

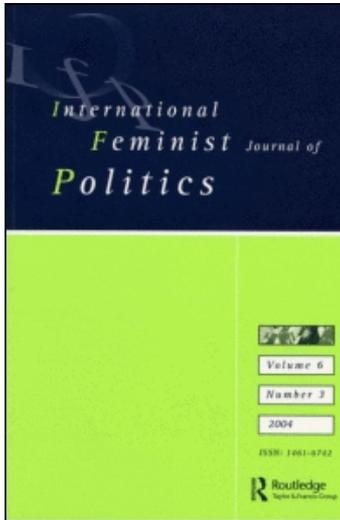
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Access details: Access Details: [subscription number 916358821]

Publisher Routledge

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: Mortimer House, 37-41 Mortimer Street, London W1T 3JH, UK



International Feminist Journal of Politics

Publication details, including instructions for authors and subscription information:

<http://www.informaworld.com/smpp/title-content=t113722173>

Institutionalizing Intersectionality in the European Union?

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Online Publication Date: 01 December 2009

To cite this Article Lombardo, Emanuela and Verloo, Mieke(2009)'Institutionalizing Intersectionality in the European Union?',International Feminist Journal of Politics,11:4,478 — 495

To link to this Article: DOI: 10.1080/14616740903237442

URL: <http://dx.doi.org/10.1080/14616740903237442>

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Institutionalizing Intersectionality in the European Union?

POLICY DEVELOPMENTS AND CONTESTATIONS

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Abstract

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

Keywords

Amsterdam Treaty, anti-discrimination, EU legal framework, EU policy machinery, European Union (EU), gender, gender equality policy, intersectionality

INTRODUCTION

European Union (EU) policies are a good case to explore with regard to the extent to which intersectionality has been institutionalized, given that the EU has broadened its equality agenda from the 1997 Amsterdam Treaty onwards and can be expected to impact on the trajectories of institutionalization in member states. Feminist theorizing, particularly since Crenshaw (1989), has highlighted the need to pay attention to the interdependencies between different intersecting inequalities because strategies to deal with one inequality are not neutral towards others. Crenshaw's concept of 'political intersectionality' urges policymakers and activists to reflect on the dynamics of privilege and exclusion that emerge when people at the intersections of different inequalities are overlooked. It warns us of the risks of policies that, by privileging the treatment of some inequalities and ignoring the fact that inequalities are often mutually constitutive, end up marginalizing some people, reproducing power mechanisms among groups, and failing to address the creation of categories that are at the root of the constitution of inequalities (Ferree 2009). The adoption of a more intersectional approach to the treatment of inequalities could thus promote the development of more inclusive and better quality policies (Lombardo and Verloo 2009).

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

THE EU LEGAL FRAMEWORK: FROM GENDER EQUALITY TO ANTI-DISCRIMINATION

From Article 13 of the Treaty of Amsterdam onwards, 'equality' in the EU has to do with combating discrimination on grounds of sex, racial and ethnic origin, disability, age, religion and sexual orientation. The difference in paths of development, scope of available policy instruments and comprehensiveness of each inequality strand in the EU equality policy has led some scholars to talk about a 'hierarchy of equality' which privileges gender (Bell 2002).

However, for other scholars, the treatment of gender as one of the six inequality axes in the 'new' anti-discrimination approach has represented a 'downgrading' (Stratigaki 2008). The strategy of 'anti-discrimination' itself reveals limitations in the treatment of inequalities which have been discussed elsewhere (Verloo 2006; Kantola and Nousiainen 2009).

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

Race and ethnicity inequalities have been protected in the EU more recently than gender by Directive 2000/43/EC, which implements the principle of equal treatment between persons irrespective of racial or ethnic origin. The material scope of this Race Equality Directive is broader than that provided to other inequalities as it gives protection not only against discrimination in employment and training, but also beyond employment, in education, social security, healthcare and access to goods and services. The level of protection provided by the Race Equality Directive is also stronger than for other inequalities, as it includes measures to improve implementation (Bell 2002). However, its model of enforcement through individual litigation and no obligation of positive actions might be insufficient. So far this limitation has been argued to exist both in general (Shaw 2005; Verloo 2006) and in particular, in the case of discrimination faced by historic ethnic communities like the Roma (Bell 2008). Parallel to the directives on gender, member states must designate a body for promoting equal treatment.

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

continuous evolution and a new proposal has been made to strengthen the protection of the inequalities covered by Directive 2000/78 (see European Commission 2008).

There are also differences in the EU political strategies for dealing with inequalities. Gender equality has been promoted in the EU mainly through the strategy of equal opportunities, but also through positive or affirmative actions and gender mainstreaming.¹ Despite the difficulties of implementation, both these strategies have placed an emphasis on the active promotion of gender equality, not only on the prohibition of discrimination. Yet, there is little evidence that the EU is applying mainstreaming across the board nor that gender is mainstreamed into all other inequalities. In this case, EU legal developments do not foster mutual progress in the inequality fields, not only because mainstreaming is not applied to religion or belief and sexual orientation, and scarcely applied to race, disability and age (Shaw 2005), but also because a mere anti-discrimination approach entails the risk of losing gains on inequalities such as gender, on which broader political strategies had already been adopted. Furthermore, the European Women's Lobby (EWL) has denounced the failure to mainstream gender in equality initiatives like the new anti-discrimination directive (EWL 2008). Scholars have further criticized the anti-discrimination framework for the little attention it pays to the specific dynamics of each inequality (Verloo 2006) or for the dilution of gender in the treatment of other social inequalities (Stratigaki 2008).

In sum, the EU equality legal framework has broadened but developed unevenly, differentiating among axes of inequality as to the scope and the level of protection. As this framework is constantly changing, so is the configuration of more and less privileged inequalities. If the new proposal for an anti-discrimination directive is adopted, the previously more neglected fields of sexual orientation, disability, age and religion or belief will acquire a stronger protection, while gender will receive the weakest protection of the six grounds of Article 13. The use of a mere 'anti-discrimination' approach may entail consequences for the promotion of equality due to the tendency to disregard specificities of inequalities, the focus on individual litigation, and the reduction in the use of strategies promoting positive or affirmative action and mainstreaming. Thus, although the EU legal framework on equality has greatly progressed since Amsterdam, it generates a perception of injustice and creates tensions between people advocating for different inequalities. An overview of the EU institutional framework on equality will clarify some of these dynamics.

CHANGING INSTITUTIONAL TRENDS: FROM SPECIFIC TO INTEGRATED EQUALITY BODIES

Research on state feminism has shown that national women's policy agencies play an important role in advancing a gender equality agenda, depending on

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

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

The Unitary Approach and Contested Gender Bodies

The EU has originally developed a 'unitary' approach to inequalities (Hancock 2007; Kantola and Nousiainen 2009) centred on gender, by establishing dedicated policy units and committees in the European Commission and European Parliament (the executive and legislative branches of the EU, respectively) in the 1980s. The other area in which a separate approach to inequalities has been developed is disability, through the Commission's DG (Directorate-General) Employment, Social Affairs and Equal Opportunities Unit G3 on 'Integration of People with Disabilities'. Within this DG, two other Units deal specifically with gender equality. Unit G1 on 'Equality between Men/Women' is in charge of making policy proposals on gender equality and of coordinating gender mainstreaming policies. Unit G2 on 'Equality, Action against Discrimination: Legal Questions' deals with matters of transposition and the implementation of EU gender equality law.² The other key EU

women's policy agency is the European Parliament Committee on Women's Rights and Gender Equality, established in 1984 to promote women's rights and scrutinize legislative proposals from a gender perspective.

This 'unitary' approach focused on gender-specific institutions was first questioned in the name of mainstreaming, when, in 1998 and 2000, the Parliament Committee was under threat of being dismantled. On both occasions it was saved, but the tendency towards an integrated approach and single equality bodies entails the risk that the existence of the Committee may be questioned once more, this time in the name of diversity (Woodward and Hubert 2006; Stratigaki 2008). While a shift from a unitary to a 'multiple' approach to inequalities (Hancock 2007) is underway within the EU, both tendencies have co-existed so far. The controversies over the creation of the European Institute for Gender Equality³ illustrate this well. Created in 2006 to deal specifically with gender equality, this expert body was proposed in a period that had opened windows of opportunities for gender advocates, after the Amsterdam Treaty and the increased support for gender policies that came from the new Nordic member states, especially Sweden, whose Minister for Equality submitted the first proposal for the body (Hubert and Stratigaki 2007; Zippel 2008). The Institute's objectives include strengthening the promotion of gender equality and gender mainstreaming in EU and resulting national policies, fighting sex discrimination and raising awareness about gender equality among EU citizens.

The creation of such a European Institute became a contested issue. Between the time when it was proposed at the end of the 1990s and the point at which the proposal was discussed in 2006, the political climate in the EU had become less sympathetic to gender equality, especially in the wake of the 2004 enlargement (Hubert and Stratigaki 2007; Zippel 2008). The ongoing development of an EU anti-discrimination framework and institutional changes in member states such as the UK, involving a shift from separate to merged equality agencies, also contributed to this political climate (see Squires 2009). From this trend emerged positions more favourable to the idea of treating all inequalities in one single anti-discrimination body (in this case the Fundamental Rights Agency, see below), rather than establishing separate bodies for each inequality.

An analysis of the European Parliament debate in March 2006 on the adoption of the 'Regulation on the Institute for Gender Equality' reveals the different positions articulated on the issue, and the underlying controversy taking place at the EU level on the institutionalization of gender and other inequalities.⁴ European Parliament Rapporteurs Gröner and Sartori from the Committee on Women's Rights and Gender Equality spoke in favour of a specific gender body because it would improve the 'visibility' and 'quality' of EU gender policies (Mergaert 2004).⁵ A position contrary to the creation of a specific gender institute and in favour rather of an integrated equality body was taken by the British MEP (Member of the European Parliament) Ludford. She criticized the creation of a separate gender equality body because it would create an unbalanced model for addressing social inequalities, when in

fact in her view 'there is no hierarchy of oppression'. For this reason, Ludford defended the inclusion of the European Institute for Gender Equality within the EU Fundamental Rights Agency, reflecting changes in the UK policy machinery that have led to the creation in that country of a single Equality Commission. The EWL (2005), during the parliamentary debate, supported the creation of a specific Gender Institute, and, in a 2007 paper, expressed worries that creating integrated equality bodies would lead to 'less money and resources', and 'less precise and adequate mechanisms' to deal with the complex issues of human rights, anti-discrimination and equality between women and men (EWL 2007)

In the end a specific European Institute for Gender Equality *was* created and it should have been operational by January 2008 in Vilnius. However, problems in the selection process for the Director of the Institute have delayed the beginning of its work over the last year. Neither the tasks nor the goals of the Institute, of the Commission gender Units and of the Parliament Committee on Women's Rights refer to the intersections of gender with other inequalities. The end result of the controversy is a standstill in terms of attention for intersectionality, mainly because the controversy has been a territorial one, in which intersectionality has not really been on the agenda at all.

Shifting towards a Multiple Approach and Single Equality Bodies

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

The Commission's increased attention to multiple discrimination does not reflect a shift towards an approach that is based on intersecting inequalities, but rather shows that inequalities are treated separately in Commission policy practice. The Units dealing with gender and with other inequalities can collaborate on specific issues, for instance when proposals concern 'special' groups like Roma women, and by setting up Steering Groups, such as the one created for the 2007 Year of Equal Opportunities for All. But there are no procedures to coordinate work systematically around the intersection of different inequalities.⁶ Steering groups gather units and

networks of non-governmental organizations (NGOs) according to their distinct remits, by which we mean that the gender Unit G2 consults with the European Women's Lobby, and the anti-discrimination Unit G4 consults with organizations such as ENAR (European Network Against Racism) or ILGA-Europe (International Lesbian and Gay Association-Europe). Moreover, if Unit G4 works on 'multiple discrimination' but does not deal with those inequalities which have separate bodies established on them (gender and disability), such inequalities may be left out of proposed actions. This model of coordination and consultation whereby inequalities are treated separately thus does not favour the mainstreaming of gender into multiple discrimination policy proposals or the mainstreaming of sexual orientation, race, age, disability and religion into proposals to tackle gender inequality.

The FRA, established in Vienna to provide EU and member states institutions with expertise to ensure respect of fundamental rights in their policymaking, will supposedly adopt a multiple approach too. It will work on 'discrimination based on sex, race or ethnic origin, religion or belief, disability, age or sexual orientation and against persons belonging to minorities and any combination of these grounds (multiple discrimination)'.⁷ However, since the Agency replaces the former EUMC, its main orientation is the fight against racism and xenophobia. Unlike the Gender Institute, the FRA was operational from June 2008. The latest Work Programme (European Union FRA 2008: 15) shows active engagement with intersectionality, especially in the form of a project on 'Multiple and Intersectional Discrimination on Grounds of Gender, Age and Ethnic Origin in the EU Member States'. The project will be initiated in 2009 by organizing meetings with undefined 'selected key stakeholders from EU institutions, Member States, civil society and the Council of Europe' (European Union FRA 2008: 15). Another 2009 project on 'irregular migrants' pays special attention to women as well. The FRA also has an upcoming report on 'Homophobia and Discrimination on Grounds of Sexual Orientation and Gender Identity in the EU Member States. Part II: The Social Situation (Spring 2009)', which seems to indicate that some gender issues are being addressed. Parallel to a pattern we find at the level of movements, issues of gender identity are treated together with issues of sexual orientation.

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

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

DYNAMICS OF CONTESTATION ON INTERSECTIONALITY IN EUROPEAN CIVIL SOCIETY

What is the role of European civil society organizations in the process of institutionalizing multiple inequalities? Are NGOs 'better' than EU institutions in dealing with intersectionality? We will explore dynamics of conflicts and/or alliances among the gender and other equalities NGOs to shed light on how civil society organizations practise intersectionality, what is at stake for them and what type of territorial or co-operative mechanisms are at work. As equality movements can be regarded as communities where diagnostic and prognostic frames on inequality as a policy problem are articulated, fought over and pushed forward through mobilization, lobbying and political action, their positions and practices on intersectionality clearly matter. The analysis of the *interface* between institutions and civil society is interesting for this study, first, because it suggests that EU institutions have a potential impact on triggering or discouraging territorial mechanisms that influence civil society's cooperation on inequalities (Lombardo and Verloo 2009). For instance, the uneven legal framework on equalities in the EU (Bell 2002) and a simplistic Commission's 'one size fits all' approach to inequalities (Verloo 2006) may trigger competition between civil society groups. Second, civil society interests us because it is precisely through social struggles within European civil society and between the latter and the EU institutions that

an intersectional approach can be developed. Williams (2003) shows how the intersection of gender and race in the 1990s was momentarily put on the agenda of European civil society and institutions thanks to the struggle for recognition of Black, ethnic minority and migrant women.

EU institutions have established relations with a network of European-level NGOs that work on different inequalities. In the 1990s the European Commission started to provide financial support for the creation of European-level organizations that worked in the areas of gender equality (the EWL), race and ethnicity (ENAR) and disability (the European Disability Forum or EDF).⁸ 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 (2001–6), then through the PROGRESS programme (2007–13). Other equality struggles are supported by NGOs belonging to the Platform of European Social NGOs, which includes European umbrella organizations working in different social areas (old people's rights, lesbian and gay rights, gender, children's rights, anti-racism, disabled people's rights, etc.). This Social Platform is a key interlocutor for the Commission, and partly funded by it. Through the Community Action Programme and PROGRESS, the Commission also funds five smaller European organizations that defend the rights of disabled people. While there are other Europe-wide networks (think of WAVE – Women Against Violence Europe), all the NGOs mentioned above, in different ways, have consolidated their position as 'representative' of different collectives and epistemic communities for the EU institutions and they spontaneously intervene with their proposals or can be directly consulted by the Commission in the policymaking process.

The institutional context of the EU strongly influences the mobilization of civil society at the European level. Those civil society actors most likely to participate at this level have the most resources (they are mainly EU-funded organizations), are the most organized and have institutional recognition. This already limits the range of claims that can be made at the EU level, promoting the emergence of a more 'domesticated' European 'civil society' (Lombardo 2007: 165). Moreover, institutions affect civil society's framing strategies. Rolandsen Agustín (2008) shows how the policymaking process prioritizes institutional legitimation and efficiency over deliberation and the pluralism of claims in the civil society. The organizations promoting gender and other equality policies need to employ framing strategies to make their claims on equality resonate with the dominant discourse in the EU.

Some European-level NGOs have started to work with intersecting inequalities. For instance, ENAR newsletters show some evidence of the integration of other inequalities than race into the agenda of this organization, tackling issues of sexual orientation, gender and religion. ILGA in its work looks at sexual orientation and its intersection with gender, as is clear from its website and newsletters. The EWL also refers to multiple discrimination, and works on issues of gender in relation to disability, ethnicity, sexual orientation, age and religion, as can be seen in its newsletters and position papers. In spite

of these developing practices of intersectionality within European civil society, the EU anti-discrimination approach has also triggered some controversies on the relation of gender with other inequalities that resemble the Parliamentary debate on the European Institute for Gender Equality.

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

Rolandsen Agustín's analysis of civil society's strategic behaviour in response to the Commission's dominant frame of an integrated approach contributes to our understanding of the EWL's concern about the risks that the EU anti-discrimination approach might pose for gender equality. While the EWL's discourse is opening up to the need to tackle the intersecting inequalities faced by women and men (EWL 2005, 2007), the underlying tone of some statements is that 'gender comes first' (e.g. EWL 2007), showing a defensive strategy in reaction to the impact of the EU integrated approach on the visibility of gender equality. The EWL fears the displacement of their position as other inequalities might receive more attention. They are also concerned about the rise of a legal framework that goes beyond the scope of the labour market (a broader approach they have been claiming for gender with little success) for all inequalities in Article 13 except gender, as in the case of the proposal for a new anti-discrimination directive which would leave gender as the least protected field (EWL 2008).

In response to a Commission 'Consultation on a Possible New Initiative to Prevent and Combat Discrimination Outside Employment', the EWL (2007) also expresses concern that such initiatives might exclude sex-based discrimination. The EWL denounces the increasing trend in the EU not to distinguish gender-based discrimination from discrimination on other bases, as appearing

in activities related to the 'European Year of Equal Opportunities for All', when sex discrimination was excluded by events organized by the European Parliament. Community Action Programmes on gender equality and the regulation of the European Social Fund since Amsterdam, both of which show the progressive dilution of gender equality into other social inequalities, reinforce the perception that the political context is currently not favourable to gender equality (Stratigaki 2008).

In general, gender advocates such as the EWL (2007) and Stratigaki (2008) also worry that the anti-discrimination approach is taking the EU away from a more holistic or structural approach to fighting gender inequality and reducing the scope of EU gender equality policy. The risk here is the potential loss of not only a conceptual category useful for challenging power relations between women and men, but also a representation of inequality as a structural and institutional problem, instead of a problem of discrimination between individual citizens. Moreover, the integrated approach of the EU could be used as an excuse to avoid broadening its concern with gender to other areas outside employment.

Despite these constraints, the EU's integrated approach has also opened opportunities for creating alliances among groups dealing with gender, race, sexual orientation and other inequalities. All the organizations that belong to the European Social Platform have developed some kind of alliances or at least relations among themselves. However, some have been more active than others in creating such links. At a recent Social Platform meeting called to discuss priorities, commonalities and specificities, it could be observed that ILGA was most active (also chairing the discussion), as was ENAR, while the Disability Forum was accentuating its specificities about reasonable accommodation and AGE taking a consumer interest perspective. The EWL, in contrast, seemed blocked, neither stressing the specificity of gender nor building coalitions with others during the meeting. Overall, there seems to be a gap between theory and civil society practice. While theory sees inequalities as intersecting and mutually constitutive, there is no practice of organizations articulating the need for intersectionality as connected to their own constituencies.

CONCLUSIONS: INSTITUTIONALIZING INTERSECTIONALITY IN THE EU POLICY PRACTICE?

Changes in policy machinery and debates on equality at the institutional level do not in themselves show practices tackling intersectionality in the EU. Although recently the Commission has shown interest in 'multiple discrimination', we found no evidence of political practices currently incorporating an intersectional approach to the treatment of inequalities. The EU legal framework is merely justaposing inequalities rather than understanding them as intersecting, and is not giving equal importance to the different inequalities. The emphasis on anti-discrimination, moreover, may create some tension

with the strategy of mainstreaming, especially since the latter has not been extended to all inequalities. There are also concerns about possible drawbacks for gender equality, where mainstreaming has been adopted. An exclusive emphasis on anti-discrimination brings with it the risk of regressing to a mere equal opportunities approach that places the emphasis on the individual, neglects more structural strategies such as positive action and mainstreaming and gives insufficient resources and tools to promote equality.

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

The institutional context is evolving from a unitary to a multiple approach to inequalities, but this is no guarantee of a shift towards political intersectionality. There are no official procedures to deal with intersectionality in the Commission Units working on gender and other inequalities, and the occasional ad hoc groups or meeting might not promote the formulation of intersectional policy proposals, since they adopt a bilateral consultation approach where various stakeholders do not meet together. Moreover, if bodies that deal with multiple discrimination, such as Unit 4 and the FRA, will not take all inequalities into account because there are other specific bodies dealing with them (e.g. for gender, Units 1 and 2 and the European Institute for Gender Equality), policies that deal with 'multiple discrimination' could fail to include all axes. This could hinder any future development of attention for intersecting inequalities. Thus, procedures need to be established to coordinate systematically actions among the different EU equality bodies and NGOs to make sure that gender intersections with other inequalities are taken into account in policymaking.

Debates surrounding the creation of recent institutions, such as the European Institute for Gender Equality and the FRA, highlight tensions between different positions and groups. Institutional machinery, on the one hand, suffers from the territorial reflexes that are emerging in the EU arena, which involve a sort of automatic defence of one's own area of concern that is felt to be under attack from potential competitors, and which is differently articulated depending on the perception of gender as 'privileged' or 'downgraded'. On the other hand, institutions also trigger territorial reflexes themselves, by giving unfair treatment to inequalities, legitimizing certain claims above others or by limiting resources.

Dynamics of interaction within European civil society show evidence of both contestations and alliances (Tarrow 1998). One hypothesis about why ILGA and

ENAR seem more open to alliances than the EWL (and the EDF) could be that it is the least powerful who are more open, as they see new chances to achieve their goals through co-operation, and have little to lose, triggering alliance mechanisms. Another hypothesis is that the integrated approach promoted by the Commission resonates better with how these organizations frame their interests and enables them to be more heard. The EWL seems so far less open actively to creating alliances, and while it does articulate the diversity of women's interests, it has not worked out how best to deal with gender and intersectionality. Yet, the EWL's organization of a seminar on intersectionality in January 2009 shows that the debate is now on its agenda. In general, there seems to be a need for further articulation of intersectional strategies at the civil society level.

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

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Notes

- 1 The legal basis in the EU for the adoption of positive action measures (Article 141.4) and gender mainstreaming (Articles 2 and 3.2) is the Amsterdam Treaty.
- 2 Other coordinating Commission bodies have emerged with a specific focus on gender, or a broader focus on gender, anti-discrimination and fundamental rights.
- 3 Regulation (EC) No. 1922/2006 of the European Parliament and Council of 20 December 2006 on establishing a European Institute for Gender Equality.
- 4 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).
- 5 The above-mentioned MEPs belong to the European People's Party (Sartori), the Party of the European Socialists (Gröner), and the Alliance of Liberals and Democrats for Europe (Ludford).
- 6 Interview with Commission staff from Units 1 and 4, Brussels, 28 October 2008.
- 7 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', Article 2b.
- 8 Unlike national civil society, which has usually benefited from a bottom-up process of development that gives organizations a certain autonomy in their relations with the State, European civil society has mainly been developed from the top down and with Commission funding. This explains why the Commission's role in dealing with equalities is so important for the dynamics at work in civil society.

Acknowledgements

We are grateful to the editors of this Special Issue, Johanna Kantola and Kevät Nousiainen, to two anonymous referees for their helpful comments on a previous draft, and to Commission staff Claire Hermann and Sylvie Finne who have helped us to understand better the issue through personal interviews. As part of this research was developed within the QUING project (<http://www.quiring.eu>), we wish to thank the QUING team and the European Commission (FP6) as well. Emanuela Lombardo also thanks the Spanish Ministry of Education and Science and the European Social Fund for funding her research through the 2006 *Ramón y Cajal* Program.

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