C., "Gendered ageism", in Itzin, C. and Newman, J. (eds.), Gender, culture and organisation change, London, Routledge, 1995, pp. 81–90) describing the combination of ageism and sexism factors is referred to in the text.

²⁹ See Table 6 on Incidence of Multiple Discrimination and age discrimination, by sex (%), pp. 27, <http://www.eurofound.europa.eu/pubdocs/2008/17/en/1/ef0817en.pdf>

security; maintaining and promoting the health and well-being of workers; developing skills and competencies; and reconciling working and family life. These considerations reinforce the idea of the double perspective in which employment inequalities are framed by institutional actors: on the one hand, an ethical approach based on anti-discrimination goals; on the other hand, an economical approach related to the European Employment Strategy and economic growth.

The EU body Eurofound has also published this year another study on gender differences in the labour market³⁰. Again, age is the only inequality considered in combination to gender. In addition to the previous documents, the Eurostat Statistical Book 2008 edition³¹ is focused on employment rates between women and men by age³², employment sectors³³ and employment status³⁴, which are not concretely part of the QUING considered intersections but in short can reflect conditions of class inequalities. It is worth noting that the variations in employment rates by gender and age in this Eurostat report are presented without discussion of causes or structural inequalities.

With regard to *marital/family status*, only a European Parliament Committee on Women's Rights and Gender Equality report upon the situation of single mothers and single-parent families³⁵ in the labour market has been found. Here, the institution focuses on different part-time and full-time employment rates between genders to emphasize the discrimination that women suffer in society. The report focuses attention on the difficult and involuntary situation that these families face. The role of women as the vast majority of those heading single-parent families is recognized.

In 2003, the European Monitoring Centre on Racism and Xenophobia (now the Fundamental Rights Agency³⁶) published a report on Migrant, Minorities and Employment in the EU-15. In this report³⁷, *data on employment rates between non-national women and men* is not provided, although the differences between nationals and migrants/ minorities on the labour market are framed as a matter of "disadvantages". The report explicitly recognises that when looking for evidence of discrimination it is essential to consider two main points, namely, how much of the inequality is due to discrimination and how much of

³⁰ European Foundation for the Improvement of Living and Working Conditions report on Working in Europe: Gender Differences, <http://www.eurofound.europa.eu/pubdocs/2008/34/en/1/ef0834en.pdf>

³¹ http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-80-07-135/EN/KS-80-07-135-EN.PDF

³² Annex 31: Employment rate of women and men aged 15-64, 2000 and 2006.

³³ Annex 34: The largest sectors employing women and men, 2005 (5 women and men in each sector), p. 57

³⁴ Head of business, Annex 42: *Proportion of women and men employed as heads of businesses, 2000-2005 (% of women/men employees)*; Decision-making positions, Annex 44: *Women and men in decision-making positions, 2006*; c) Fixed-term contracts + involuntarily fixed-term contracts, Annex 48: *Involuntarily fixed-term contracts of employment and total fixed-term contracts, 200a and 2005 (% women/men employees)*.

³⁵ Committee on Women's Rights Report of 9 July 1998 on, (A4-02739). PDF file, 15 pp. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A4-1997-0005+0+DOC+PDF+V0//EN&language=EN>

³⁶ <http://fra.europa.eu/fra/index.php>

³⁷ <http://fra.europa.eu/fra/material/pub/comparativestudy/CS-Employment-en.pdf>

the disadvantage is due to other determinants, such as professional qualifications or language skills. Nevertheless, we can grasp in the report a tendency to consider this situation as unequal or discriminatory to ethnic minority people: “(...) inequalities in employment over and above those accounted for by explanatory human capital factors persist, at least in some countries and for some groups. However, disadvantages may also be due to factors other than human capital (education and skill levels, language proficiency, age, employment experience, etc.) that may not be discriminatory *per se*, but can still contribute to inequalities. In fact, one of the most important factors influencing the labour market performance of immigrants may be the *length of residence* in the host country (...) few analyses of this determinant have been carried out in European countries, partly due to a lack of available data” (page 52).

The differences in employment rates between ethnic minorities and nationals are frequently explained, as the report states, from another point of view. Rather than ethnic discrimination, the “cultural distance” concept tries to provide reasons for the poorer labour market performance of migrant people in EU countries. Following this argument, which seems particularly meaningful to mention at this point in the report, “the greater the cultural distance is the less valued is the human capital endowment”³⁸ which ultimately entails greater discrimination in employment.

References to employment data on the intersection of migrant/national status are also made in the 2006 Commission report on migration and integration. However no gender intersecting considerations are made³⁹. This same pattern is found in the 2003 Commission communication on immigration, integration and employment⁴⁰ in which the labour segregation of non-EU nationals is mentioned but no reference to gender differences is made.

Civil society voices seem to focus on more inequalities than EU bodies, and at the same time they seem to frame the intersectional social inequalities not alluding to economic growth but to *discriminatory practices*. For instance, last year the European Anti-poverty Network published a report on jobs and unemployment in the EU⁴¹. The study is based on the life experience of several people living below the poverty line and representing different social situations. Therefore, the study focuses on different social inequalities providing testimony on the impact of discrimination due to *gender, age, ethnic origin or migrant/refugee/asylum status and disability*. This EAPN booklet was published with the aim

³⁸ See footnote 135, <http://fra.europa.eu/fra/material/pub/comparativestudy/CS-Employment-en.pdf>

³⁹ Commission Staff working document of 30 June 2006 on the “Second Annual Report on Migration and Integration”, (SEC (2006) 892). PDF file, 21 pp. Available at: <http://www.statewatch.org/news/2006/jul/com-2nd-ann-rep-migration-sec-892.pdf>

⁴⁰ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of June 2003 on immigration, integration and employment, (COM(2003)336 final). PDF file, 58 p. Available at: http://ec.europa.eu/justice_home/funding/2004_2007/doc/com_2003_336_final.pdf

⁴¹ *Voices from the Poverty line: Jobs and Unemployment in the EU*, European Anti-poverty Network, September 2006. http://www.eapn.eu/images/docs/voices%20from%20the%20poverty%20line_en.pdf

of focusing specifically on the impact of some Lisbon Strategy policies on the lives of women and men in an enlarged European Union. Employment rates are highlighted but an intersectional approach is not developed; exclusion from labour market is considered as a consequence of single social inequalities.

Regarding *religion and ethnic origin* inequalities, the European civil organization ENAR has developed multiple studies and reports addressing the situation that people from some of these groups face in society. Regarding employment, the organization highlights how the lower employment and income rates are fundamentally due to social prejudices, practices of exclusion and social marginalization⁴². However, no specific document is underlined because of the lack of accessible data on employment rates.

In a thin line between civil society and European Institutions we find *expert voices*, often working on studies directed to the EU bodies. Some of these cases have already been highlighted. The situation of ethnic minorities in the labour market has been addressed by the European High Level Advisory Group of Experts in a recent report⁴³ in which the different experiences between women and men from the same minority group are highlighted. The concept of “multiple discrimination”, growing in importance since the introduction of Article 13 in the Amsterdam Treaty, is used to define these situations. Whilst the study underlines the evidence that women from specific ethnic groups face greater barriers to work in the EU than women from other ethnic minority groups or majority ethnic groups, the data provided does not reflect the general scope of the whole territory of the European Union. Data on differences in employment amongst women are mentioned but not addressed in-depth. In addition, participation and employment rates of different ethnic groups in five selected Member States are provided without specifying differences between women and men, and thus somehow reinforcing the lack of visibility of the gender/ethnicity gap in the European workforce. The high risk of labour market exclusion faced by ethnic minority groups in the European Union is mainly framed in this expert report by discrimination, language, educational, institutional and information barriers. Overall, discrimination is perceived to be the most important barrier to labour market integration.

Migrant status, citizenship status and gender are also central in another expert study developed for the European Commission⁴⁴. Even differences amongst women from different nationalities are highlighted in the text. The basic factors used explain the existing differences in the workforce amongst these groups are a combination of citizenship status itself, class and discrimination.

⁴² European Network Against Racism report on religious Discrimination and Legal Protection in the European Union,

http://cms.horus.be/files/99935/mediaarchive/pdf/fs34_religiousdiscrimination_oct2007_en.pdf

⁴³ Report of the High Level Advisory Group of Experts on the Social Integration of Ethnic Minorities and their Full Participation in the Labour Market, 2007,

http://ec.europa.eu/employment_social/fundamental_rights/pdf/hlg/etmin_en.pdf

⁴⁴ Austrian Migration Researcher Group paper for the European Commission DG of Employment and Social Affairs, Migrants in Europe and their economic position,

http://ec.europa.eu/employment_social/employment_analysis/docs/migr_in_europe4.pdf

Separate treatment of intersecting inequalities

As highlighted above, the separate treatment of social inequalities is still a common feature in civil society and institutional policies on non-employment. In addition to the findings already noted, the previous European Commission survey to monitor public opinion on discrimination in the EU⁴⁵ can be used as an example showing the way in which the intersection of multiple inequalities is not a general perspective embedded in EU institutions, not even in European civil society. It showed how the criteria that place people at a disadvantage in employment are considered in very separate ways. Gender, disability, sexual orientation, age and ethnic origin are mentioned in relation to the EU population as the main factors determining labour market inequalities but there is no mention of the combination of these inequalities in the report. To what extent is the EU silencing the intersection of inequalities and thus reproducing them in these public surveys? To what extent is the European citizenship not familiarized with the idea of intersecting inequalities? How can the European Commission carry out public opinion surveys giving visibility to the interplay amongst multiple inequalities?

The recent European Parliament (EP) amendments to the European Commission resolution on employment policy guidelines for the Member States⁴⁶ also confirm the separate perspective for addressing intersectional inequalities in European employment policies as well as the tendency to use a de-gendered language in reference to certain inequalities. The EP text uses de-gendered notions such as young people, older workers or groups at risk where combating discrimination is highlighted as an essential step for making progress in equal opportunities labour measures. The situation of women is addressed in a separate way with the political strategy of gender mainstreaming whilst no consideration of other intersecting inequalities is mentioned.

⁴⁵ Special Eurobarometer: Discrimination in the European Union, 2007, http://ec.europa.eu/public_opinion/archives/ebs/ebs_263_sum_en.pdf

⁴⁶ European Parliament legislative resolution of 20 May 2008 on the proposal for a Council decision on guidelines for the employment policies of the Member States (COM(2007)0803 PART V – C6-0031/2008 – 2007/0300(CNS)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P6-TA-2008-0207>

3.3 Intersectionality in intimate citizenship issues

Following the different sub-issues, we now analyze the main inequalities and intersections having an impact on intimate citizenship topics. We distinguish the major or minor presence of gender and other intersecting social inequalities in particular types of documents and regarding both institutional and civil society voices. After discussing the four sub-issues (Divorce, marriage, separation; Sexual orientation-based discrimination; Reproductive rights; and Same sex partnerships and families), we draw some conclusions.

Divorce, Marriage and Separation sub-issue

Regarding the *Divorce, Marriage and Separation sub-issue*, *family/marital status* and *migrant status* are the most visible intersectional inequalities identified. Next to these we found class and religion, although not to a very large extent, and finally disability, sexual orientation, age and ethnicity.

Council Directive 2003/86/EC⁴⁷ on the right of family reunification represents the predominance of *family/marital status* and *migrant status* inequality axes, although the intersection with gender is completely missing in the text. In this law, it is worth noting consideration of the polygamous marriage, where there is explicit prohibition to family reunification when the sponsor already has a spouse living with him in the territory⁴⁸.

Polygamous marriage is also referred to in one of the parliamentary interventions (Franco Frattini, Vice-President of the European Commission)⁴⁹. In order to fulfil European development and the European employment guidelines set out in the Lisbon Strategy, the speaker refers to the role that "immigrant women" in particular should play in Europe. Basing his arguments on "absolute values" and the goal of social integration, the speaker rejects practices such as polygamous marriages, the use of the veil and honour crimes. Thus, certain practices demeaning women's dignity are somehow linked to certain religious practices and to specific social groups such as the migrant collective. With regard to the inequality axis of citizenship/migrant status, the speaker also made references to the different status that "illegal women migrants" should have in comparison to the status already granted to "legal immigrant women", both significant concepts when dealing with intersectional policies. Meanwhile, the other selected voice⁵⁰ does not use the concept of "immigrant" women but talks about "migrant" women instead to refer to the same group. It is

⁴⁷ Council Directive 2003/86/EC on the right of family reunification, http://eur-lex.europa.eu/LexUriServ/site/en/oj/2003/l_251/l_25120031003en00120018.pdf

⁴⁸ Art. 4.4 states: "In the event of a polygamous marriage, where the sponsor already has a spouse living with him in the territory of a Member State, the Member State concerned shall not authorise the family reunification of a further spouse".

⁴⁹ Since the speaker talks about himself, always in the first person of singular, it is not very clear whether he talks on behalf of the Commission or not. European Parliament debate of 23 October 2006 on women's immigration.

⁵⁰ Hiltrud Breyer, member of the Verts/ALE Group. European Parliament debate of 23 October 2006 on women's immigration.

worth noting this nuance since, to some extent, the concept of "immigrant" possesses a sort of pejorative meaning in contemporary society.

Even so, there is a commonality between these two speeches. Both of them tend to address the notion of gender equality as a European and essential notion, and thus the unique valid one. To what extent can we affirm that only European societies take into account gender equality? Is gender equality a unique liberal notion or does it also exist in other cultures? All of these are questions not apparently addressed in European equality policies and political discourses.

Other references to migrant status are made in the abovementioned law. The most recurrent concept used in the 2003/86 Directive is "third country national", defined as "any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty;" (art. 2.a).

The European Parliament CWR and Gender Equality policy report and the European Women's Lawyer Association (EWLA) civil society text emphasize *family status* as a major intersection with gender. EWLA is mainly focused on developing adequate divorce law for the improvement of women's situation⁵¹. The combination of class with gender is also important in the text since it concerns how the possible economic disadvantages caused by current national procedures on divorce should be corrected. With regard to the European Parliament CWR and Gender Equality policy report on the situation of single mothers and single-parent families⁵², the intersectional perspective between marital/family status and gender is the sole recognized one. An example of this combination, showing additional considerations to the intersection of class and age, is found in the following statement: "The single parent is most often a woman trying to make ends meet, first in the interests of her children and only afterwards for herself. Without going into deeper psychological and philosophical reasons, this woman often comes from a deeply troubled social background herself, often with a very marginal educational background. The single mother, compared to the average mother, also more often than not has her children at a very young age which has hindered her in completing education and getting any work experience" (page 13, par. 17).

Although it adopts a perspective sensitive to the changes affecting traditional family structures, the text employs non explicit and neutral concepts that do not give us a concrete idea of what changes are in fact affecting families. In this sense, the CWR states that, despite these changes, "the organisation of society remains geared primarily to traditional family structures and their needs". What then are the non-traditional structures? Is the Committee strictly focused on single-mother families or is it trying to embrace recognition of, for instance, multicultural or homosexual families? To some extent, we can consider that the lack of an explicit intersectional language contributes to maintaining invisibility in the

⁵¹ European Women Lawyer Association Opinion of September 2005 on Commission's Green Paper on applicable law and jurisdiction in divorce matters, http://www.ewla.org/wf_dl/r_2005_family_law.doc

⁵² <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A4-1998-0273+0+DOC+PDF+V0//EN>

situation of certain social groups, such as the non-traditional family structures of lesbians, gays, disabled-partners and multicultural families.

Discrimination based on sexual orientation sub-issue

In the *Discrimination based on sexual orientation sub-issue*, we can find two main tendencies. On the one hand, we can distinguish a trend to consider *sexual orientation* as the most important intersection (two voices in the parliamentary debate and the ILGA civil society text, which also focus attention on the migrant status axis) and, on the other hand, a tendency to *de-gender* discourses and omit or only slightly consider intersectional inequalities (law, policy report and the third parliamentary intervention).

Directive 2004/58/EC sets the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States⁵³ (Directive 2003/86/EC on the right to family reunification is on the other hand centred on third country nationals). In this document, only considerations to national/migrant status and class are made; not even a gendered language is used. Therefore, general notions such as family members, Union citizens and people with “enough economic resources” are found in the text. Apart from the privilege given to persons with sufficient resources in the Directive (those to whom the Directive applies, art. 13), it is worth noting the ambivalence with which the anti-discrimination perspective is developed in the document. Although a commitment to non-discrimination is explicitly expressed when stating that the Directive should be implemented without discrimination on grounds such as sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or any other opinion, membership of an ethnic minority, property, birth, disability, age or sexual orientation (par. 5), there are no further references throughout the text to these factors causing social inequalities. The idea of “descendants” and the concept of family are not clearly defined (though this may imply wider rights in that a stricter definition could actually reduce rights).

The policy report document on non-discrimination⁵⁴ is focused on the fight against discrimination as an essential step to accomplish European fundamental values of individual rights and economic growth. The perspective is completely de-gendered and non-intersectional concepts are used. The most frequently mentioned actors are the following: vulnerable groups, disadvantaged groups, citizens, individuals, people and victims of discrimination. However, certain notions reflecting social inequalities are also referred to,

⁵³ Directive on free movement and same-sex partners, Corrigendum to Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2004/l_229/l_22920040629en00350048.pdf

⁵⁴ Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions of 1st June 2005 on Non-discrimination and equal opportunities for all - A framework strategy [SEC (2005) 689], (COM(2005)224 final), http://eur-lex.europa.eu/LexUriServ/site/en/com/2005/com2005_0224en01.pdf

although in a marginal way. These concepts include ethnic minorities, migrant, disabled and older/young workers.

While one parliamentary intervention⁵⁵ does not focus attention on gender or any other kind of intersectionality, the two other parliamentary voices⁵⁶ are mainly (and solely) centred on the sexual orientation axis. One of the voices (Frattini, European Commission) talks in terms of homophobia using concepts such as lesbians and gays, and thus fighting against homophobic behaviours is presented as a way to fulfil European fundamental values and human rights. To this purpose, and aiming to reinforce the European Union competences against discrimination, the speaker insists on the necessity of creating the European agency for the protection of fundamental rights as a way to increase the current Community powers to take action against violations of rights (in this case sexual orientation rights) at the national level. The other parliamentary voice (Cashman, PSE) intervening, after recognizing his gay condition, speaks in terms of homosexuals and sexual orientation-based discrimination omitting references to homophobia or lesbians and gays.

With regard to the civil society ILGA report on the EU Directive on free movement (2004/58/EC), attention is mostly directed to sexual orientation and marital/family status whilst considerations to nationality/migrant status are present to a lesser extent. In this text, lesbian, gay, bisexual and transsexual (hereafter referred to as LGBT) people are mentioned. In relation to the law, ILGA presents its concerns on the restricted definition of family provided in the legal text which in short can cause discriminatory practices against LGTB people and their family members. From ILGA's perspective, LGBT and "multinational families" as well as non-married couples are considered to be discriminated by the law as regards to the obstacles on free movement they can face. Thus, legal approaches regarding marriage, families and free movement should be redefined in order to avoid implicit discrimination against those who are not heterosexual and living in a marriage.

Reproductive Rights sub-issue

Finally, in the *Reproductive Rights sub-issue*, *class and age* are the most frequent axes combined with gender, while other intersections such as *ethnicity, migrant status and marital/family status* are also considered but to a lesser extent. *Disability and religion* are only considered in a minor way in this issue.

Two EP CWR and Gender Equality policy reports have been analyzed within Reproduction and Sexual Rights. This topic is poorly addressed in the EU equality policies and a health perspective has priority over women's rights. The first one concerning sexual and reproductive health and rights⁵⁷ is characterised by one main aspect regarding

⁵⁵ Sophia in't Veld, on behalf of the ALDE Group. European Parliament debate on homophobia, 2006.

⁵⁶ Franco Frattini, Vice-president of the Commission and Michael Cashman, of the PSE Group. European Parliament debate on homophobia, 2006.

⁵⁷ European Parliament CWR resolution of 6 June 2002 on sexual and reproductive health and rights (2001/2128 (INI)),

intersectionality. The intersection of gender with age is addressed in reference to groups such as teenage girls, young women and boys, whilst the consideration of class and national/migrant status is only addressed from a non-intersectional point of view. In this sense, neutral and general concepts such as poor people, ethnic minorities, young people and undeserved groups are mentioned. A similar trend is found in the second CWR policy report on women's health⁵⁸ where references to "all women" are made without giving further detail. However, intersectionality is explicitly considered between age and gender (referring to safe childbirths) and class and gender (poor women) in the text.

With regard to parliamentary interventions, the three different voices present different perspectives. One (Libicki, UEN⁵⁹) is mainly focused on the intersection of gender with marital status; concretely, the speaker supports the role of women as mothers (and housewives). Thus, the possibility to choose between family and employment should be granted in her opinion. The second voice (Estrela, PSE⁶⁰) attended to the relation between age and gender. The third parliamentary voice (Svensson, GUE/NGL⁶¹) presented a more in depth intersectional and gendered discourse, mainly focused on class and ethnicity inequalities. In her opinion, since gender discrimination in health systems and thinking is a common reality across the EU and affects all kinds of women, not only gender but other factors such as ethnicity and class should be taken into account to reach real gender equality in health. In her words: "Gender discrimination in health care is just as important a determinant as ethnic background and social and economic factors. This is something of which we must take account in future in our work to obtain fair and equal health care".

Finally, the EWL civil society text makes reference to almost all the intersectional inequalities, only marital/family status is not considered. Women from ethnic minorities, migrant women, young girls, disabled women, and transgender persons are mentioned in this report, the main goals of which are the improvement of women's sexual rights and the achievement of equal rights amongst women. In this sense, recognition of lesbians' maternity, the abolition of traditional harmful practices towards female bodily integrity and the guarantee of free access to information for women who do not have a valid residence permit are just some examples of this intersectional perspective of gender equal rights. Regarding disabled women, it is also worth noting the defence of their sexual and reproductive rights; the Lobby states as follows: "As women, they have rights in relation to freedom of choice, bodily integrity, informed consent, which are important to defend. For

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A5-2002-0223+0+DOC+XML+V0//EN>

⁵⁸ CWR second Report of 22 January 1999 on the report from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the state of women's health in the European Community (COM(97)0224 - C4-0333/97),

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A4-1999-0029+0+DOC+XML+V0//EN>

⁵⁹ Marcin Libicki, UEN Group. European Parliament debate of 7 September 2005 on gender discrimination in health systems.

⁶⁰ Edith Estrela, PSE Group. European Parliament debate of 7 September 2005 on gender discrimination in health systems.

⁶¹ Eva-Britt Svensson, member of the GUE/NGL Group and intervening as rapporteur, on behalf of the Committee on Women's Rights and Gender Equality.

example, as far as reproduction is concerned, disabled women should be able to have a child if they wish without being dissuaded to do so (...)".

Same sex partnerships and families: a controversial issue in the EU

As previously highlighted, because “family matters” and related issues are still powers of Member States, marriage and partnership issues have not emerged in the European political arena in the same way as other subjects. However, certain considerations can be drawn out in the EU case, particularly regarding LGBT people.

Within EU antidiscrimination policies, discrimination on the basis of sexual orientation is one of the major topics tackled. Thus, parenthood and adoption by gay people have been addressed by European Institutions. It is worth noting that before 1997 there were no provisions in EU law that clearly mentioned sexuality or LGBT people. Consequently, there was much debate in the political arena concerning which principles or provisions of EU law implied that discrimination against LGTB violated EU principles and law. Furthermore, debate also dealt with the question about which forms of discrimination the EU should tackle regarding LGBT people. Several non-binding resolutions of the European Parliament condemned such discrimination and called upon the EU Member States to end discrimination on grounds of sexual orientation and provide legal equality. One of the most significant EP documents, though published before the QUING period, is the 1994 Resolution on Equal Rights for Homosexuals and Lesbians in the EC, which was reiterated by the European Parliament on three more occasions⁶². In this Resolution, the European Parliament called upon EU Member States to provide lesbians and gay men with legal protection against discrimination and to introduce partnership registration options.

However, the issue of *partnership between persons of the same sex remains a controversial issue in the EU*, where just 3 Member States recognize legal status to same-sex unions⁶³. In the case of *D v Council* (1999), the European Court of Justice (ECJ) declared that partnership between persons of the same sex registered in an EU Member States cannot compare to marriage between a woman and a man. From a human rights perspective, and looking particularly to marriage/partnership policies, LGBT people at the EU level do not yet have the same status as heterosexual people.

With regard to parenthood among LGTB people, there are a few measures approved in the EU. The European Court of Justice again takes on a lead role in these debates and

⁶² Annual reports and resolutions on the observance of human rights in the EU for 1994 (Document A4-0223/96), 1995 (A4-0112/97) and 1996 (A4-0034/98).

⁶³ These countries are Belgium (Law of 30 January 2003); The Netherlands (Act on the Opening Up of Marriage, 2001) and Spain (Boletín Oficial del Estado, July 3, 2005). In addition to these cases, just two more countries in the world grant legal status to same-sex unions: Canada (Civil Marriage Act, S.C. 2005, c. 33) and South Africa (Civil Unions Bill, B 26B-2006). Further information about legal status of same-sex civil unions, cohabitation, etc. can be found in the Marriage Law Foundation report on International survey of legal recognition of same-sex couples, <http://marriagelawfoundation.org/mlf/publications/International.pdf>

functions as a main source in the search of European policy law. The judgement of *Salgueiro Da Silva Mouta v Portugal* (1999) is important as it demonstrates that the conception of traditional sexuality regulated by a heteronormative system is still determined by many national (and European) policies. Actors in the parenthood debate include mainly the European Court of Justice and the European Council, both having approved a small number of measures on the issue, as well as civil society organizations.

Adoption by gay people is another area to study and here we look to the case of *Frette v France* (2002) which deals with the issue of adoption by a gay man⁶⁴. The final judgement clearly shows how the heterosexual system is still the norm, not only when referencing the public but even in the organization of intimacy. This confirms that the consideration of gender intersectional inequalities such as sexual orientation is deeply needed in political systems to achieve an equal society.

Another point to consider regarding the partnership/marriage policies concerning LGBT people is related to the *definition of family*. Actors who have taken part in the debate on the topic are the European Court of Justice, the European Parliament, the Council, the Member States and several organizations of lesbian, gay, bisexual and transgender, both at the national and European levels (such as ILGA). Since there is no official definition of the family within the Union legislation⁶⁵ and family policies as such do not fall under European competence, the European civil society organization ILGA, with consistent support from the European Parliament, has campaigned strongly for an inclusive definition of family, thus trying to overcome the absences in political discourses and policies. Nevertheless, a large majority of Member States resist the inclusion of same-sex and unmarried couples. In addition to ILGA-Europe, the EWL, although mainly focused on general legislation and non-employment issues⁶⁶, has paid some attention to the issue of same-sex parents. In its published statement about the European Conference on Maternity, Paternity and Conciliation of Professional and Family Life held in 2000 in Portugal, the organization made reference to lesbian and gay mothers and fathers when affirming that much legislation in the

⁶⁴ This case is further evidence of the persisting heteronormative model. Mr Frette applied to adopt a child but the courts in France ruled that adoption by a gay man could “pose substantial risks to the child’s development”. Mr. Frette complained to the European Court of Human Rights claiming that refusal to allow him to adopt a child was in breach of Article 8 of the Convention and was based exclusively on discrimination because of his sexual orientation. Nevertheless, the court did not find a violation of the Convention in this case and refused Mr Frette the right to adopt, arguing that by allowing Mr Frette to adopt, the child’s best interests would be harmed because the child would be “brought up by a homosexual and deprived of dual maternal and paternal role models.”

⁶⁵ For instance, Directive 2003/86/EC on the right of family reunification defines the members of the family entitled to accompany an EU citizen to another member state (article 4 on family members) but in addition to a de-gendered language, no explicit inclusion of same-sex couples is done in the text. In this respect, paragraph 5 states: “Member States should give effect to the provisions of this Directive without discrimination on the basis of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or beliefs, political or other opinions, membership of a national minority, fortune, birth, disabilities, age or sexual orientation”.

⁶⁶ The Lobby also counts with a Policy Action Centre on Violence against women, http://www.womenlobby.org/site/module_cate.asp?DocID=3&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=

EU Member States is still discriminatory for lesbians and gay parents⁶⁷. Maternity and paternity legislation and insufficient protection of the rights of lesbians and gays (further attention to a more inclusive notion of LGBT people is omitted) is criticized whilst homosexual parenthood is mentioned as in need of reform and thereby made more inclusive. In this sense, the limited definition of family is somehow emphasized.

Finally, the concept of “race” is not very often used in intimate citizenship documents. It appears in the European Monitoring Centre on Racism and Xenophobia (now FRA) report⁶⁸ published in 2003 on Migrant, Minorities and Employment in the EU-15. Here, discrimination in employment on the grounds of “race” (emphasis put in the report) and ethnicity is said to be clearly evident, even though the exact magnitude of the problem is difficult to assess. Though always used with quotation marks, the concept of “race” is not discussed. It is nevertheless noted that the term is “only employed in order to denote specific forms of discrimination”.

A more intersectional approach to intimate citizenship

Almost all the documents analyzed within the issue of intimate citizenship invoke gender. Although gender as social origin is recognized as a major trend in some of them, most documents do not distinguish between the biological or social origin. However, gender intersectionality is broadly addressed in this issue, both in the institutional and in the civil society documents, a pattern that differentiates institutional voices in intimate citizenship from the institutional voices in the other issues.

Reference to gays, lesbians and occasionally transsexual people are mostly found in the civil society texts whilst institutional voices tend to use general notions such as homosexuals or spouses to a greater degree. In addition, other intersectional concepts such as single mothers, migrant women and young girls are used in civil society documents while institutional documents use these concepts only in a minor way.

As already noted, almost all the documents invoke more than one intersectional category: *national/migrant status, marital/family status and age* being the most frequently mentioned. *Sexual orientation, class and ethnicity* are also quite recurrent in the intersections while *religion and disability* are identified only in a minor way.

⁶⁷

http://www.womenlobby.org/site/1abstract.asp?DocID=279&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu

⁶⁸ <http://fra.europa.eu/fra/material/pub/comparativestudy/CS-Employment-en.pdf>

3.4 Intersectionality in gender based violence issues

The following analysis of intersectionality in gender based violence texts takes into account the different QUING sub-issues and focuses on the different dimensions identified in the selected documents. Thus, diagnostic and prognostic codes show the most visible intersections in the issue and the major/minor presence of intersectional approaches in different voices and topics.

The presence of inequality generating categories

In the *diagnosis*, intersectionality occurs mainly in the sub-issue of *trafficking* (gender and regional belonging, emphasising the framing as transnational organised crime and migration policies but also the vulnerability of rural women). Supporting the migration policy perspective, gender and citizenship also intersect in some documents when referring to the migrant status of the victims. Age is another predominant intersecting category, both in terms of girls being trafficked and the idea that many prostitutes have been abused as children. Class (global inequalities) and marital/family status (single parents' vulnerability) are minor intersecting categories. The intersecting categories are mostly mentioned in civil society texts and interventions in EP debates. However some texts have no intersectionality perspective at all (law, policy and parts of the EP debates).

Gender and class is the most important intersection in the sub-issue of *sexual harassment* (especially in the policy text). Women workers are seen as a vulnerable group in this sense. Since young women and homosexual women and men are seen as vulnerable too, gender and age and gender and sexuality also appear as intersecting categories. In one text (an EP debate intervention by the Commissioner), other groups disproportionately at risk are mentioned, intersecting gender with marital status, ethnicity, race and disability. There is no intersectionality perspective in the law text.

The sub-issue of *domestic violence* is the one where least reference to intersecting categories is made. There is usually no intersectionality perspective. Even though children and young persons are mentioned alongside women (as victims), there is usually no reference to girls for instance. However, gender and age and gender and marital/family status are mentioned occasionally whereas gender and class, ethnicity, race and sexuality are treated very marginally.

There are generally less references to intersectionality in the *prognosis*, except for the sub-issue of domestic violence. In *domestic violence*, intersecting categories are present especially in terms of gender and age, and only marginally concerning gender and class (when income is mentioned as a factor in relation to reintegration), gender and ethnicity or race (proposals for programmes for women from ethnic minorities) as well as gender and marital/family status. In one instance multiple intersections are considered, namely in relation to the vulnerability of immigrant single mothers and their children (gender, age, citizenship and marital/family status). In some cases (in policy documents and EP debates)

special programmes are suggested. In the same sense, intersectionality is also addressed in some of the Daphne-financed studies and projects, for instance, by directing attention to sexual abuse of disabled women⁶⁹ and girls⁷⁰, trafficked women belonging to ethnic and migrant minorities⁷¹, domestic violence in rural areas⁷², violence against elderly women⁷³ and so on⁷⁴.

Trafficking is again the sub-issue where most intersecting categories are present: gender and age (measures directed at girls particularly but also at boys), gender and citizenship (granting migrant and refugee status to trafficked women), gender and regional belonging (rural women as vulnerable to trafficking and candidate and developing countries as sending countries) as well as gender and class (in terms of feminisation of poverty and problems of financial reintegration). Also here special treatment is considered necessary for the solution of the problems.

Only two instances are found in the sub-issue of *sexual harassment*, intersecting gender and class.

Limited intersectionality: Gender, age, marital status, and ethnicity

Most often, there is no intersectional relations between the inequality categories mentioned in the documents. They are, in other words, articulated as *separate categories*. This is typically the case when children, young persons and women are mentioned together. There is a relation between them as the problem is seen to affect persons defined in terms of the categories of age and gender but nevertheless this is not intersectionalised. Something similar happens when young women and girls are mentioned as target groups or victims. Gender and age seem to be important factors interacting in the vulnerability assessment but the nature of this interaction or intersectional relation is not developed or articulated. The intersecting categories are only mentioned. These phenomena typically occur in institutional texts (laws, policies) on domestic violence, female genital mutilation and trafficking. Gender and age also intersect in other ways in the texts, without the relation between them being articulated. Men's violence against women is mentioned as an important factor in the lives of girls becoming victims of trafficking⁷⁵ and it is argued that prostituted women have often

⁶⁹ <http://www.daphne-toolkit.org/prjFiche.asp?prj=1997047%20&lang=EN>; <http://www.daphne-toolkit.org/prjFiche.asp?prj=1997177%20&lang=EN>

⁷⁰ <http://www.daphne-toolkit.org/prjFiche.asp?prj=1997182%20&lang=EN>

⁷¹ <http://www.daphne-toolkit.org/prjFiche.asp?prj=1997118%20&lang=EN>

⁷² <http://www.daphne-toolkit.org/prjFiche.asp?prj=1997133%20&lang=EN>

⁷³ <http://www.daphne-toolkit.org/prjFiche.asp?prj=1997414%20&lang=EN>

⁷⁴ See the link <http://www.daphne-toolkit.org/prjListe.asp?motcle=Y&chb=101&lang=EN> for further information.

⁷⁵ EP Report of the CWR on the current situation in combating violence against women and any future action (2004/2220(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2005-0404+0+DOC+PDF+V0//EN&language=EN>

been abused as girls⁷⁶, i.e. the combination of being female and young leads to a particular kind of vulnerability in relation to violence and the long-term implications it might have (domestic violence policy text).

The intersection between *gender and marital status* is one of the more recurrent ones of the texts on gender-based violence. This occurs both as inarticulate relations ('marital sexual violence is a crime'), without giving any details on the nature of the relation, and in terms of mutually constitutive intersecting categories when women are referred to as being more vulnerable or most at risk during and immediately after a separation. The asymmetrical power balance and the separation circumstance intersect to create a particularly vulnerable and dangerous situation for the women.⁷⁷ The same is true in the case of the European Commission Communication, consulting management and labour on the prevention of sexual harassment at work,⁷⁸ where divorced women are considered to be disproportionately at risk of sexual harassment as they can be perceived as being more vulnerable in that particular situation.

The causes of domestic violence, sexual harassment and trafficking are not articulated as racialised issues. The traffickers are implicitly considered to act from the Eastern countries through organised crime into the Western countries, but the causes are not racialised as such. However, the specific issue of honour crimes and female genital mutilation is ethnicised. These are practices that are linked to specific ethnic communities and brought to Europe from the outside. Specific kinds of violence are related to specific types of ethnicities, i.e. not European ones. Female genital mutilation and honour crimes are most often related to ethnicity and citizenship, underlining the fact that the issue is seen as external to Europe and, thus, articulated in terms of integration and immigration policies. The Committee on Women's Rights Report on combating violence against women⁷⁹ states that the types of violence vary according to cultural traditions, ethnic origin and social background. The intersectional perspective on this is highlighted when the text promotes special programmes for women members of culturally specific communities and ethnic minority groups. However, the intersectionality remains inarticulate. In an EP debate intervention by Commissioner Frattini,⁸⁰ honour crimes are defined as men beating women but the reason for relating this, and the element of honour, specifically in relation to ethnic minority groups, is not explained. It is nevertheless an acknowledgement of underlying gender power structures.

⁷⁶ WAVE Fempower Magazine on the theme of trafficking in women, n° 1 (1/2001), PDF file, 16 pp., available at:

http://www.wave-network.org/cmsimages/doku/fempower1_engl.pdf

⁷⁷ EP Report of the CWR on the current situation in combating violence against women and any future action (2004/2220(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2005-0404+0+DOC+PDF+V0//EN&language=EN>

⁷⁸ http://aei.pitt.edu/6277/01/003445_1.pdf

⁷⁹ 2004/2220(INI),

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2005-0404+0+DOC+PDF+V0//EN&language=EN>

⁸⁰ European Parliament debate on combating violence against women of 1 February 2006, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20060201+ITEM-017+DOC+XML+V0//EN&language=EN>

There are no intersections which seem to be absent because they may carry a stigma for already marginalized groups. This could have been the case in not linking specific ethnic communities to honour crimes but since the contrary is the case, as it is also for trafficked women from specific regions, we cannot confirm that any intersections are absent for these reasons.

The broader picture: underlying aspects of economy, geography and migration

The economic aspects of the problem of gender-based violence are considered particularly in relation to the problem of reintegration for women who have suffered either domestic violence or trafficking for sexual exploitation. In the Committee on Women's Rights Report on combating violence against women a minimum income is considered necessary to reintegrate. This argument relates *gender and class* and formulates a problem around women's economic vulnerability. However, the intersection remains inarticulate. In the same text, it is stated that men's violence against women can cause marginalisation and poverty. This means that women's economic vulnerability is both seen as an effect of the violent practice and as an aggravating circumstance in relation to the solution of the problem. Bearing this in mind, we may conclude that implicitly the intersection between gender and class (understood very broadly as an economic term) is mutually constitutive as the economic power is seen as concentrated in the male or as being further concentrated in the male through the violent practice. Being a woman and being economically vulnerable or dependent are, thus, intersecting in the violent relationship, aggravating the situation. However, it should be underlined that this is not articulated in the text, where the intersection remains inarticulate, but is dependent on a feminist and intersectional interpretation.

This line of interpretation is more salient, however, in the case of the Committee on Women's Rights Report on strategies to prevent trafficking of women and children,⁸¹ which states that prevention of trafficking should address the feminisation of poverty (being a woman and being economically vulnerable or dependant) as well as the need to give financial support for the trafficked women's reintegration in their countries of origin. The difficulties of reintegration in terms of aggravating economic vulnerability are also mentioned in the EP debate intervention by MEP Sørensen,⁸² rapporteur of the report debated on the same issue. Underlying economic aspects and their interaction with a gendered problem are thus marginally addressed in these issues.

In the issue of trafficking, the inequality categories mentioned are *gender, age, citizenship, class and regional belonging*. This reflects the concerns for minors as victims of trafficking,

⁸¹ 2004/2216(INI),
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2005-0400+0+DOC+PDF+V0//EN&language=EN>

⁸² European Parliament debate on trafficking in women of 18 May 2000,
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20000518+ITEM-003+DOC+XML+V0//EN&language=EN>,
<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20000518+ITEM-013+DOC+XML+V0//EN&language=EN>

the relation to immigration policies and the flows from the East to the West of what is articulated as a problem of transnational organised crime. Some actors (the EP and the civil society actors) also look to global inequalities as causes underlying the problem of trafficking for sexual exploitation. In the Committee on Women's Rights Report on strategies to prevent trafficking of women and children, trafficking is related to migration and development, thus pointing towards underlying reasons at the global level which lead to the problem. Indirectly gender intersects with class (undeveloped countries and global economic inequalities), regional belonging (trafficking flows from the South and the East to the North and the West; also present in several EP debate interventions on trafficking⁸³) as well as citizenship status (illegal immigrants). These links and intersections are all inarticulate. However, the underlying causes are further explored by referring to the factors making women more vulnerable. Lack of education, single parent family, minority belonging and rural belonging are all seen as aggravating aspects which make women more likely to become victims of trafficking for sexual exploitation and, thus, an inarticulate intersectionality between a number of inequality generating categories are present in the text. The trafficking/immigration relation is further explored in one of the other key topics of the issue, namely that of granting residence rights to trafficked women if they cooperate in the prosecution of the perpetrators (CWR report and DiLello's EP debate intervention in relation to the issue of trafficking). Again gender and citizenship status are interrelated. This is particularly so in the CWR report where it is argued that women who migrate on the grounds of gender-based repression or are victims of sexual violence or female genital mutilation (EP debate interventions on domestic violence) should obtain the right to asylum.

Some domestic violence documents (policy texts and EP debates) mention inequality structures or gender power imbalances as underlying causes of the problem. This is not the case for most of the texts on trafficking (law, EP debates) or the texts on sexual harassment. However, the policy texts on trafficking do suggest that the root causes should be eliminated. They are defined as poverty, gender inequality, unemployment and a lack of education among other things. Furthermore, a demand-oriented approach to the problem, talking about men as clients, is highlighted (in the debate, policy and the civil society texts). The fact that trafficking and prostitution are divided as two separate issues in the discussion supports the interpretation that structural inequalities in this case are related to global and economic inequalities more than power imbalances and exploitation based on gender relations.

The focus, in terms of solutions, tends to be on the sending countries rather than the receiving ones. Regional belonging is part of the inarticulate intersections present in some of the texts. Central and Eastern European countries, the Baltic countries and Russia are referred to as the countries of origin of the victims of trafficking and solutions are related to

⁸³ European Parliament debate on trafficking in women of 18 May 2000, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20000518+ITEM-003+DOC+XML+V0//EN&language=EN>, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20000518+ITEM-013+DOC+XML+V0//EN&language=EN>

cooperation with these countries and funding of women's NGOs in developing countries. The solutions in the receiving countries are mostly related to temporary immigration measures, mainly granting residence rights for trafficked women. The problem is thus articulated differently according to a sending/receiving country divide, and regional belonging enters into this equation without being explored.

In this linking of the problem of trafficking and immigration policies, we find one of the few examples of mutually constitutive intersecting categories. The lack of means of defence of immigrant single mothers and their children are addressed. This means that gender, age, marital status and citizenship are recognised as mutually constitutive categories which intersect in creating particularly vulnerable groups with specific needs (for example, lack of rights, lack of financial means, etc.).

Neutralizing intersectionality

In a few cases, there is a tendency to treat all intersecting categories at the same time, thus blurring all inequalities and neutralizing in this way the underlying idea of intersectionality. When intersecting categories appear in the institutional documents, it is sometimes to say that violence affects all (i.e. 'neutralizing' the intersecting effect). This happens for instance in Commissioner Frattini's intervention in the EP debate on domestic violence. The Commissioner argues that violence against women knows no barriers or distinctions in terms of geography, age, class or cultural origin. This leads to implicitly denying the implications of intersecting categories by treating the issue as an overall problem beyond social inequalities. The same thing occurs in the European Commission Communication concerning the consultation of management and labour on the prevention of sexual harassment at work, where many groups are mentioned as 'disproportionately at risk' (age, class, marital status, disability, sexuality, ethnicity/race).

Gendering/de-gendering

All the texts invoke gender and in many cases it is the only inequality category mentioned (the debates on all three sub-issues, the law and policy texts on sexual harassment, and the civil society texts on domestic violence and trafficking). Several documents also mention gender-based violence as a matter of gender inequality as an underlying (power) structure (the EP debate interventions on domestic violence and WAVE Lobbying Paper on the Council of Europe Campaign to Combat Violence against Women⁸⁴). In most cases it is not possible to say whether gender is seen as biological or social. This is a consequence of the fact that the gender issue is not very articulated. Even so, there tends to be weight on social constructions of gender, rather than biological and de-gendered views.

Some of the texts deal with the issues in a de-gendered way e.g. without paying attention to gender differences (law texts and some debate voices in sexual harassment and trafficking).

⁸⁴ http://www.wave-network.org/cmsimages/doku/wave_lobbying_paper_campaign.pdf

Examples of gendering strategies have been found in the texts but nevertheless the general tendency is to de-gender the issues. This usually happens with gender and age where the standard notion of 'children, young persons and women' is used extensively. It also occurs in the case of the use of the generic term 'victims' but to a lesser degree. Overall there is some gendering in the documents on gender-based violence, probably because of the nature of the issue.

The perpetrator is often described in de-gendered terms. When this is not the case, the perpetrator is masculine. Law texts are the ones most prone not to gender the perpetrator and speak in gender neutral terms. In this way, for instance 'traffickers' and 'clients' are mentioned as responsible in the sub-issue of trafficking, or 'close relatives' and '(former) spouses/partners' in that of domestic violence. Men are mentioned as perpetrators in relation to domestic violence and trafficking (except in law texts). In the sub-issue of sexual harassment, both victims and perpetrators are de-gendered, usually by referring to the generic term 'people'. Women are only mentioned once as potential perpetrators of psychological violence in an EP debate. Occasionally texts do not attribute responsibilities for domestic violence except in the mention of honour crimes which is related to immigration and specific cultural values (in policy documents and EP debates).

Trafficking and sexual harassment are the sub-issues where victims are also most often de-gendered ('victims', 'people', 'human beings'). In the sub-issue of domestic violence the victims are children, young persons and women. Both men and women (especially women workers) are mentioned in the sub-issue of sexual harassment, and women, children and, to a lesser degree, men in that of trafficking. Men are sometimes mentioned as potential victims but never in the civil society texts. In civil society texts and in EP debates, references are sometimes made to 'trafficked women' as victims. In policy plans it is specified that victims can be 'mothers', 'girls' and 'women in disadvantaged situations'. Civil society texts also mention women as multiple victims because of their country of origin (trafficking) or as women workers (sexual harassment). When the victims or the perpetrators are gendered, women are sometimes considered in an intersectional perspective (relating gender to other inequality categories such as age, marital/family status, regional belonging, or class) whereas, most often, this is not the case for men.

Inarticulate prognostic intersections

Regarding overall strategies and visions, equal treatment and equal opportunities are the dominant strategies and special programmes are present, especially in relation to domestic violence and trafficking. The same pattern is true for visions. The EU as such does not have the competences to implement services but it does promote and finance programmes and campaigns. Special programmes or special attention is directed towards ethnic minority women and rural women in the policy text on trafficking and to the special difficulties of children of immigrant single mothers in the policy text on domestic violence. Even though the intersecting inequalities here translate into a particular focus in terms of the programmes needing implementation, no details are offered as to how the particular vulnerabilities or

problems of the women at the intersections are addressed by the special programmes. Thus, it is not possible to say how the nature of the intersection is interpreted or the specific implications this might have in the implementation of the policies. The same text highlights that the needs of children and women should be dealt with differently without specifying this (beyond suggesting education for both boys and girls within the area). This is, again, a reflection of the general and inarticulate way in which the intersections are dealt with in the texts.

3.5 Conclusions on framing intersectionality in the EU

In dealing with some of the questions raised at the beginning of the report, we found that the invisibility of intersecting social inequalities and their reproduction seem to be interrelated. While European Institutions continue to maintain the trend of addressing social and gender inequalities from *separate* approaches in their policies, the *invisibility* of the combined social factors producing inequalities will be perpetuated and/or reinforced. In our opinion, the extent of use of the concept of intersectionality on the part of European Institutions is not the biggest problem. The point is that these multiple or intersectional inequalities should be addressed from a position committed to overcome existing inequalities and privileges. As Lombardo and Verloo state (2008 forthcoming) referring to gender equality policies, “if in dealing with gender we do not look at its intersection with other inequalities we are in danger of silencing “other”, often less privileged, voices”. Furthermore, they emphasize that “because gender inequality and other inequalities are not separate but interdependent and intersecting phenomena, it is impossible to reach gender equality as long as other inequalities still exist”. This reflection can also be extended to the achievement of not only gender equality but, for instance, equality between persons with functional diversity and non-disabled people, equality between persons from different ethnic origin, equality amongst LGBT and heterosexual people, etc.

Although the practice of intersectionality is still embryonic at the EU level, a multiple discrimination approach is becoming increasingly present in gender+ equality policies, particularly in recent years. Depending on the issue, attention is focused on one inequality or another but generally speaking sensitivity to consider combined social inequalities is becoming increasingly developed. In the non-employment issue, for instance, the main inequalities addressed are *class* and *marital status*, in addition to *age* in recent years; intimate citizenship documents are more focused on *age* and *national/migrant status*; while gender based violence policies are placing emphasis on *age* and *national/migrant status*.

As it will be argued in this report (see sections 4 and 5), there are currently some concerns that the EU anti-discrimination approach could be detrimental to gender equality and this also generates the main controversy over the adoption of such an approach. Examples of a loss of EU attention to gender are, according to the European Women’s Lobby, the lack of EP initiatives on gender during the Year of Equal Opportunities for All or the problems with the appointment of the Director of the European Institute for Gender Equality. The EWL worries that the EC emphasis on ‘anti-discrimination’ rather than on gender mainstreaming and positive actions could suggest the development towards a reduced scope in EU gender equality policy. Also, the European Network Against Racism (ENAR) has suggested that the European policy for combating all forms of discrimination could entail a risk of losing an understanding of the specificity of each unequal social ground. Thus, there are concerns that the EU trend towards anti-discrimination could be used as an excuse to avoid broadening the EU gender equality policy approach to other areas outside employment, as new EC initiatives for policies covering areas beyond employment might exclude gender (Lombardo and Verloo forthcoming in 2009).

4. European institutionalization of intersectionality

In this section we address the context of intersectional practices at the EU institutional level. We do so by providing a general view of how EU equality policymaking adopts intersectional approaches in the development of its legal framework and institutional bodies on equality, and we explore the extent to which the European equality legislation is consistent with the equality machinery. The section is divided in two main parts: one concerns the European Union legal framework on equality; and the other focuses on how the EU equality machinery addresses existing inequalities.

4.1 The EU legal framework on equality

Generally speaking, at the level of EU institutions almost all the QUING recognized social inequalities are addressed by a law. Discrimination on the basis of race or ethnicity, religion or belief, sexual orientation, age, sex, disability (the six axes under Article 13) and marital status⁸⁵ is prohibited in EU legal measures such as the Amsterdam Treaty Article 13, Charter of Fundamental Rights Article 21⁸⁶ and several Council Directives⁸⁷. Class is an exception because it is not explicitly mentioned in the EU legislation as one of the six inequalities covered by Article 13, but it is sometimes implicitly addressed in EU policies (e.g. when addressing issues of poverty).

The EU legal protection offered to the axes of inequality of Article 13 has developed *unevenly*. 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 (Bell 2002) to talk about a 'hierarchy of equality', where 'gender' is privileged. Inequalities based on nationality were already developed in the EU legal framework through Article 12 (now 18), thus they have a solid Treaty basis, but mainly within the market objectives of the Union (Bell 2002). Gender equality, as a predominantly economic but also social objective, has been part of the EU legal framework from the origins of the Community, and has progressively acquired an articulated legal framework including Article 141 (157 Treaty of Lisbon), a series of Directives largely focused on the labour market, and non binding legislative instruments also going beyond market issues. In spite of the fact that gender has gained the status of one of the more comprehensive areas of the EU social policy, gender advocates' struggles for extending the EU promotion of gender equality beyond employment had little success (attempts to broaden the scope with Directive 2004/113 ended up extending only to goods and services). Enforcement and implementation have never been particularly strong or explicitly prescribed in the case of

⁸⁵ COUNCIL DIRECTIVE 79/7/EEC of 19 December 1978, article 4.1.; COUNCIL DIRECTIVE 86/613/EEC; COUNCIL DIRECTIVE 86/378/EEC of 24 July 1986; COUNCIL DIRECTIVE 96/97/EC; DIRECTIVE 2002/73/EC.

⁸⁶ This provision also includes the prohibition of discrimination on grounds of social origins, language political or any other opinion, property and birth.

⁸⁷ Racial Equality Directive 2000/43 EC, and the Employment Equality Directive 2000/78.

gender equality Directives, though two recent directives, Directive 2002/73/EC and 2004/113/EC, require Member States to designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of sex.

Race and ethnicity inequalities have been covered in the EU more recently than gender. They are protected, apart from soft law measures, 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 the Directive gives protection not only against discrimination in employment and training, but also beyond employment to include the fields of education, social security, health care and access to goods and services. In this sense, it could also be argued that gender has been 'downgraded' (Stratigaki 2008). The level of protection provided by the Race Equality Directive is stronger as the latter includes measures of enforcement to improve implementation that cannot be found in the case of other inequality axes under EU law, including gender (Bell 2002). In this respect, the Race Directive's emphasis on enforcement seems to show learning from the experience of the gender directives which had poor instruments for implementation. While such developments show the possibility for 'learning' from previous experiences in other inequalities, learning does not always happen, as this report will show. Similarly to the protection offered to gender, Member States must designate a body or bodies for promoting equal treatment. Both gender and ethnicity bodies share the characteristics that they can be part of national agencies defending human or individual rights, they must provide independent assistance to victims of discrimination in pursuing their complaints, and must conduct independent surveys concerning discrimination, publish independent reports and make recommendations.

The other axes of inequality of Article 13 are covered all together, less comprehensively than race and gender, under Council Directive 2000/78/EC⁸⁸, 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 disabled employees. Unlike the Race Directive, the material scope of the Framework Directive is only 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. Differences among the inequality axes are established as regards the implementation period of the directive (three years for religion or belief, and sexual orientation, and three more years for age and disability) and the exceptions that are permitted (Bell 2002). For instance, Directive 2000/78/EC introduced a specific exception on marital benefits ('22. This Directive is without prejudice to national laws on marital status and the benefits dependent thereon') which offers less protection from discrimination based on sexual orientation (Bell 2002). It also includes a wide range of exceptions, which may allow Member States not to apply the directive for reasons of 'public security', 'public order', 'prevention of criminal offences',

⁸⁸ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation [2000] OJ L 303/16.

'protection of health' and 'protection of the rights and freedom of the others' (see 2.5 of the Directive).

The most frequent intersecting inequalities considered to date at the EU level are fundamentally class and marital status in addition to age in recent years in non-employment-related issues; national/migrant status, marital/family status and age in intimate citizenship issues; and age and national/migrant status in gender based violence issues.

4.2 Unitary and Multiple approaches in European Union equality legislation machinery

The EU legal approach to inequalities is consistent with the machinery on equalities in the sense that the message sent is a mixed one of both separate and integrated policy measures. The EU legal discourse treats inequalities separately but it is also moving towards an "all-discrimination together" approach, and it recommends to Member States the establishment of integrated equality bodies. It is proceeding through the creation both of specific bodies such as the European Institute for Gender Equality and integrated bodies such as the Fundamental Rights Agency and Unit G4 of DG Employment and Social Affairs. Thus, while the shift is towards a multiple approach to inequalities, both unitary and multiple approaches are currently co-existing. Whether consistency between legislation and bodies is actually desirable is an open empirical question, as such consistency does not necessarily equate with effective protection against discrimination and promotion of effective 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". We discuss below the role of the most relevant gender and other equalities bodies in the EU and the extent to which they deal with intersectionality.

Specific gender equality bodies and their contestation

The EU has originally developed a 'unitary approach' to inequalities (Hancock 2007) centred on gender, by establishing dedicated policy units and committees in the European Commission and Parliament in the 1980s. Within the Commission, DG Employment, Social Affairs and Equal Opportunities, there are two Units dealing specifically with gender equality issues. Unit G1 on *Equality between Men/Women* is, broadly speaking, in charge of making policy proposals on gender equality and of coordinating gender mainstreaming policies⁸⁹. Unit G2 on *Equality, Action against Discrimination: Legal Questions* deals with matters of transposition and implementation of EC gender equality law. The main aim of Unit G1 on Equality between women and men is to mainstream gender equality into all Community policies; other categories are not explicitly addressed by the body. The analysis of the European Roadmap for Equality between women and men 2006-2010⁹⁰ and the

⁸⁹ See http://ec.europa.eu/employment_social/gender_equality/index_en.html

⁹⁰ http://ec.europa.eu/employment_social/gender_equality/gender_mainstreaming/roadmap_en.html

PROGRESS Programme⁹¹, both of which are coordinated by Unit G1, is useful in detecting the presence of intersectional inequalities. The Roadmap takes into account the following intersectional categories: ethnicity, class, age, marital/family status and migrant status. All of them are addressed in a minor way and the concept of intersectionality is not used. “Multiple discrimination” is a concept that is referred to in the text, although this by itself does not prove the adoption of a structural intersectional perspective within this Unit. The PROGRESS Programme shows us that only gender is taken into consideration within its text. Unit G2 is focused on gender equality legislation and, as in the case of Unit G1, it does not cover other categories.

Together with the two Commission Units on gender equality, the other key policy actor in the EU gender network is the European Parliament *Committee on Women’s Rights and Gender Equality*, established in 1984 with the task of promoting women’s rights and scrutinizing legislative proposals from a gender perspective. This involves, among other things, preparing reports and giving opinions on different areas that affect women’s rights. Several other EU institutional bodies have emerged in recent years in the Commission to coordinate and promote the EU agenda on gender equality, some of which have a specific focus on gender equality, and others which adopt a broader focus that deals with gender equality as well as anti-discrimination and fundamental rights⁹².

The latest EU policy body created in 2006 to deal specifically with gender equality issues is the *European Institute for Gender Equality*⁹³. This expert body was proposed in a period that had opened 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 main political objectives of the Institute, as stated in the Regulation that establishes the agency, include strengthening the promotion of gender equality and gender mainstreaming in all EU and resulting national policies, fighting sex discrimination, and raising awareness about gender equality among EU citizens. The tasks assigned to the Institute consist in collecting, analyzing, and disseminating “objective, reliable, and comparable information and data” on gender equality in the EU, developing tools for tackling sex discrimination and integrating gender into all policy areas, promoting a dialogue with stakeholders and raising awareness among EU citizens about gender equality.

⁹¹ http://eur-lex.europa.eu/LexUriServ/site/en/oj/2006/l_315/l_31520061115en00010008.pdf

⁹² The more gender-specific of these bodies include expert groups at different Commission levels established to implement gender mainstreaming and coordinate activities on gender equality (such as the High Level Group on gender mainstreaming in general and on gender mainstreaming in the Structural Funds, or the Inter-service Group on gender equality) and advisory groups such as the *Advisory Committee on equal opportunities for women and men*. Agencies also include groups with a broader focus such as the *Group of Commissioners of Fundamental Rights, Non-Discrimination and Equal Opportunities*, created in 2005 with the task is to coordinate actions in the areas of equal opportunities, Fundamental Rights, anti-discrimination, social integration of minority groups, and incorporation of gender equality in EC policies and actions.

⁹³ REGULATION (EC) No 1922/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 on establishing a European Institute for Gender Equality.

The Institute will work through a Management Board that will take decisions, a Director responsible for the agency, and an Expert Forum as a consultative body.

The creation of a European Institute specifically dedicated to gender equality became a contested issue over time. Scholars attribute this contestation to the fact that, 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). Other factors complementary to this are the current context of development of an EU anti-discrimination framework and institutional changes in member states such as the UK from separate to merged equality agencies. From this trend emerge positions more favourable to the idea of treating all inequalities in one single anti-discrimination body, such as the Fundamental Rights Agency, rather than establishing separate bodies for each inequality strand. The debate in the European Parliament on the adoption of the Regulation on the Institute for Gender Equality exemplifies the different positions articulated on the issue and gives some insights on the underlying controversy taking place at the EU level on the institutionalization of gender and other inequalities⁹⁴.

In the end, as the Regulation 1922/2006 states, a specific European Institute for Gender Equality was created and it should have been operational by January 2008 in Vilnius in Lithuania. Apart from practical concerns about the choice of such a distant location from Brussels (see Zippel 2008), problems in the selection process for the Director of the Institute have occurred, which have delayed the beginning of its work and might have negative consequences for the centre. After the first call for a vacancy of Director, and a long selection process in which candidates with considerable experience in EU gender equality policies participated, the Commission chose one candidate for the post. To the objection of the Board of the Institute that there was no shortlist to choose from, it was decided that the selection process would start all over again, and a new call was made on 15 March 2008. The consequences of this decision will be not only the delay in making the institute operational but also that the potential loss of good candidates from the first selection process who will not present again for the post⁹⁵.

Neither the tasks nor the goals of the Institute make reference to intersections of gender with other inequalities⁹⁶. However the Institute is not yet operational so specific actions

⁹⁴ 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) 328.

⁹⁵ We would like to thank Lut Mergaert from Yellow Window Consultants for sharing with us her expert opinions on the selection process for Director of the Gender Institute.

⁹⁶ Regulation (EC) No 1922/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a European Institute for Gender Equality. Article 2, Objectives: "The overall objectives of the Institute shall be to contribute to and strengthen the promotion of gender equality, including gender mainstreaming in all Community policies and the resulting national policies, and the fight against discrimination based on sex, and to raise EU citizens' awareness of gender equality (...)".

cannot be considered. The Regulation establishing the Institute concretely refers in paragraph 11 to the necessity to distinguish between an anti-discrimination policy and one addressing gender equality, which can be interpreted as a way to keep separate policy strategies to address specific inequalities. However, cooperation with the Fundamental Rights Agency is concretely highlighted in paragraph 14. The European Women's Lobby, in its 2005 paper, does refer to the need to adopt an intersectional approach in the activities of the Institute in order to recognise and analyse in its work the "real experience of groups such as migrant or ethnic minority women, disabled women, younger or older women or lesbians" (EWL 2005). Due to the delays in its operationalization, we have no information yet on whether the future multi-annual work programme of the Institute will adopt an intersectional approach.

Other equality bodies: towards multiple approaches

The EU trend towards a 'multiple approach' to inequalities (Hancock 2007) is reflected 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.

The institutional machinery in the EU divides activities and protection on inequality axes other than gender between two other Units, also included within the Commission's DG Employment, Social Affairs and Equal Opportunities: Unit G3 on *Integration of People with Disabilities*⁹⁷ and Unit G4 on *Action against Discrimination, Civil Society*⁹⁸. To deal with disability issues, the Commission has adopted a separate approach, as with gender. Although disability policies are essentially the responsibility of Member States, Unit G3, together with other groups at the EU level⁹⁹, is engaged in reinforcing a disability perspective in all EU policies and actions. This Unit is responsible for ensuring that disability issues are mainstreamed at all levels of the policymaking and legislative work of the Commission. The European Action Plan 2008-2009 on the situation of disabled people in the EU¹⁰⁰ is mainly focused on the integration of people with disabilities into the policymaking process and into the labour market, which follows a traditional trend of the European Union policies. In this plan the intersection of disability with gender gives special consideration in Annex II to the situation of women with disabilities¹⁰¹. Here the intersection is referred as a "dual discrimination" and emphasis is placed on the need for a more integrated approach in spite of the different actions taken towards discrimination against women and discrimination

http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!DocNumber&lg=en&type_doc=Regulation&an_doc=2006&nu_doc=1922

⁹⁷ See http://ec.europa.eu/employment_social/disability/index_en.html

⁹⁸ See http://ec.europa.eu/employment_social/fundamental_rights/index_en.htm

⁹⁹ The Disability Interservice Group, The High Level Group of Member States' Representatives on Disability and the The European Parliament Disability Intergroup, http://ec.europa.eu/employment_social/disability/contact_en.html#4

¹⁰⁰ http://ec.europa.eu/employment_social/index/com_2007_738_en.pdf

¹⁰¹ http://ec.europa.eu/employment_social/index/sec_2007_1548_en.pdf

against people with disabilities. In addition to gender + disability categories, class is also approached in this document, concretely in reference to the lower income levels of disabled women.

Unit G4 on *Action against Discrimination, Civil Society* covers several axes of discrimination (except for gender and disability), has a special focus on law enforcement in the Member States, and is the body that places a greater focus on “multiple discrimination”. The Unit G4 was in charge of the initiative of the 2007 Year on Equal Opportunities for All. During this year, the Unit organised a conference and issued a publication on “Tackling Multiple Discrimination: Practices, policies and laws” where the concept of intersectionality is discussed and recommendations are made for taking multiple discrimination into account. However, there do not seem to be official procedures in place to deal with intersectionality. The Units dealing with gender and with other inequalities collaborate on specific issues but to our knowledge there are no specific measures to work towards the intersection of the different inequality axes¹⁰². Moreover, if Unit G4 works on “multiple discrimination” but does not deal with all axes, there is a risk that some inequality axes in Article 13 may be left out of proposed actions that adopt a multiple discrimination approach.

Apart from the Commission Units, the European Parliament Committees more concerned with Human Rights and inequalities other than gender are the Committee on *Civil Liberties, Justice and Home Affairs*, the one on *Employment and social Affairs*, and the Subcommittee on *Human Rights* within the Committee on Foreign Affairs¹⁰³.

The latest shift in EU machinery on inequalities other than gender was the creation of the European Union *Agency for Fundamental Rights*. The Agency was established in Vienna through Regulation 168/2007 of 15 February 2007 with the objective to provide EU and Member States institutions with assistance and expertise to ensure respect of Fundamental Rights in their policymaking. The FRA’s tasks are to collect objective and comparable information and data, to advise the Union and its Member States, and to promote public awareness-raising. The Agency must include among its areas of activity the fight against racism and xenophobia (which is not surprising considering that the agency replaces the former European Monitoring Centre on Racism and Xenophobia, EUMC). It will also work on “discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual

¹⁰² Thank to Lise Rolandsen, PhD candidate at Aalborg University and co-author of the present report, who has interviewed Commission staff from the gender and other equality Units, for sharing her opinion with us on this point.

¹⁰³ The Committee on *Civil Liberties, Justice and Home Affairs* is responsible, among other things, for the protection of citizens’ rights, human rights and fundamental rights, including the protection of minorities, according to the Treaties and the EU Charter of Fundamental Rights; it also deals with the measures needed to combat all forms of discrimination other than those based on sex or those occurring at work. It was also responsible for the European Monitoring Centre on Racism and Xenophobia which has recently been replaced by the Fundamental Rights Agency. The Committee on *Employment and social Affairs* deals, among other issues, with all forms of discrimination at the workplace and in the labour market except those based on sex (which are responsibility of the Committee on Women’s Rights and Gender Equality). And the Subcommittee on *Human Rights* within the Committee on Foreign Affairs is in charge of issues concerning human rights, the protection of minorities and the promotion of democratic values in third countries.

orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination)” (Art. 2b)¹⁰⁴. In this sense, the FRA aims to address both religious and ethnic inequality categories, gender and citizenship status. However, as the FRA’s sheet on Frequently Asked Questions¹⁰⁵ states, the body is mainly focused on matters of racism.

While the former EUMC experienced some bureaucratic barriers that delayed its creation (Bell 2002), as with the European Institute for Gender Equality, the FRA has been appointed a Director in March 2008 who started his mandate in June 2008 for five years. The structure of the FRA is based on a constant interaction with national civil society and experts. The FRA works through a Management Board and a cooperation network, called the Fundamental Rights Platform, composed of non-governmental organisations, social partners, and experts (Regulation 168/2007). The Agency collects data and information through its Racism and Xenophobia European Information Network (RAXEN), which is composed of contracted National Focal Points (NFPs) in each Member State.

An overview of the 2007 Annual work programme of the FRA shows little evidence of intersections with gender, with the exception of one reference to Roma women¹⁰⁶. Moreover, the 2008 Council Decision implementing Regulation 168/2007 is clear in its intention to avoid overlaps with the work of the European Gender Institute. It explicitly states that “the Agency shall deal with issues relating to discrimination based on sex only as part of, and to the extent relevant to, its work to be undertaken on general issues on discrimination referred to in Article 2 point (b)” (see above) and it will take into account the objectives of the European Institute for Gender Equality. Nevertheless, the Fundamental Rights Agency is the body that will gather information on multiple discrimination, so coordination of this body with the future work of the Gender Institute in this field will be needed.

Although the work of the FRA on gender equality issues seems to be relegated to the collaboration with the European Gender Institute¹⁰⁷, a gender perspective in discrimination is mentioned in its Equal Voices Magazine (“Issue 22: *Equality* and discrimination through the

¹⁰⁴ 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.

¹⁰⁵ http://fra.europa.eu/fra/material/pub/FRA/faq_en.pdf

¹⁰⁶ The social situation of Roma women is a recurrent topic within the FRA. Concretely, issues related to health public services have been the most frequently addressed ones. Some examples are: “Access denied – Roma’s struggle for public health care”, http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=476bbe34e6f40&contentid=47838866bc501 and “Romani women’s access to health – a basic human right”, http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=476bbe34e6f40&contentid=478392c7d2687. The Agency of Fundamental Rights also took part in a Conference providing a forum of discussion between policy makers and Romani Women’s Networks on the challenges facing Romani women today, see http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=476bbe34e6f40&contentid=4783930fd5a7e

¹⁰⁷ Council Regulation (EC) n° 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights. See par. 16 and article 12.10, http://fra.europa.eu/fra/material/pub/FRA/reg_168-2007_en.pdf

*gender lens*¹⁰⁸), which addresses several categories intersecting with gender. The papers comprised within this issue are written by several experts who are not FRA members, which suggests that the consideration of multiple categories is not explicitly present in FRA's policy agenda but somehow linked to its work. As FRA member Anastasia Crickley states in the editorial of the magazine: "(...) we remain committed to ensuring that this important element [gender equality] remains visible and is addressed in all areas of our work"¹⁰⁹. Two examples of these expert papers reflecting a multiple intersectional approach are the following: "Education achievement of immigrant students – an indicator of successful integration"¹¹⁰ and "The invisibility of visible ethnic elder women across Europe"¹¹¹. The former paper deals with the intersection of class and citizenship status, providing data on the differences between female and male migrants. Concepts such as immigrant population and references to the lower level of socio-economic background are used in the text. In the latter document, although reference to "multiple discrimination" is greater, mention to "significant intersections" is also present. The combination of age, ethnicity and gender (as well as class, implicitly addressed in terms of poverty) acts as the connecting thread of the paper.

¹⁰⁸ <http://fra.europa.eu/fra/material/pub/ev/ev22/ev22.pdf>

¹⁰⁹ http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=476bbe34e6f40&contentid=4785eebb12b7e

¹¹⁰ http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=476bbe34e6f40&contentid=478391f39176e

¹¹¹ http://fra.europa.eu/fra/index.php?fuseaction=content.dsp_cat_content&catid=476bbe34e6f40&contentid=4783926948fd5

5. Interface between EU institution and European civil society

In this section we address the approaches to intersectionality of civil society voices in the European Union and their relations and responses to the Community institutions' way of dealing with intersectionality. How are different civil society organizations dealing with intersectional inequalities? Are they 'better' than EU institutions in dealing with intersectionality? To explore the issue we will look at the dynamics of conflicts and/or alliances among the gender and other equality NGOs. This might shed some 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.

A first analysis of the work of civil society organizations on intersectional social inequalities gives the impression that the intersectionality approach is not very established in European civil society. The different European NGOs dealing separately with the various axes of inequality (sexuality, gender, age, ethnicity, etc) do not tend to treat social inequalities through intersectional approaches. Therefore, intersectionality, when addressed at the EU level, is often restricted to specific social inequalities that do not reflect the larger social scope of intersecting inequalities faced by women in the current European multicultural society. When considered more closely though, European civil society shows that it is beginning to take into account a more intersectional approach. Moreover, the dynamics of alliances and contestations among the gender and other equality NGOs are also contributing to bring out relevant issues of power and privileges concerning political intersectionality.

The European Union institutions have established relations with a network of European-level NGOs that work on different inequality axes. 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). The International Lesbian and Gay Association ILGA Europe, 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 Programme (2001-2006), and now receive funding through PROGRESS (2007-2013). Other inequality axes are supported by NGOs that belong to the Platform of European Social NGOs, including European umbrella organisations which work in different social areas (older people's rights, lesbian and gay rights, gender, children's rights, anti-racism, disabled people's rights, etc). The Social Platform is a key interlocutor to the Commission, which organises bi-annual meetings and other informal exchanges of information with the Platform and provides some economic support to it through the Community Action Programme. Through the former Action Programme and the current PROGRESS, the Commission also funds five smaller European organisations that defend the rights of disabled people¹¹². All these NGOs, in different ways, have consolidated their position as 'representative' of different collectives and epistemic

¹¹² http://ec.europa.eu/employment_social/fundamental_rights/policy/capac/net_en.htm

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.

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's work looks at sexual orientation and its intersection with gender (see ILGA web and newsletters). The EWL also refers to multiple discrimination, and has worked on issues of gender in relation to disability, ethnicity, sexual orientation, age, and religion (see newsletters and position papers) (Lombardo and Verloo 2009 forthcoming). Moreover, all the organisations that belong to the European Social Platform have developed some kind of alliances or at least relations among themselves.

European women's organizations, with a commitment to engaging with the different social realities of European women, seem to be gradually dealing more with intersecting inequalities in all of the issues of the QUING project. Apart from the EWL, other women's organizations also increasingly deal with non-employment issues from the perspective of mainly age and class but also from the point of view of migrant status, ethnic origin and family status. With regard to intimate citizenship issues, European women's organizations are more frequently than ever considering the intersection of sexual orientation and marital status, while gender based violence issues are mainly addressed taking into consideration the intersections of gender and migrant/citizenship status, as well as age.

This emerging work on intersectionality to a certain extent shows that civil society organisations are "better at doing intersectionality" than EU bodies. Not only the commitment but also the *raison d'être* of several European women's organizations comes from the consideration of intersectional inequalities. If we consider, for instance, minoritised women's associations such as the Black European Women's Network (BEWNET)¹¹³, the European Forum of Muslim Women¹¹⁴, the Philippine Women's Network in Europe (BABAYLAN)¹¹⁵ and even the International Committee on the Rights of Sex Workers in Europe,¹¹⁶ we find reference to intersecting inequalities inscribed in the origin of these organizations. All of these organizations were constituted by women facing several and different inequalities, aiming at improving the particular social situation of concrete female social groups. This gave civil society organizations reason to work towards a better intersectional approach to inequalities.

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 inequality axes. Recent EU policy for the fight against all forms of discrimination has provoked some defensive attitudes with regard to certain women's civil

¹¹³ <http://www.bewnet.eu/>

¹¹⁴ <http://www.islam-online.it/forum/introduction.htm>

¹¹⁵ <http://www.babaylan-europe.org/>

¹¹⁶ <http://www.sexworkeurope.org/site/>

society organizations such as the EWL. In response to the “one size fits all approach” of the European Commission anti-discrimination policy, the Lobby wonders whether “gender discrimination [is] fully taken into account”¹¹⁷ in this new European strategy. To some extent, this attitude shows an underlying tone that “gender comes first”, which does not favour the development of strong intersectional alliances¹¹⁸ by the organization and may hinder the creation of alliances with civil society groups dealing with different inequalities.

However, the EU anti-discrimination approach does entail risks for gender equality. Gender advocates at the EU level have the perception that the political context is currently not so favourable to gender equality, and point to the examples of the lack of EP initiatives on gender during the Year of Equal Opportunities for All and the problems with the appointment of the Director of the European Institute for Gender Equality. They worry that the anti-discrimination approach is taking the EC away from a more holistic approach to fighting gender inequality, to the detriment of gender mainstreaming and positive actions, and risks reducing the scope of EU gender equality policy. In this sense, the current EU trend towards anti-discrimination could also be used as an excuse to avoid broadening the EU gender equality policy approach to other areas outside employment, as new EC initiatives for policies covering areas beyond employment might exclude gender. These signs reveal a tendency in the EU to dilute the category of gender, with the risk of losing a conceptual category useful for challenging power relations between women and men (Lombardo and Verloo forthcoming in 2009). The European Network against Racism has expressed similar worries on the issue in considering the recent EU single-equality approach as opposed to the political strategy of combating specific forms of discrimination relating to each of the inequality grounds. According to ENAR, an intersectional approach could “lose the sight of the specificities of each ground”¹¹⁹.

Although to a limited extent, work and dynamics within European civil society show some evidence that they are either beginning to work on intersectionality or are drawing out the terms of a dispute that reveals matters of power and privileges that are key to any work on political intersectionality. The fact that organisations that deal with the inequality axes that have received more attention at the level of the EU, such as the EWL, are more concerned about losing such attention, shows a need to work in a more self-reflexive way about what it means to do political intersectionality. At the same time, though, cautionary messages from the EWL and ENAR about the lack of specific focus on each ground also call for a need to both cover all inequality grounds more evenly in terms of scope and level of EU legal protection, as well as the need to consider the specificities of each inequality.

¹¹⁷ http://www.womenlobby.org/site/1abstract.asp?DocID=300&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=&parentCat=20

¹¹⁸ See Emanuela Lombardo and Mieke Verloo (forthcoming in 2009) Institutionalising intersectionality in the European Union? Policy developments and contestations, *International Feminist Journal of Politics*.

¹¹⁹ ENAR, Multiple Discrimination Report, July 2007, http://cms.horus.be/files/99935/mediaarchive/pdf/fs33_multipliediscrimination_july2007_en.pdf

6. Main changes and relevance of different forms of intersectionality

In this section we pay attention to the different issues and most significant turning points influencing the treatment of intersectionality in European gender equality policies.

6.1 Changes in general legislation and machinery¹²⁰

Important changes in gender and other inequality machinery have occurred in the EU since Article 13 (Treaty of Amsterdam). Gender equality is no longer the only inequality to have institutions dealing with it. New bodies in charge of other inequalities have been established (see 5.1) and the creation of unitary or separate equality bodies has been a matter of controversy in the EU political arena.

The way in which bodies that deal with other inequalities, such as Unit G4 and FRA, proceed in order to take into consideration intersections among different inequalities is still unclear, though no formal procedures seem to be in place for dealing with intersectionality. Unit G4 on *Action against Discrimination, Civil Society* seems to be the Unit more involved with issues of “multiple discrimination”. However, work on “multiple discrimination” needs to be taken up also by Units working on gender and disability and to be coordinated among units. In relation to the new bodies created, the FRA will deal with gender equality issues only to the extent that this work does not overlap with the Gender Institute.

As regards the consequences for gender equality policies of creating new integrated bodies and of a new anti discrimination approach in the EU, some concerns have been expressed by gender advocates. In the debate in the European Parliament on the adoption of the Regulation on the Institute for Gender Equality¹²¹, for instance, the EP Rapporteurs Lissy Gröner (PSE) and Amalia Sartori (PPE), from the Committee on Women’s Rights and Gender Equality, defend a specific gender body. They believe it would give more visibility to the European Union policies, it would enhance the quality of equality policies, and it would contribute to meeting women’s needs to see existing substantive gender inequalities more effectively tackled: “We also want to see real improvements in the *quality* of equality policy (...) there is a risk that people will say – as some Members of this House are already doing – that we do not want an institute specifically for gender issues, but that it should, instead, be combined with the Human Rights Agency. The great danger of that, I think, would be that it would no longer be ensured that the European Union’s programmes were *visible* to the public”, (Lissy Gröner PSE)¹²².

The need to strengthen the European Union gender equality policy and the fear of invisibility of the gender equality agenda are some of the arguments used among MEPs supporting a

¹²⁰ This section is based on Lombardo and Verloo 2009 forthcoming.

¹²¹ 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) 328.

¹²² The emphasis in Italics is ours here and in the following quotations.

single gender Institute: “I do not support the amendment suggesting that the Institute be integrated into the EU’s Human Rights Agency based in Vienna, as the entire problem area would then *become part of an existing agenda*, and this would certainly not fulfil the EU’s ambition to *strengthen its equal opportunities policy*. As the most recent reports also suggest, inequalities between men and women still persist” (Zita Pleštinská PPE-DE).

On another occasion, the EWL expressed worries on the political and economic consequences of creating equality bodies that would treat all inequalities together: “The EWL is very concerned about the trend in some countries to merge discrimination, human rights, and bodies for equality between women and men. There is little evidence that this approach has led to greater coherence, but simply 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). At the time of the 2004 Commission Green Paper on “Equality and non-discrimination in an enlarged European Union”, the EWL had already been critical of the Green paper’s integrated approach to combating “multiple discrimination” (see Verloo 2006). 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 to face complex issues such as human rights, anti-discrimination and gender equality (European Women’s Lobby 2004)¹²³.

In 2007, the EWL expressed concern that new EC initiatives to combat discrimination outside of employment might exclude sex-based discrimination. The main problem identified seems related to the EU’s increasing trend to not distinguish gender-based discrimination from other forms of discrimination, while the Lobby believes there are good reasons for maintaining equality between women and men as a cornerstone of all equality policies. The EWL observes the trend in activities related to the “European Year of equal opportunities for all”, where sex discrimination was excluded by events organised by the European Parliament, and in the emerging trend in some Member States to create general equality bodies that merge all inequalities. According to the EWL, such moves could lead to reduced attention and resources directed towards gender equality.

While changes in the equality machinery are too recent to be able to identify their consequences for the framing of gender equality policies, we can at least mention the references to intersectionality found in the framing of General gender equality legislation. Policy documents in this issue reflect the increasing interest in discrimination on additional grounds other than sex and generally call for a strengthening of the anti-discrimination framework at the EU level. Regarding intersectionality, we notice a general lack of intersectional inequalities in the documents selected. When intersections are addressed, class, gender, age, disability and ethnic origin are the axes most considered. In particular, in addition to “gender”, “ethnic origin” and “disability” are the most frequently mentioned

¹²³ The point about competition for resources had been raised by gender advocates already in EU Agenda 2000, when the NOW program was replaced by the EQUAL initiative, thus reducing specific funds for women.

inequalities, followed by “class” and “sexual orientation”, then “age”, “religion” and “migrant status”. “Marital status” is identified to a lesser extent.

6.2 Changes in non employment

Age as a ‘new’ key inequality in the changing EU demographic context

Regarding non-employment policies, the main turning point influencing the treatment of intersectionality in gender equality policies at the EU level has been the *inclusion of age* as a significant inequality to consider, if not the most significant. As already stated, from the beginning non-employment issues have been focused on *marital status and class*; age has only recently been introduced in non-employment issues as a key axis to consider. This change was due to demographic change. The debate on pensions and the sustainability of social protection systems are the two major topics underlying the current EU debates on demographic challenges.

We also have to consider two more topics affecting the current development of non-employment issues: the reconciliation topic and the social (read labour) integration of non-EU people in the European Union. Concerning the social and labour integration of non-EU people into European societies and labour markets, two main points have been articulated in Member States’ political discourses. On the one hand, the issue is articulated as a key aspect contributing to the growth of European and national economic wealth¹²⁴. On the other, the integration of non-EU people is considered as a basic factor in increasing national birth rates¹²⁵, currently a major topic of public debate in certain Member States. Gender and age, mainly tackled as separate grounds, are the main factors considered today when addressing the predicted fall in employment participation in the European labour market; an issue which continues to be, in its multiple facets (pensions, social protection systems, economic grounds), the main issue considered by the EU institutions.

The demographic decline in the European population is presented as a great problem across the non-employment-related documents. As noted above, gender issues are strongly invoked by policy makers when addressing the demographic decline: “The ageing of the population, combined with declining birth rates, raises considerable challenges for our

¹²⁴ The migration topic is mostly related to economic and labour market issues rather than demographic issues: “Employment is a key part of the integration process and the effective integration of immigrants into the labour market constitutes an important contribution to reaching the Lisbon targets for jobs and growth”, Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions: “Third Annual report on Migration and Integration” (pp. 6), http://ec.europa.eu/justice_home/fsj/immigration/docs/com_2007_512_en.pdf

¹²⁵ In the 2007 Commission Communication on Migration and Integration, it is stated, for instance, that “Immigration is still the main element in EU demographic growth and positive net migration is recorded in most Member States” (pp. 6). *Ibidem*.

societies¹²⁶ (...) It is clear that policies on gender equality will contribute significantly to meeting those challenges: on the one hand, by stimulating the employment of women, thus compensating for the forecast decline in the working population; and, on the other, by supporting the individual choices of women and men, including decisions on the number of children they wish to have”¹²⁷.

The increasingly ageing population structure is also related to matters such as the lack of childcare services and the need to improve reconciliation policies. Consequently, there is a general trend across the solutions in the documents towards emphasising the need to adapt working conditions to reconciliation needs. Hence, while equal opportunities measures are identified as solutions to achieve gender equality in employment, equality between women and men is also highlighted as a necessary condition to redistribute care work within families. The increased provision of adequate care services is identified as a common solution across EU documents.

Texts share the view that facilitating reconciliation between family life and work will promote and increase women’s participation in employment, which in turn will result in better economic performance by the European Community. In addition, this causality chain will result in the necessary increase of the European birth-rate. Demographical challenges are a constant concern in this issue, frequently addressed as an economic worry about the future of some welfare provisions, such as pensions. The provision of public quality care services is sometimes contested; there are isolated voices that consider them as a burden to national expenditures and other voices that defend the provision of care services to European citizens as a commitment associated with the European welfare model.

The combination of gender and age was particularly addressed in a 2005 European Commission Green Paper on confronting demographic change¹²⁸, a document that immediately triggered a debate between several social organizations. The EWL, for instance, although not very focused on intersectional considerations, welcomed the Commission’s initiative of launching a debate on demographic changes in the European Union. The Lobby’s response to the green paper demonstrates that a gender perspective is required in order to provide a solid basis for the formulation of appropriate policies and programmes in the EU that will efficiently respond to the challenges of demographic changes¹²⁹. The Union of Industrial and Employers’ Confederations in Europe (UNICE)¹³⁰

¹²⁶ As demonstrated in the Commission Communication of 12 October 2006 on the demographic future of Europe – from challenge to opportunity (COM (2006) 571 final), http://ec.europa.eu/employment_social/news/2006/oct/demography_en.pdf

¹²⁷ Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on equality between women and men-2007, http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0049en01.pdf

¹²⁸ Communication from the Commission Green Paper of March 2005 “Confronting demographic change: a new solidarity between generations”, COM(2005)94 final, http://ec.europa.eu/employment_social/news/2005/mar/comm2005-94_en.pdf

¹²⁹ Response of the European Women’s Lobby to Commission’s Green Paper “Confronting demographic changes: a new solidarity between generations”,

also welcomed the debate launched by the green paper and expressed its concerns that the document did not take sufficient account of companies' needs¹³¹.

The pension debate is the most relevant topic running through the documents found on social security programmes. More so than in other areas, measures on the pension issue abound at the EU level. This is mainly due to current concerns about the sustainability of pension systems and the growing elderly population in Europe. Considering social benefit policies as a whole, the accelerated demographic process of the ageing population structure is a challenge to the EU. The difficulties in providing pensions and other social benefits have increased and continue to do so in the EU capitalist frame. Thus, looking for a financially sustainable way to maintain social systems, the European Council has adopted a new framework for the social protection and social inclusion process¹³². Intersectionality, however, is not developed.

6.3 Changes in intimate citizenship

Although intimate citizenship topics have a greater presence of intersectional considerations than other issues, changes within this issue are not particularly remarkable at the EU level. One probable reason is that the European Union does not have large competences in these topics as they remain under national competences. Thus, the main changes in this field are happening within national contexts.

At the EU level, intimate citizenship changes that are present have mainly emerged in relation to *sexual orientation* and *marital status*. Particularly noticeable is the relevance of certain aspects related to parenthood and adoption by gay people, which have been slightly addressed by the European Institutions. The main change we can consider is linked to the disputes around the inclusion of non heterosexual people in the legal measures on family life and related issues. In recent years, the increased visibility of family models other than the heteronormative model and the social mobilisation of LGBT people (particularly ILGA-Europe) are prompting the emergence of public debates on the extension of social and civil

http://www.womenlobby.org/site/1abstract.asp?DocID=1406&v1ID=&RevID=&namePage=&pageParent=&DocID_sousmenu=

¹³⁰ UNICE position paper of July 2005 on the European Commission's Green Paper "Confronting demographic changes: a new solidarity between generations",

http://ec.europa.eu/employment_social/social_situation/responses/a16015_en.pdf

¹³¹ More references to the civil society debate can be found in the following links: European Foundation for the Improvement of Living and Working conditions contribution to the European Commission's Green Paper "Confronting demographic changes: a new solidarity between generations",

http://ec.europa.eu/employment_social/social_situation/responses/a818_en.pdf ;

European Social Insurance Platform Joint Position Paper of October 2005 on the European Commission's Green Paper "Confronting demographic changes: a new solidarity between generations"; <http://www.esip.org/publications/pb56.pdf>

¹³² Commission communication of 2000 on the future evolution of social protection from a long-term point of view: safe and sustainable pensions (COM (2000) 0622). E-text, 15 pp., available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000DC0622:EN:HTML>

rights to every person irrespective of their sexual orientation. However, as noted, family issues remain outside of the European Union legal scope and just three Member States (The Netherlands, 2001, Belgium, 2003, and Spain, 2005) recognize the legal union of same-sex partners. While intimate citizenship issues continue to remain under national legislation, changes in related topics will be limited at the EU level.

In addition to ILGA, which is the European civil society organization having a large degree of presence in intimate citizenship issues, European women's civil society organizations are increasingly dealing with intersecting inequalities within these topics. Sexual orientation, migrant status and marital status are again the main intersections tackled by these organizations.

Due to current social and migratory trends, it is worth noting the increasing presence of *citizenship, migrant and ethnicity* considerations in both institutional and civil society voices. In topics such as divorce, marriage and separation as well as in reproductive rights issues, discussion on the "legal" or "illegal" condition of women and on the different ethnic practices is increasingly entering onto the agenda. However, alongside an increased sensitivity towards considering intersecting inequalities, both the civil society and institutional discourses still tend to use neutral and non explicit concepts reflecting the current and changing situation of certain social groups at the EU level.

6.4 Changes in gender based violence

In the 80s, the discussions on *sexual harassment* began with different actors driving the discussion, including civil society actors, the EP and some member states. The issue firmly entered the EU agenda in 1986 with an EP Resolution against sexual harassment in the workplace among other things. However, only soft law measures were implemented in the 90s and binding measures were not introduced until the turn of the century. The 2002 amendment to the Equal Treatment Directive from 1976 includes sexual harassment as a form of discrimination (i.e. contrary to the principle of equal treatment) and the 2006 Directive specifically identifies it as a violation of dignity in the workplace. These were the first binding measures, in line with the overall employment and labour market related focus and competences of the EU. The women's organisations were the main driving forces behind the development both in the 80s when it was first put on the agenda and again when the 2002 Directive was negotiated. The social partners were consulted by the EC but never reached an agreement. The business sector was against regulations (Elman 1996; Zippel 2006).

There has been no significant shift in frames since the employment and labour market framing of the policy problem, which has remained in place since it was first introduced. However, there have been some significant legal changes within this issue since specific definitions and the legal establishment of sexual harassment as sexual discrimination were introduced in the 2002 Directive. The issue has been marked by the involvement of the

social partners and especially the discussions on whether or not to regulate on sexual harassment. In recent years the issue has not gathered much attention and is not debated much in the EP. To some extent, we might conclude that the momentum has gone and that there is a perception of the issue being sufficiently covered by current legislation.

As the EU has expanded its field of action, especially in the mid 90s, other gender-based violence issues have entered the political agenda. This is particularly the case for domestic violence, *trafficking* for sexual exploitation and female genital mutilation. The EP has been a main actor behind the promotion of these issues on the EU agenda. Trafficking, prostitution and pornography were covered by the 1986 EP Resolution on Violence against Women and the 1989 Resolution on prostitution and trafficking. Previously both the member states and the European Court of Justice had participated in the debate. Whereas the EP resolutions focused on gender inequality structures, the member states were preoccupied with the distinction between trafficking and the right to free movement internally in the EU also for prostitutes (considered workers) (Elman 1996). In more recent years, there has been a general trend to separate the issues of prostitution and trafficking in the debates, mainly to proceed in trafficking policies without making these dependent on abolitionist/non-abolitionist perspectives and divisions (see for example EP debate on trafficking in women¹³³).

An important shift has therefore occurred over the years as it has become more and more framed as a problem of organized crime (rather than gender inequality) and, through this, related to immigration policies. One of the most debated issues has been that of granting victims of trafficking residence permits in exchange for cooperation in the judicial processing of perpetrators.¹³⁴ The EP and the main NGOs address global inequality structures as a problem related to that of trafficking. With regards to the concrete measures launched within the sub-issue of trafficking, the EC STOP programme, initiated in 1996¹³⁵, has been significant. It put the issue of trafficking on the EU agenda, dealing with combating trade in human beings and the sexual exploitation of children. However, the programme has been reduced over the years and its thematic from 2003 was incorporated into the AGIS programme on police and judicial cooperation in criminal matters¹³⁶. The issue is treated as a problem of international organised crime and dealt with from a legal approach. Part of the trafficking thematic is also covered, to a certain degree, in the continuing Daphne programmes. Overall though the framing of the issue of trafficking has moved away from a very early linking to the issue of prostitution and gender inequality, on one hand, and free movement and a well-functioning internal market, on the other. It has shifted towards a linkage with policies of migration where we find two different consequences in the framing of the issues as either an implicit internal/external divide in the sense that it is a problem caused outside the EU, coming in (as is the case of the culturally-framed female genital

¹³³ 18 May 2000.

¹³⁴ Council Directive 2004/81/EC.

¹³⁵ STOP I 1996-2000, STOP II 2001-2002.

¹³⁶ Council Decision establishing a framework programme on police and judicial cooperation in criminal matters (AGIS), 2002/630/JHA. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:203:0005:0008:EN:PDF>

mutilation and honour crimes), or as a consequence of existing global inequalities where responsibilities might be more divided. It should be underlined, however, that these are only tendencies of framings and not very explicitly pronounced in either case.

Concerning the issue of *domestic violence*, it was primarily promoted as a European policy issue following the adoption of the CEDAW declaration in 1993 and the Beijing Platform of Action from 1995. These developments initiated through feminist mobilization at the international level led, among other things, to the EP, and particularly the EP's Committee on Women's Rights (CWR), putting pressure on the other EU institutions to focus on male violence against women (Elman 2007). Already by 1986 the EP CWR had launched the abovementioned resolution on violence against women but the decade of the 90s became decisive not least because of the emergence of the EWL European Observatory on Violence Against Women from 1997 and the Women Against Violence Europe Network, created in 1995. In 1997, the EP initiated the Zero Tolerance campaign focusing on domestic violence as a human rights issue related to unequal gender power structures. The abovementioned STOP programme was introduced in 1996 and in 1997 the first Daphne programme to combat violence against women and children was launched. In the beginning the programme was called the Daphne Initiative, providing funds on an annual basis. From 2000 onwards¹³⁷ it was formulated as an actual programme and the policy issue gained legitimacy at the EU level. The issue has thus been treated not through legal measures but through campaigns and programmes (financing of NGOs for implementing a variety of projects).

The dividing aspect in relation to the debate on domestic violence and the way it should be handled in EU policies has been whether to treat it as a public health problem or as a human rights problem. The women's organisations, such as the EWL, and the EP (for instance in the Zero Tolerance Campaign), defended the latter approach whereas the member states preferred the former. The Daphne programme was also formulated within a public health frame and the problem was seen as one of violence against children, young persons and women (i.e. a combination of gender and age without any real intersectional approach to the problem). The Daphne programmes do not take into consideration the unequal gender power structures underlying the problems as the EP did in its 1997 campaign, but focus on rather de-gendered public health problems and, to a certain extent, the economic costs to society. The gender/de-gender differences between the approaches and the actors are further underlined by the fact that while other gender-related issues are dealt with in the DG for Employment, Social Affairs and Equal Opportunities, the issue of domestic violence and especially the Daphne programme is institutionally embedded in the DG for Freedom, Security and Justice (under the Fundamental Rights and Justice Programme). As mentioned above, the same differences of framework within the institutional setup (between the EC and the EP particularly) apply to the issue of trafficking and the STOP programme. The DG Employment maintains a focus on gender-based violence in certain policy papers (see for example the Roadmap for Equality between Women and

¹³⁷ Daphne I 293/2000/EC, Daphne II 803/2004/EC and Daphne III COM(2007)0102.

Men¹³⁸) but the legal basis and the administration of the main programmes have been linked to DG Justice.

Thus, we might say that the shifts in frames in the case of the sub-issue of domestic violence is not as such a chronological shift but rather a matter of which actor has been the driving force behind the development of the policy issue in a given period of time and which approach this actor in particular has defended. Overall, there has been a shift from a human rights and gender inequality frame to an almost de-gendered public health frame which is a result of the EC programmes promoted in the area from the late 90s onwards, even though actors promoting the human rights frame (EP and civil society actors mainly) have at the same time maintained their approach.

The shifts in frames and contexts of the different sub-issues are also reflected in the introduction and disappearance of different intersecting and inequality-generating categories. The sub-issues of domestic violence and trafficking have moved away from a predominantly gendered focus, especially by introducing the more generic notions of public health and international organised crime, and in this shift age has become an important category in the policies (aiming to protect children and young people). However, since age and gender are usually combined and treated separately, there is no enhanced focus on intersectionality and intersecting categories as such.

Furthermore, the issue of domestic violence has expanded to cover also female genital mutilation and honour killings which are not thought to be typical of the European context and therefore the categories of ethnicity and culture are introduced to intersect (often in an inarticulate way) with gender. This is related to overall social changes whereby European society is seen as becoming increasingly multicultural but it is also related to debates on trafficking as it is linked to cross-border problems since these forms of violence are brought in from the outside. In this sense, and by linking trafficking to issues of migration policies, as explained above, migrant status, nationality and citizenship are also increasingly used as relevant categories in the sub-issue of trafficking. However, since the issue in itself is not particularly gendered, there are not many examples of these categories being used in an actual intersecting relation with gender and/or other inequality-generating categories.

Single parents and women in processes of divorce and separation are seen as particularly vulnerable, especially in the sub-issues of domestic violence and trafficking, and these considerations are increasingly (but still marginally) introduced in the policies. This is due to changes in family structures but since the intersections are usually inarticulate or not further explored, there does not tend to be any correspondence with the identification of vulnerable groups and the implementation of specific policies in the actual policy documents. However,

¹³⁸ Communication from the Commission to the Council, the European Parliament, the European Economic and Social committee and the Committee of the Regions on a Roadmap for Equality between women and men (2006-2010), COM (2006) 92 final.
http://ec.europa.eu/employment_social/news/2006/mar/com06092_roadmap_en.pdf

this is partly due to the very nature of the policy documents since the Daphne programme, for instance, does fund projects dealing with groups at specific intersections.

Finally, concerning the category of class, this is only occasionally (and indirectly) considered in domestic violence and trafficking through concern for the victims' financial situation and economic reintegration. It is most relevant, though, in the sub-issue of sexual harassment where it has gone from being rather prominent (through the presence of 'women workers', especially in the policy documents) to being more or less absent from the most recent texts (especially the binding ones and the EP debates). It is significant that the EC Communication concerning the consultation of management and labour on the prevention of sexual harassment at work¹³⁹ seems to be the most comprehensive and detailed text in our sampling when it comes to addressing groups at specific intersections: "Some specific groups are particularly vulnerable to sexual harassment. [...] ... divorced and separated women, young women and new entrants to the labour market and those with irregular or precarious employment contracts, women in non-traditional jobs, women with disabilities, lesbians and women from racial minorities, are disproportionately at risk" (page 3). This is partly due to the fact that the text is not binding, but nevertheless it might also reflect the momentum or window of opportunity present in the mid 90s when the political willingness to explore the issue of inequality in depth was greater.

Overall, intersectionality has not been a key issue in the development of the field of gender-based violence in the EU. However, we can find some traces of an impact of intersecting categories in the shifts in the policy content, both in terms of shifts in frames and shifts in contextual conditions. Since the presence of these categories is usually inarticulate, we might consider whether intersectionality is slightly more present but also charged with more rhetoric now (considering for instance a comparison with the example of the 1996 document introduced above). The consequences may be a certain degree of dilution since the inequality-generating categories are not treated in depth. There are also examples from the sub-issues treated here that suggest more variations, although inarticulate, are introduced into the policy documents. This said however, it should also be considered that there is a certain degree of difference according to the different types of policy documents and the different actors producing them. All three sub-issues (domestic violence, sexual harassment and trafficking) found their way onto the EU political agenda not least due to the EP and civil society actors and the sub-issues are still marked by a difference in approach in this regard as well.

6.5 Conclusions on main changes on intersectionality in the EU

As concerns shifts in the framing of gender+ equality policies at the EU level, generally speaking, there is a tendency across the issues to progressively consider more than one axis of inequality in equality policies (a multiple approach). However, recent debates on anti-

¹³⁹ COM(96) 373 final, http://aei.pitt.edu/6277/01/003445_1.pdf

discrimination and equality seem to be more focused on a separate-equality approach than on an intersectional perspective. Certainly, such an approach entails a general perspective on social discrimination that opposes a focus on concrete initiatives combating specific forms of discrimination based on the several grounds considered by the QUING project. In this sense, the possibility of recognizing intersectional and combined inequalities is somehow omitted.

When considering the QUING issues, we can notice the following changes in the framing of intersectionality: In non employment, the most significant shift in frames is the inclusion of age as the most relevant inequality considered in policy documents, due to increasing concerns about the EU demographic decline that might affect the European labour market; Intimate citizenship reveals changes in framing with the appearance of sexual orientation and marital status as important inequalities, while at the same time the issue of same sex partnerships and families remains controversial in the EU; Though intersectionality in general has not been very prominent in the issue of gender-based violence, inequality-generating categories have gradually become more present. Usually the relations between them are inarticulate however. In the sub-issues of domestic violence and trafficking, age combined (not intersecting) with gender has become more salient as more generic and less gendered frames and policies have developed (public health, international organised crime). As these sub-issues have been linked with migration policies, the categories of ethnicity, culture, nationality, migrant status and citizenship have been more commonly introduced as well. In the sub-issue of sexual harassment, class has become less present in the policy documents.

As concerns changes in the equality machinery, the EU development of an anti-discrimination political approach has provoked debates on the need to establish integrated bodies to deal with all inequalities together and has determined the creation of agencies and committees that treat Fundamental Rights and equal opportunities together. However, the latest changes in the machinery, with the creation of a specific gender equality body (the European Institute for Gender Equality), and a body for all other inequalities with an emphasis on race and ethnicity (the Fundamental Rights Agency), reveal the existence of conflicting trends in the EU treatment of inequalities and their intersections, with specific bodies for some inequalities and integrated bodies for others (Lombardo and Verloo 2009 forthcoming).

Intersectional policies, though, have no clear machinery to drive the efforts of such development. The way in which gender equality bodies and bodies that deal with other inequalities proceed in order to take into consideration intersections among different inequalities is still unclear, though no formal procedures seem to be in place for dealing with intersectionality. So far, Unit G4 on *Action against Discrimination, Civil Society* seems to be the Unit more involved with issues of 'multiple discrimination'. However, work on 'multiple discrimination' needs to be taken up also by Units working on gender and disability and to be coordinated among units. The FRA has potential for becoming a body more involved with multiple inequalities, but at the moment it seems to be mostly focused on

race/ethnicity/minority, and there seems to be little understanding that there is specific discrimination for people at intersections. Moreover, the FRA will deal with gender equality issues only to the extent that it does not overlap with the work of the Gender Institute. In relation to this latter body, its potential for taking into account intersectionality issues is yet to be seen, once as the problems with appointing a Director are solved (Lombardo and Verloo 2009 forthcoming).

7. Conclusions: implications of intersecting inequalities in the EU

*Institutionalising intersectionality in the EU?*¹⁴⁰

In response to our initial questions about the extent to which changes in machinery and debates on intersectionality at the institutional and civil society levels show practices of intersectionality in the EU, our answer is that we did not find much evidence of such practices. Although recently the Commission and the European Parliament have shown interest in 'multiple discrimination', we found little evidence of political practices currently incorporating an intersectional approach into the treatment of inequalities. When we consider the EU legal framework, we do not see evidence of intersectionality, as it is merely juxtaposing inequalities rather than intersecting them, and it is not giving equal importance to the different inequality axes since Directives give varying amounts of status and power to the different axes.

The use of an 'anti-discrimination approach', moreover, may be reductionist and create some tension with the mainstreaming approach, because the latter has not been extended to all inequality axes, and because there are concerns of possible drawbacks in areas, like gender, where a mainstreaming approach has been adopted. An exclusive emphasis on the anti-discrimination approach entails the risk of going back to a mere equal opportunities approach, of ignoring positive actions and mainstreaming, of allocating insufficient resources to promote equality and, even more seriously, of replacing the category of gender by reference to women as individuals who act in a supposedly fair competition with other discriminated collectives (Ferree 2008 forthcoming).

The list of inequalities covered is broad since it includes six axes. However, these are unevenly developed throughout the EU legal framework and this creates unfair conditions for the different groups and can discourage intersectional alliances among groups. The list also excludes class. While there can be different reasons for not including class in the list (e.g. the EU has often been described as a liberal rather than socialist project), 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 and rather places emphasis on the individual, who can initiate legal battles in the European Court of Justice¹⁴¹.

Institutions created to deal with inequalities are in some way consistent with a mixed legal framework that treats inequalities separately and at the same time develops the approach of

¹⁴⁰ The reflections in this section are part of the paper by Emanuela Lombardo and Mieke Verloo: *Institutionalising intersectionality in the European Union? Policy developments and contestations*, to be published in *International Feminist Journal of Politics*, 11(4): 478-495, Special issue 2009 'Institutionalising Intersectionality', Editors: Johanna Kantola and Kevät Nousiainen.

¹⁴¹ Thanks to Åsa Gunnarsson for commenting on this point at a workshop in the Umeå Centre for Gender Studies, 12 June 2008.

dealing with all inequalities together; most institutions are separate bodies dealing with one specific inequality, but there are also new bodies merging different axes (such as Unit G4 of DG Employment and Social Affairs), and previous bodies that have widened their remit (such as FRA). While this inconsistency both in legal framework and institutional developments is not a problem per se, it is difficult to see at this stage to what extent the separate or integrated structure of such bodies will affect their capacity to deal with intersectionality; particularly given that it is too early to assess the work of the Fundamental Rights Agency and the European Institute for Gender Equality. Nevertheless, it can be said that the institutional context is evolving, and that there is some evidence that the Fundamental Rights Agency will deal with multiple discrimination and that Unit G4 of DG Employment and Social Affairs is beginning to work on multiple discrimination, or at least that it is studying the issue. But so far there do not seem to be official or informal procedures to deal with intersectionality in the Commission Units working on gender and other inequalities.

Moreover, if bodies that are in charge of dealing with multiple discrimination, such as Unit G4 and FRA, will not take all inequalities into account because there are other specific bodies dealing with these (for instance, as regards gender, Unit 1 and 2 and the European Institute for Gender Equality), there is a risk of adopting policies that deal with 'multiple discrimination' (and perhaps, in the future, with intersecting inequalities) but which fail to include all axes. Thus, procedures need to be established to coordinate actions among the different EU equality bodies to make sure that gender intersections with other inequalities are taken into account when adopting policy actions.

Debates on the creation of most 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, institutions also trigger territorial reflexes themselves, by establishing uneven levels of protection for the different inequality axes. The fair protection for all inequalities in Article 13 and the extension of the material scope beyond employment seems important for combating inequalities, though the specificities of each inequality field also need to be considered (see Verloo 2006; Bell 2002). The ways in which institutions articulate the issue and the resources, attention, and powers they give to different groups can trigger either alliances or competition.

Framing intersectionality in the EU?

As it has been repeatedly addressed across the report, a lack of consideration of intersectionality as a political approach generally characterises gender equality policies in the EU. Separate approaches as well as de-gendered notions of inequalities are frequently used in EU documents and policies. In spite of the slight progress in considering multiple

discriminations in recent years, gender equality and its gender mainstreaming strategy seem to remain focused on a general and broad notion of women or even reflect a contradictory and confused orientation towards multiple inequalities.

Even though intersectionality is not very present in general in EU policies, we detect a growing tendency to consider and include more than one inequality in the policy documents. When combined, the categories are usually treated separately (i.e. an implicitly additive approach) or the relation between the categories is inarticulate. *Age, marital status and nationality/migrant status* are among the most commonly introduced inequality categories. *Class* is becoming less present (cohering with the overall turn in EU policies towards the notion of 'social inclusion' which does not focus on economic, structural inequalities in the same way as class-related issues and notions). *Sexual orientation* (intimate citizenship) and *ethnicity/culture* (gender-based violence) are some of the more recently included inequality categories. *Religion and disability* seem to be minor categories in the EU gender policies.

When a person is subject to discrimination on more than one ground, the EU equality policies refer to the Multiple Discrimination phenomenon¹⁴². The relation between the concepts of intersectionality and multiple discrimination is most extensively addressed in the EC report "Tackling Multiple Discrimination. Practices, policies and law" (2007), elaborated for Unit G.4 of the DG for Employment, Social Affairs and Equal Opportunities by The Danish Institute for Human Rights¹⁴³. The report differentiates between 'multiple discrimination' (discrimination on the basis of grounds operating separately), 'compound discrimination' (one ground of discrimination adds to another) and 'intersectional discrimination' (several grounds of discrimination interact with each other). However, it is stated that: "... scholars understand and use the terms interchangeably" (2007: 19). Furthermore, the report refers to Crenshaw as the origin of the theoretical idea of multiple discrimination (addressing race and gender), which creates a certain confusion about the meaning of the different concepts and approaches. The extended use of the term 'multiple discrimination' in EU policies adds to the perception that intersecting categories are most often treated separately and/or in addition to each other but rarely considered from an actual intersectionality perspective.

The 2007 review on European Gender Mainstreaming of Employment Policies¹⁴⁴ is another interesting example of the lack of an intersectional perspective. An interesting (albeit small) relevant example has been found in the following sentence: "About 60,000 people are to be supported and 90% of the funds are to be used for young people and women". Considering these words, won't we think that women are an absolute and no-further-characterized social

¹⁴² European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities report on Tackling Multiple Discrimination. Practices, Policies and Laws, http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/multdis_en.pdf

¹⁴³ http://ec.europa.eu/employment_social/fundamental_rights/pdf/pubst/stud/multdis_en.pdf

¹⁴⁴ European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities, report on "Gender mainstreaming of employment policies: a comparative review of 30 European countries", http://ec.europa.eu/employment_social/publications/2007/ke8107103_en.pdf

group? Won't we think that young people are not constituted by women? In the report, it is also stated that although a combination of equal opportunities strategies for women and equal opportunities strategies for "other disadvantaged groups" might be developed, a probable lack of attention to gender will be provoked as a consequence. The necessity to know the gender division of specific disadvantaged groups in employment is highlighted in the report as a key factor to implementing efficient gender mainstreaming measures, but no reference to the meaning of this composition is present. Are gender mainstreaming strategies therefore a general political tool valid to assessing the inequalities of different female social groups? Invoking Verloo's reflections (2006) does *one size really fit all?* The European report seems to suggest this.

In contrast, attention in the report to specific target groups in order to develop gender mainstreaming strategies in employment tends to rather confirm the current contradictory character of intersectional perspectives in European gender equality policies. The combination of gender and disability, and the largely female majority of single-parent families, are highlighted as central in the implementation of gender mainstreaming policies in employment. Although these concepts just refer to two of the several main inequalities considered in the QUING project (disability and marital/family status amongst sexual orientation, age, ethnic and religious origin, class and national status), they do seem to reflect a tendency to extend gender equality policies beyond the strict gender field.

Another relevant characteristic regarding EU gender+ equality policies that has been developed throughout the texts is the tendency to de-gender political discourses at the same time as there is an increased focus on some groups at intersections. A particular example of this pattern has been found in the 2007 report on equality between women and men of the European Commission¹⁴⁵ where the concrete circumstances and specific obstacles faced by women and men belonging to certain minority social groups are recognized but no attention to the causes or particularities of this inequality is developed. The point is that this report, whilst tackling the presence of inequalities between women and men in society, refers to the need of developing policies and measures aimed at increasing employment "among specific target groups, such as the young, older workers, the long-term unemployed, ethnic minorities, migrant workers or the disabled". This is stated taking into consideration the particular obstacles that women and men from these groups confront but no additional data, consideration or approximation of this reality is addressed in the report. At the same time, a large range of data and specificities of inequalities between "women" and "men" in a non-intersectional perspective is further developed. To some extent, is this tendency de-gendering the equality discourse? Moreover, how can gender equality be achieved if differences amongst women and amongst men are not considered? In general, there is a tendency for the European Commission to deal with diversity in terms of equality and sameness, neglecting to address differences among women, for instance, whereas some

¹⁴⁵ Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on equality between women and men, COM(2007)49, http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0049en01.pdf

civil society actors at the European level attempt to remedy this by drawing on a diversity frame based on equality and difference.

Notwithstanding the aforementioned tendency towards gradual growth in an intersectional approach, this is not yet an embedded tendency in European equality policies. For instance, the 2008 European Commission report on equality between women and men¹⁴⁶ does not mention any kind of intersection or reference to intersectional social groups (only age), which could be understood as a move towards intersectionality.

Finally, Eurostat publications about gender issues¹⁴⁷ are particularly significant when we discuss the lack of an intersectional perspective in the EU or the weak multiple discrimination approach in EU documents and policies. These publications clearly show that the official European statistical office does not centre its attention on any social inequality other than gender in the European Union. This tells us a lot about the absence of intersectional equality policies at the EU level.

Several examples of what we might call 'neutralizing intersectionality', saying that all groups of people or categories are relevant in relation to a particular problem (for example sexual harassment), are found in EU policies. This is a further indication of the risk of diluting inequality structures and intersectional relations. This tendency is also found in the extended use of inarticulate references to inequality-generating categories. The intersecting relation is not treated in depth and this may translate into non-implementation in practice as the policy problem is only mentioned but not defined or adequately recognised.

There is clear evidence in our results as to the relation between political opportunity structures and the development of particular intersecting relations and the introduction or disappearance of specific inequality categories in EU policies. Issues that are high on the European political agenda contribute, to a certain extent, to defining the focus in terms of intersectionality categories. We have found examples of this in relation to concerns about demographic challenges, migration flows and the development or existence of a multicultural society in Europe. These issues, when gaining increased attention among political decision-makers, influence which inequality categories are seen as relevant (age, nationality/migrant status, ethnicity/culture) and therefore feed into the specific policy concerns (e.g. in the issues of non-employment and gender-based violence). The power struggles among the member states and the EU institutions over respective levels of competences are also important in this sense; generic, non-gendered frames have been more easily accepted and this might reflect a concern for the EU not to alter the current distribution of competences or interfere too extensively with specific policies at the member state level. Within the EU institutions, we can find a similar importance of the political

¹⁴⁶ Report from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions on equality between women and men COM(2008)final,

¹⁴⁷ http://ec.europa.eu/employment_social/gender_equality/docs/com_2008_0010_en.pdf
http://ec.europa.eu/employment_social/news/2008/mar/eurostat.pdf

opportunity structure in that the mid 90s seem to have represented a particularly beneficial moment in furthering attention to gender as new legislative frameworks and treaties were being developed.

The interface between EU institutions and civil society and the quality of gender+ equality policies

The EU is a good case to study the interface between institutions and civil society in relation to the treatment of intersectionality because it shows different dynamics of contestation (alliances, competition) between groups representing different inequality strands as well as the positioning of institutions in the debate. There is a 'hierarchy of equality' in the EU legal framework that gives uneven levels of protection to the six inequalities of Article 13 which tends to generate a certain feeling of injustice, with competition between the different civil society groups for resources and attention from the Commission. Gender advocates such as the EWL defend their privileged position against new strands that they fear might replace attention to gender issues and might benefit from an expansion of the scope of the EU legal protection beyond the labour market (an issue for which they had long been fighting for with little success). Groups such as the ILGA seem more open to alliances as they have everything to gain and nothing to lose from cooperation, and only in working together with others can they achieve their goals. EU institutions also have responsibility in promoting competition or alliances between groups representing different inequalities by giving unfair treatment to inequalities, legitimizing certain claims above others or by limiting resources (Lombardo and Verloo 2009 forthcoming; Rolandsen Agustín 2008).

There seems to be a lot at stake for equality in the European Union. The political 'moment' created by the launching of an anti-discrimination approach, as challenging as it may be, seems a good opportunity for institutional and civil society actors to learn more about how to deal with political intersectionality at the EU level. As we argued in our literature review, the work of Butler (1993), Mouffe (2000), and Schmidt-Glein and Verloo (2003) has developed a notion of 'productive antagonisms' which we think is related to political intersectionality. While competition among categories of intersectionality, such as competition between gender and race, is not necessarily good in itself, it can actually be productive because it might bring out the terms of the debate more clearly than if such competition was kept hidden. This could favour awareness of the different position of one group (privileged or excluded) with respect to the others in a specific context. In addition, it could in turn provoke civil society and institutional responses more capable of including the experience of previously excluded groups and of reflecting on specific privileges.

Competition dynamics under certain circumstances are an opportunity to understand the reasons and dynamics behind alliances, competition and hostility among different groups representing different inequality axes and the positioning of EU institutions in the debate. They can be 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 are bringing out the terms of the dispute and are enabling actors to debate

issues related to mechanisms of inclusion and exclusion, issues of privilege, dynamics of competition and cooperation and the role of institutions in them, which are important issues to discuss when dealing with intersecting inequalities. However, processes of intersectional contestation, while needed in order to bring about equality, will only be productive if they are explicit and if they acquire a place on the European political agenda. To make the most of this political 'moment', the opening of a debate initiated by the EU to 'struggle' over equality and its multiple intersections within the EU institutions and with the active participation of different inequality advocates appears necessary (Lombardo and Verloo 2009 forthcoming). The way in which the civil society actors choose to use the multiple discrimination framework developed by the EU will have consequences not only for their possibilities of influence on the policies but also for the future constitution of the civil society landscape (the way in which social groups organise and cooperate) and the institutional financing of them (as single-equality organisation platforms or as intersecting social groups organising separately) (Rolandsen Agustín 2008).

The adoption of an EU approach to other inequalities has possibilities for covering gender intersecting inequalities that are currently unevenly covered by EU law. Bell's case of a German woman of Turkish origin who faces harassment on grounds of gender, ethnic origin and religion is explanatory; EU law covers all axes if harassment is employment related, but covers only gender and ethnicity if discrimination concerns goods and services, and national bodies in support of the discriminated woman cover only gender and ethnicity (Bell 2002). This calls for a stronger intersectional approach to inequalities on the part of the EU in all axes, not just in one or a few of them. Developments in the Racial Equality Directive that strengthen enforcement measures have the potential to be extended to gender equality provisions. Moreover, civil society pressure for a Shadow directive covering all axes of discrimination beyond employment could also include gender (Lombardo and Verloo 2009 forthcoming).

This shows that intersectional policies can have positive impacts on the quality of EU gender+ equality policies. As Lombardo and Verloo (2008 forthcoming) argue:

A crucial question that reveals the potential of stretching gender to other complex inequalities is: what do we lose if we do not consider political intersectionality in gender equality policies? The danger of homogenizing processes that would silence "other" subjects is that they perpetuate power mechanisms among different subjects. Indeed, the absence of intersectionality in existing equality policies makes room only for a limited understanding of gender, one that does not take into account that inequalities are often mutually constitutive, that does not open to contestation of existing hegemonic discourses, and thus has little chances of being transformative, inclusive of different voices, and defiant of oppressive social norms. For these reasons, the recognition of the multidimensional reality of equality seems to be advantageous not only for designing more inclusive equality policies but also for keeping the gender struggle alive. The adoption of a more intersectional approach to the treatment of gender has potential benefits for understanding gender, for

increasing awareness of policymakers' biases, and for improving the quality of equality policies themselves.

However, the reality of intersectional politics in the EU is quite different from this normative ideal. Existing contestations within institutional and civil society are a sign that the issue is being debated, which is a positive development. However, it is difficult to foresee what the results of these debates will be. If the results are the invisibility of some inequalities, even in Eurostat studies, biases against particular intersections (marital status and sexual orientation in the case of homosexuals), absence of institutional coordination on intersectionality, and a trend towards deleting or de-gendering some inequalities when other inequalities are introduced (e.g. erasing gender or de-gendering discourses when introducing age), this raises concerns about the quality of gender+ equality policies. While the reasons for these findings need to be further explored, an exercise of "self reflexivity" (Bacchi 2008 forthcoming; Rönnblom 2007) of their own cultural biases on the part of European policymakers and civil society actors might improve the quality of policymaking by promoting the formulation of more inclusive equality policies. The exercise is dual in the sense that heightening awareness and introducing intersectional concerns into policy formulations should be accompanied by actual implementation of coherent policies. Not only is an intersectional approach complex in terms of operationalization (as many research projects may testify), it may also at times clash with political interests and, within the context of the multilevel polity of the EU in particular, encounter hindrances related to the distribution of competences between the political decision-making levels. Within this polity context, efficiency is a highly valued norm, and the complexity of implementing concerns for intersectional categories in specific policies may not always suit this. In this way, research into the intersectional nature and effect of inequalities, on one hand, and policy developments, on the other, must complement each other in order to create quality policy responses.

ANNEX: References to intersectionality in European Union coded policy documents

The tables below present the occurrences of intersectionality in the EU coded policy documents for each of the four QUING issues¹⁴⁸. Such occurrences refer to the number of times intersectionality has been coded “yes” in both DIAGDIMENSIONS and PROGDIMENSIONS, that is when some presence of intersectionality has been detected, be it ‘inarticulate’, ‘additive’ or any of the other ways in which it could be articulated in policy texts. The category ‘Texts’ refers to the total number of texts that were coded in each issue, that is all the ‘supertexts’ that were produced in the analysis (this means that, if we have produced 3 supertexts for each selected voice of one parliamentary debate the three of them count as ‘Texts’ in the table).

The data on occurrences in the tables support the interpretations of intersectionality that we have previously made as they show the greater presence of intersectionality in the issues of Intimate citizenship and Gender based violence, compared to Non employment. However, these data only indicate the number of times that a code referring to intersectionality has been inserted in the supertext. But to be more intelligible they need to be read together with the results of the more comprehensive and in-depth analysis of how intersectionality has been discursively articulated in the documents which has been conducted for this report. Moreover, these issue tables solely refer to the documents which have been analysed through the QUING software tool. The additional documents considered in this report for the overall analysis of intersectionality in the EU in the issues of Intimate Citizenship and Non Employment have not been not integrated into these quantitative data. This might explain, for instance, why the issue of Intimate citizenship in our in-depth analysis is the one that shows a higher presence of an intersectional approach, while in the Table of occurrences it seems that Gender based violence has a higher rate of references to intersectionality. Finally, as Intimate citizenship and Gender based violence have been analysed by different researchers, this apparent discrepancy between occurrences and in-depth analysis could also be the result of different interpretations of the relative importance or weight of intersectionality in each sub-issue.

¹⁴⁸ In the EU case, one document is equivalent to one ‘supertext’. Within the QUING Project a ‘supertext’ is a coded document which enables the hidden significance of a text to be made explicit according to the dimensions listed in the ‘sensitising questions’ (Diagnosis, Prognosis, etc).

Table 1 Occurrences of intersectionality code in General Gender+ Equality Policies

| GENERAL GENDER+ EQUALITY POLICIES | | | | | | | |
|---|-----------|-------------|------------|-------------|------------|-------------|------------|
| | Texts | Diagnosis | | Prognosis | | TOTAL | |
| | | Occurrences | Nº of docs | Occurrences | Nº of docs | Occurrences | Nº of docs |
| General gender+ equality legislation | 6 | 6 | 2 | 7 | 5 | 13 | 7 |
| General gender+ equality machinery | 9 | 2 | 2 | 1 | 1 | 3 | 3 |
| TOTAL | 15 | 8 | 4 | 8 | 6 | 16 | 10 |

Table 2 Occurrences of intersectionality code in Non employment

| NON EMPLOYMENT | | | | | | | |
|----------------------------------|-----------|-------------|------------|-------------|------------|-------------|------------|
| | Texts | Diagnosis | | Prognosis | | TOTAL | |
| | | Occurrences | Nº of docs | Occurrences | Nº of docs | Occurrences | Nº of docs |
| Tax- benefit policies | 7 | 2 | 2 | 5 | 3 | 7 | 5 |
| Care work | 6 | 3 | 2 | 6 | 3 | 9 | 5 |
| Reconciliation | 6 | 5 | 4 | 5 | 5 | 10 | 9 |
| Pay gap / equal treatment | 8 | 2 | 2 | 2 | 1 | 4 | 3 |
| TOTAL | 27 | 12 | 10 | 18 | 12 | 30 | 22 |

Table 3 Occurrences of intersectionality code in Intimate citizenship

| INTIMATE CITIZENSHIP | | | | | | | |
|--|-----------|-------------|------------|-------------|------------|-------------|------------|
| | Texts | Diagnosis | | Prognosis | | TOTAL | |
| | | Occurrences | Nº of docs | Occurrences | Nº of docs | Occurrences | Nº of docs |
| Divorce, marriage and separation | 5 | 10 | 4 | 7 | 4 | 17 | 8 |
| Sexual orientation discrimination | 6 | 4 | 4 | 6 | 5 | 10 | 9 |
| Reproductive rights | 6 | 11 | 5 | 6 | 4 | 17 | 9 |
| TOTAL | 17 | 25 | 13 | 19 | 13 | 44 | 26 |

Table 4 Occurrences of intersectionality code in Gender based violence

| GENDER BASED VIOLENCE | | | | | | | |
|--------------------------|-----------|-------------|------------|-------------|------------|-------------|------------|
| | Texts | Diagnosis | | Prognosis | | TOTAL | |
| | | Occurrences | Nº of docs | Occurrences | Nº of docs | Occurrences | Nº of docs |
| Domestic violence | 8 | 9 | 3 | 7 | 1 | 16 | 4 |
| Sexual assault | 7 | 18 | 6 | 7 | 4 | 25 | 10 |
| Trafficking | 8 | 12 | 3 | 9 | 3 | 21 | 6 |
| TOTAL | 23 | 39 | 12 | 23 | 8 | 62 | 20 |

Bibliography

Apap, Joanna. 2002. *The rights of immigrant workers in the European Union: an evaluation of the EU public policy process and the legal status of labour immigrants from the Maghreb countries in the new receiving states*. Dordrecht: Martinus Nijhoff Publishers.

Bacchi, Carol. 2008 forthcoming. 'The issue of intentionality in frame theory: The need for reflexive framing'. In Emanuela Lombardo, Petra Meier and Mieke Verloo eds, *The Discursive Politics of Gender Equality: Stretching, Bending and Policymaking*. London: Routledge.

Bell, Mark. 1999. Sexual orientation and anti-discrimination policy: The European Community. In *Politics of sexuality: identity, gender, citizenship*, eds. Véronique Mottier and Terrell Carver, 58-78. London: Routledge.

Bell, Mark. 2000. Equality and diversity: anti-discrimination law after Amsterdam. In *Social and policy law in an evolving European Union*, ed. Jo Shaw, 257-170. Oxford and Portland: Hartman.

Bell, Mark 2002. *Anti-discrimination Law and the European Union*. Oxford: Oxford University Press.

Butler, Judith. 1993. *Bodies that matter: On the discursive limits of "sex"*, New York: Routledge.

Crenshaw, Kim W. 1989. Demarginalising the Intersection of Race and Sex: a Black Feminist Critique of Antidiscrimination Doctrine. *Feminist Theory and Antiracist Politics*, University of Chicago Legal Forum: 139-167.

Ellis, Evelyn. 2005. *EU anti-discrimination law*. Oxford: Oxford University Press.

Elman, R. Amy. 1996. *Sexual Politics and the European Union: The New Feminist Challenge*. Providence: Berghahn Books.

Elman, R. Amy. 2000. The limits of citizenship: migration, sex discrimination and same-sex partners in EU Law. *Journal of Common Market Studies* 38 (5): 729-749.

Elman, R. Amy. 2007. *Sexual Equality in an integrated Europe*. Houndmills, Basingstoke, Hamps: Palgrave-Macmillan.

Espírito-Santo, Ana, María Reglero, and Emanuela Lombardo, with input from Lut Mergaert. 2007. Deliverable No. 8: LARG - state of the art and mapping of competences report: the European Union. Vienna: IWM. Available at: www.quing.eu

European Women's Lobby. 2005. "Position paper on the setting up of a European Gender Equality Institute" Available at <http://www.womenlobby.org/> (accessed 4 June 2008)

European Women's Lobby. 2004. "Response to the Commission's Green Paper on Equality and non-discrimination in an enlarged European Union". Online. Available HTTP: <http://ec.europa.eu/employment_social/fundamental_rights/pdf/greencon/euwomlob> (accessed 22 June 2008).

European Women's Lobby. 2007. "Response to the European Commission Consultation on a Possible New Initiative to Prevent and Combat Discrimination Outside Employment".

Ferree, M. Myra forthcoming in 2008. "Inequality, Intersectionality and the Politics of Discourse: Framing Feminist Alliances" in Lombardo, E., Meier, P. and Verloo, M. *The Discursive Politics of Gender Equality. Stretching, Bending and Policy-making*. London: Routledge.

Fredman, Sandra. 2005. Double trouble: multiple discrimination and EU law. In *European Anti-Discrimination Law Review* 2: 13-21.

García-Ramón, María Dolores and Janice Monk. 2002. *Women of the European Union. The politics of work and daily life*. ISBN: 978-0-415-11880-4.

Hancock, Ange-Marie. 2007. 'When Multiplication Doesn't Equal Quick Addition: Examining Intersectionality as a Research Paradigm', *Perspectives on Politics* 5 (1), 63-79.

Hoskyns, Catherine. 1996. *Integrating Gender - Women, Law and Politics in the European Union* London: Verso. (ch. 9 Dealing with diversity, pp. 167-195).

Hubert, Agnès and Stratigaki, Maria 2007. "European Gender Institute: New Opportunities for Connecting Expertise, Policies and Civil Society", Paper presented at the European Union Studies Association (EUSA) Tenth Biannual International Conference, Montreal, 17-19 May.

Itzin, Catherine and Phillipson, Chris. 1995. Gendered Ageism. In *Gender, culture and organisational change*, eds. Catherine Itzin and Janet Newman, 81-90. London: Routledge.

Knocke, Wuokko. 2000. Migrant and ethnic minority women: The effects of gender-neutral legislation in the European Community. In *Gender and citizenship in transition*, ed. Barbara Hobson, 139-155. London: Routledge.

Kofman, Eleonore, Annie Phizacklea, Parvati Raghuram and Rosemary Sales. 2001. *Gender and international migration in Europe: employment, welfare and politics (gender, racism, ethnicity)*. London: Routledge.

Kofman, Eleonore and Rosemary Sales. 2000. The consequences of EU policies on immigrant women of non EC areas. In *Gender policy in the European Union*, ed. Mariagrazia Rossilli, 266-288. New York: Peter Lang.

Lombardo Emanuela and Mieke Verloo. 2009a. 'Stretching gender equality to other inequalities: Political intersectionality in European gender equality policies'. In Emanuela Lombardo, Petra Meier and Mieke Verloo eds, *The Discursive Politics of Gender Equality: Stretching, Bending and Policymaking*. London: Routledge, pp 68-85.

Lombardo, E. and Mieke Verloo. 2009b. Institutionalising intersectionality in the European Union? Policy developments and contestations, *International Feminist Journal of Politics*, 11(4): 478-495, Special issue 2009 "Institutionalising Intersectionality", Editors: Johanna Kantola and Kevät Nousiainen.

McCrudden, Christopher. 2005. Thinking about the discrimination Directives. Benefits and risks associated within the Directives. *European Anti-Discrimination Law Review* 1: 17-23.

Morris, Lydia. 2002. *Managing migration. Civic stratification and migrants rights*. London: Routledge.

Mouffe, Chantal. 2000. *The democratic paradox*, London: Verso.

Pateman, Carole. 1988. *The Sexual Contract*. Cambridge: Polity Press.

Rolandsen Agustín, Lise. 2008. Civil Society Participation in EU Gender Policy-Making: Framing Strategies and Institutional Constraints, *Parliamentary Affairs*, 61(3): 505-517.

Rönblom, Malin. 2007. "How is it done?" On the road to an intersectional methodology in feminist policy analysis', paper presented at the ECPR 4th General Conference, Pisa, Italy, September.

Sales, Rosemary and Jeanne Gregory. 1996. Employment, citizenship, and European integration: The implications for migrant and refugee women. *Social Politics* 3 (2/3): 331-350.

Schmidt-Gleim, Meike and Verloo, Mieke. 2003. *One more feminist manifesto of the political*, IWM Working Paper 2/2003, Vienna: Institut für die Wissenschaften vom Menschen.

Shaw, Jo. 2004. *Mainstreaming equality in European Union law and policymaking*. ENAR Report (accessed 9 March 2007).

Shaw, Jo 2005. "Mainstreaming Equality and Diversity in the European Union", *Current Legal Problems* 58: 255-312.

Stratigaki, Maria. 2008. 'La politique du recul. De l'intégration de l'égalité des sexes' à l'intégration de l'égalité 'pour tous', *Cahiers du Genre* 44: 49-72.

Stratigaki, Maria 2005. "Gender Mainstreaming vs Positive Action: An On-Going Conflict in EU Gender Equality Policy", *European Journal of Women's Studies* 12(2): 165–86.

Stychin F, Carl. 2001. Sexual citizenship in the European Union. *Citizenship Studies Journal*. Vol. 5 (3): 285-301.

Toner, Helen. 2003. Immigration rights of same-sex couples in EC law. In *Legal recognition of same-sex couples in Europe*, eds. Katharina Boele-Woelki and Angelika Fuchs, 178-193. Antwerp: Intersentia.

Verloo, Mieke 2006. "Multiple Inequalities, Intersectionality and the European Union". *European Journal of Women's Studies*, 13 (3): 211-228.

Verloo, Mieke ed. 2007. *Multiple meanings of gender equality: A critical frame analysis of gender policies in Europe*, Budapest: CPS Books.

Walby, Sylvia. 2004. Gender and European Union integration: towards a political economy of gender. In *Gender Transformations*, ed. Sylvia Walby. London: Routledge.

Walby, Sylvia 2007. A Review of Theory and Methodology for the Analysis of the Implications of Intersectionality for Gender Equality Policies in the EU. Report D13 and D14". Vienna: QUING.

Williams, Fiona (2003) 'Contesting "Race" and Gender in the European Union: A Multi-layered Recognition Struggle for Voice and Visibility', In B Hobson, *Recognition Struggles and Social Movements: Contested Identities, Agency and Power*, ed. 121–44. New York: Cambridge University Press.

Zippel, Kathrin. 2006. *The Politics of Sexual Harassment: a comparative study of the United States, the European Union, and Germany*. Cambridge: Cambridge University Press.

Zippel, Kathrin 2008. "Institutionalizing Social Movements through Expertise". Paper submitted for the American Sociological Association Meetings, Boston, August 1-4.