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Civil society participation in the EU gender policy-making: the policy framings of 'equality and non-discrimination'

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1. Introduction

Following the rejection of the Constitutional Treaty in Holland and France in 2005, the European Union (EU), and particularly the Council of Ministers, decided to announce a reflection period in order to analyse the reasons for the Treaty rejections and the way to move forward.[1] Several discussions, both institutionally and extra-institutionally, have taken place in the meantime. One of the results has been a proposal to renew the reform process through a process of consultations with member states and institutions, posed by the German government, currently holding the Presidency of the Council. The European Commission (EC) has made its own proposition, namely the "Plan D for Democracy, Dialogue and Debate"[2]. The Plan D is considered part of a long-term democratic reform process and it states that: "Any vision of the future of Europe needs to build on a clear view on citizen's needs and expectations." (COM(2005) 494 final). The underlying assumption of the Plan D initiative is that a lack of confidence in political systems and representative democracy as such is increasing and this affects the EU institutions. The strategy involves improvements in the EU communication towards the citizens and a commitment to listen to the citizens' expectations about the institutions and its policies. This implies initiating a debate between institutions and citizens in order to overcome the gap between the two and the overall picture of European citizens with little knowledge about the EU and little say over its development. Lack of knowledge and a sense of remoteness are, thus, interpreted as the main reasons for the lack of citizen support towards the institutions. The measures proposed to remedy this are enhanced online consultations on soft policy papers, institutional openness, responsiveness and transparency as well as further tools to participate actively in the decision-making processes.[3]

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[1] The Declaration by the heads of State or Government of the Member States following the European Council of the 16th and 17th of June 2005 stated that the recent results of the ratification process "… do not call into question citizens' attachment to the construction of Europe. Citizens have nevertheless expressed concerns and worries which need to be taken into account." It then established a period of reflection (until the first half of 2006) in order to make time for national and institutional debates and strengthen the interest of the citizens in the European project and the dialogue with them. The reflection period does not cancel the Treaty ratification process.

[2] EC Communication COM(2005) 494 final, 13.10.2005, "The Commission's contribution to the period of reflection and beyond: Plan-D for Democracy, Dialogue and Debate".

[3] See EC Communication COM(2005) 494 final, EC White Paper COM(2006) 35 final, 1.2.2006, "White Paper on a European Communication Policy", EC Communication COM(2006) 211 final, 10.5.2006, "A citizens' agenda delivering results for Europe" and EC Communication COM(2006) 212, 10.5.2006, "The Period of reflection and Plan D".

These overall problems of the European integration process are combined with an under-representation of women in a descriptive sense, i.e. the number of female members of the European Parliament (EP), Commissioners and Ministers. Currently[4] the parliamentary representation of women in the EP is of 30.3% (i.e. 222 female representatives out of the 732 members all in all, presided by Hans-Gert Pöttering).[5] As regards the governmentally elected Commissioners of the EC, 8 are female and 19 male (including the President, José Manuel Barroso), which amounts to 29.6% female representation. Thus, it seems as though 30 is the 'non-magical' number when it comes to the representation of women in EU decision-making. The Council, however, does not 'live up to' this criteria: at the level of heads of state and government, the German Federal Chancellor, Angela Merkel, is the only woman out of 27 member state representatives (3.7%). The representation of women among the foreign ministers of the Council is somewhat better, with 6 female representatives out of 30, though it does not amount to more than 20.0%.[6]

The picture thus seems rather disturbing when it comes to the representation of women in EU policy-making. The democratic representation of women (through direct or indirect election) leaves a lot of room for improvements. At the same time, a need for complementary forms of participation, such as civil society inclusion, seems imperative in order to counterbalance the 'democratic deficit' and the perception of a distant bureaucratic structure – run primarily by men – from which the EU is suffering. There is a need for further citizen participation and female representation in the European institutions and policy-making. These two elements may be combined if we broaden the perspective of representation to include the participation of civil society organisations in the policy processes of the EU (i.e. citizen involvement in decision-making processes beyond democratic elections). This paper sets out to analyse precisely this combination and asks whether the participation of transnational advocacy networks (TANs)[7] can be

[4] According to a study made by the European Women's Lobby (EWL) in December 2006.
[5] This is above average of the representation in lower or single houses in the individual 27 member states which is around 22.6%. Dividing the MEPs according to the national constituencies, Sweden contributes with the highest number of female MEPs, namely 57.9% of their total, followed by Luxembourg with 50%. Italy (19.2%) and Poland (13%) are at the bottom together with Malta and Cyprus, neither of which have any female representatives in the EP.
[6] The 27 member states and Croatia, Macedonia and Turkey.
[7] Transnational advocacy networks are defined as: "… relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services." (Keck & Sikkink, 1998: 2).

seen as a measure to enhance the agency and voice of women at the European level and thus the representation of women's interests in EU policy-making. It seeks to analyse the different policy framings at stake within the field of "equality and non-discrimination" and interpret them in relation to the institutional and political context. The overall objective is to assess the possibilities for civil society inclusion into the policy-making processes of the EC through the opportunities of impact that the TANs working with gender politics can have on the policy framings within this area.

2. Representation through participation: voice and agency

The *parliamentary representation* (limited notion of representation) must be strengthened along side the *participatory inclusion* (enhanced notion of representation). According to Young (2000)[8], representation is not limited to the effect of one elected representative 'substituting' a particular voter through elections. The representation is not about representing the *whole* individual as such, but aspects of this person. Representation is about reflecting the diversity in complex societies and it must reflect the changing (group) identifications of the individual:

>"Conceiving representation as a differentiated relationship among plural actors dissolves the paradox of how one person can stand for the experience and opinions of many. There is no single will of the people that can be represented. Because the constituency is internally differentiated, the representative does not stand for or refer to an essential opinion or interest shared by all the constituents which she should describe or advocate." (Young, 2000: 127-128).

There is no essential identity to represent and representation as such must therefore be divided into different elements, i.e. interests, opinions, and perspectives. The interests are related to the personal life project of the individual, and it is represented in the political process as a struggle to achieve the prerequisites necessary to attain the goals of the life project (through parliamentary representatives and lobby organisations for example). The opinions are related to the values of the individual and represented through discussion and deliberation in the public sphere (expression of

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[8] Young defends a *politics of difference*, based on the acceptance of social differences without it resulting in exclusion.

opinions individually or through political parties and organisations as mediators). Finally, the perspectives are the expression of the individual's (group) identification, formed by the particular social and structural position in which the individual is situated. According to this last element, representation must be differentiated since no group is homogeneous but constituted by individuals with different perspective outlooks, with diversified identities and qualities. The perspective relates to a social positioning and representation is achieved in a diversified manner, i.e. through the combination of representation and participation whereby a higher number of differentiated positioning can be represented in the political processes (Young, 2000).[9]

This implies that women[10], for instance, cannot be represented as a homogeneous social group in the political processes but must be represented according to the internal diversity.[11] Women may share experiences but they have no essential, common identity, interests and qualities that define them (Ibid.; Christensen & Siim, 2001).

Each individual experiences events differently but the social perspective relates only to the approach, not to the content. This means that a particular perspective can cause a strengthened focus on gender equality and the need for political action within this field but not determine the interpretation of the problem, i.e. the different opinions expressed regarding gender equality, according to the particular positioning of the individual expressing them. Representatives with similar gendered social positioning (perspectives) may thus differ in their opinions or interests in relation to particular politics (Young, 1990; 2000). This means that the presence of women in the political processes is important since it makes a focus on gender issues possible but it does not deny the possibility that men may represent women's interests once the problems are articulated. The perspective (in this case women's view) thus gives visibility to these

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[9] The perspective is based on a notion of identity that is dynamic and relational. The individual upholds different group identifications. These groups are internally differentiated, and the individual pertains to several distinct groups and can change or modify its sense of group identifications.

[10] Gender is a part of the social positioning that the notion of perspective (as an element of representation) reflects. However, due to the relational identity concept, gender must be combined with other social categories and relations of identification in order to reflect a complex identity.

[11] Different intersecting groups must be recognised as diversified in order to attain actual representation of the differential perspectives. This is problematic to the networks representing women's interests since they must, ideally, represent different and intersecting perspectives, which is, however, not always possible due to the need for clear interest articulation vis-à-vis the institutions.

problems whereas the posterior identification can emerge from individuals with another perspective but relevant opinions on the matter.

Phillips affirms that the presence of women in decision-making is important. It is an inclusion of women into politics but at the same time it is also a democratizing process that extends democracy because new actors are included institutionally through a *politics of presence*. However, it is not the women as women, representing a differential, female part of the electorate, exclusively, that are crucial. The presence of women (social representation of identity) must be combined with the ideas and policies that these women represent (functional representation of interests) and, through this, their responsiveness towards an electorate sharing the same ideas and interests (politics of ideas). Through this combination both ideas and social groups are represented and present in the political systems. It is, at the same time, a combination of representative democracy and participatory democracy (Christensen & Siim, 2001; Phillips, 1995; Squires, 1999). The combination of representation and participation is necessary because participation breaks with the underlying assumption of representation, i.e. that interests are fixed and given, by acknowledging that interests, as well as political identities, are dynamic and (re)created continuously in processes of deliberation and policy-making:

> "Los intereses todavía no están "aquí", no son unos intereses dados ni prefijados. La democracia no sólo se ocupa de recoger […] las preferencias y las opiniones de cada persona en un determinado momento sino que, especialmente en el caso de las mujeres, existe un proceso anterior y continuo de crear la propia identidad, de construir los propios intereses y de formar las propias opiniones políticas." (Phillips, 1996: 90).

The representative democracy and the electoral processes make voting a matter of choosing between established interests. Participation on the other hand is based upon an interaction, in the attempt of influencing official policies, in the policy-making processes whereby interests are negotiated (Ibid.). As participation includes an element of deliberation and ongoing interest articulation and negotiation, group representation within this frame goes beyond conventional interest group activities (Young, 1990). Both direct democracy (enhanced participation) and liberal democracy (representative processes) are necessary, and the combination aims at making

democracy substantial (Phillips, 1996).

The two processes, representation and participation, are compatible as democratic measures in that they include women from below (participation) and from above (representation) (Marques-Pereira & Siim, 2002). An important question however is how this compatibility is working when participation is institutionalized and stimulated, to a certain degree, from above. Is empowerment, potentially stemming from enhanced participation from below, still enforced? I will return to these questions when I analyse the aspects of agency and empowerment (see 2.3. and chapter 4).

The combination of representation and participation should ensure that the distance between institution and citizen is not too large, that a plurality of meanings is expressed and included in the political processes, and that the democratic legitimacy of the decisions is conserved. The channels of representation and the modes of representation as well as the relationship between representation and participation must be strengthened in order to achieve a deeper democracy (Young, 1990; 2000). In this way, both citizen inclusion and the representation of women's interests in the EU can, ideally, be furthered. The normative objective of the inclusion of women's interests through participation refers both to an enhancement of equality between men and women (policy content) and a renovation of the political institutions as it is a measure to expand citizen participation (policy process). If civil society is to serve as a bridge between institutions and citizens (transfer of information, claims-making, etc.) in order to ensure the legitimacy of the EU policies, the institutional dialogue with civil society should not only include privileged organisations with opinions close to the EU's own positions but must reflect the pluralism and complexity of society. The legitimacy depends on which groups are included, how they are included and what the outcome of this inclusion is. The crucial question is how civil society actors represent women's interests at the European level. In order to analyse this we must discuss the relation between voice and agency, through the lenses of participatory inclusion as representation.

2.1. Voice and visibility

The combination of representation and participation can be seen as a way to include women by giving them both "a voice and a vote" which should lead to an

inclusive citizenship, built upon equality and the recognition of cultural difference (Marques-Pereira & Siim, 2002; Siim, 2000). This means that participation is a measure to gain political *voice*. The struggle for voice and visibility, both in the public sphere and in the policy-making processes, is part of the overall struggle for recognition. Gaining voice ('have a say') within the political debates and the policy processes means having the ability to, and the possibility of, expressing opinions and making claims in policy-making. Those who have a voice are legitimised to express opinions and they are, as such, empowered to act as political agents, in this case in the institutional policy-making. They can, however, be legitimized at several levels and according to different actors, and not necessarily in a compatible way. Thus, the EC may consider one representative of women's interests in Europe legitimate, whereas the women's movements may not give legitimacy to this same group.[12] One social group (such as women) should not be represented by one voice, one organisation nor one spokesperson in the participatory processes but by a multiplicity of voices (Williams, 2003).

Williams identifies two problems related to representation in the EU: the absence or presence of women and women's issues, both in institutions and in debates, and the problem of civil society representatives acting as spokespersons, thus simply enhancing the numerical representation without adding a participatory value. Furthermore, civil society representatives cannot be held democratically accountable as they are not (necessarily) elected (Ibid.). The problem is dual in that the spokespersons both represent a specific organization or network and that the latter also represents a specific group of individuals without either of the two linkages being based on electoral legitimacy. These kinds of democratizing processes are based on ideas of participatory democracy and as such it is crucial that the civil society inclusion reflect the diversity and pluralism present among the actors of this sphere. At the same time it is subject to the need of representing certain interests, clearly delimited in order to make its voice heard within the institutions and in the political processes. One of the potential institutional limitations thus lies in the lack of disposition to include pluralism, especially in the decision-making.

With the possibility of gaining visibility, there is also a danger of invisibility for the social groups aiming at influence in the policy-making. Honneth distinguishes

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[12] Hobson (2006) argues that the recognition struggles are *boundary making* since they contribute to the identification of legitimized groups and discourses which affects the possibilities of claims-making.

between non-presence, which is physical, and non-existence, which is social. This latter occurs when a subject is deliberately ignored or overlooked. To gain visibility the subject needs not only to be conceived but also to be identified (for instance through institutional legitimization. A subject can be made socially visible through communicative expressions such as the willingness to interact, from which follows the social recognition which is intersubjective (Honneth, 2001). Although Honneth elaborates his philosophical argumentation from the perspective of the individual subject, we might use his ideas as a theoretical background for the recognition of social groups through institutionalized interaction. In this sense, social groups can be overlooked at the European level because they are non-articulated (i.e. not constituted as a group at this level), invisible or non-recognised and, by that, interaction is hindered. It is the institutional level which holds the power of formal recognition of the representatives of the social groups in the participatory processes, giving them voice and visibility which may lead to agency and empowerment.

2.2. Recognition

Recognition is a key question when groups seek to gain political voice and the ability to make claims. Recognition can be considered a first step towards inclusion into policy processes and democracy where voice can be enacted. Or it may be considered the actual process in itself, i.e. inclusion is as such a kind of recognition. Finally, it can also be seen as part of the negotiation in the policy processes regarding who gets recognised as the representatives of which group for instance. This means that the concepts of recognition and non-recognition permeate all aspects of civil society interaction with (inter)state institutions.

Recognition can, with a reference to Fraser's theoretical framework (1997), be defined as "... respect, esteem and prestige or value assigned to a person, a group or an activity. Recognition means being seen heard and counted as a valuable and equal member of the community and constitutes and intersubjective dimension of the social system." (Dahl & Hansen, 2005: 84-85). When an individual is considered worthy of this respect, she or he is recognised socially. Misrecognition, on the other hand, is a form of invisibility or marginalization of differential social categories (such as gender) and it leads to a lack of agency and exclusion from participation (Hobson, 2006;

Phillips, 2003). When an individual is misrecognised, it is subordinated socially by "being prevented from participating as a peer in social life." (Fraser, 2000: 113). This means that recognition struggles are not aimed at "valorizing group identity"[13] but at "overcoming subordination" (Ibid.: 114), as a means to deconstruct the institutionalised cultural value patterns impeding equality and fostering injustices. Phillips (2003) underlines that the recognition of groups is what makes them political actors and thus enables them to exert influence. Therefore the struggle for recognition is also a struggle for political voice.

Fraser's most recent model of justice includes three aspects: recognition (socio-cultural), redistribution (socio-economic) and representation (socio-political), bound together by the normative principle of participatory parity (Dahl & Hansen, 2005). This is of particular relevance in relation to the objective of this paper since I intend to incorporate the aspects of representation into the overall recognition struggles. The political as such, the governance structures and the decision-making procedures (*institutional structures*) must be problematized since they are potential obstacles for justice: "Representation, accordingly, constitutes a third, political dimension of social justice, alongside the (economic) dimension of redistribution and the (cultural) dimension of recognition." (Fraser in Dahl, Stoltz & Willig, 2004: 380). Within policy-making, all three elements are closely related. Recognition is needed to gain representation (through participatory inclusion), and the possibility of representing and being represented is determined by the distribution of resources.

To the civil society actors, the inclusion into the processes of policy-making of the political institutions, must been considered one way of gaining formal recognition. The institutions hold the power to recognize certain actors as valid interlocutors, representing the group: "The more institutionalized the recognition, the greater the power to shade out other articulations of misrecognition or non-recognition and the greater the governance that can be exercised." (Hobson, 2003: 6). The aim of this paper is to analyse what this recognition actually means within EU policy-making processes with citizen inclusion. Is it merely a formal recognition, a rhetorical measure, imposed from above? Or is it a substantive recognition, leading towards the

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[13] As is the case of Young and Phillips, Fraser is critical towards identity politics which is seen as essentializing group identities (Siim, 2000). Politics of recognition is non-identitarian, and as such non-essentialist and not reifying collective identities (Fraser, 2000).

empowerment of women? Regarding the notion of recognition, I believe we must diversify it. In the case of civil society inclusion into the EU policy-making we find the risk of non-recognition at several levels; the groups can be excluded as a consequence of non-recognition, they can encounter difficulties in the interaction with other civil society actors not recognising their legitimacy – but most importantly non-recognition also occurs in a more subtle form, namely when groups are formally recognized (by being included) but lack substantial recognition in that their formal recognition is impaired by the limitations of the institutional contexts and framings and the groups are thus unable to enact the recognition, i.e. voice does not turn into agency.

2.3. Agency and empowerment

This finally brings us to the question of empowerment and agency. Empowerment is the "… ability to act with others to do together what one could not have done alone" (Ferguson, 1986: 217; cited in Marques-Pereira & Siim, 2002). The focus is thus on the collective action with a definition of power as "the ability to enable people to do what they could otherwise not do" (Ibid.). Empowerment is the emancipatory constitution of power as social relations and it concerns the ability to make changes in society and in the political institutions. This can happen through the participation in social movements for example (Marques-Pereira & Siim, 2002; Siim, 2000). Young directs the attention towards the participatory aspects by saying that empowerment is the "participation of an agent in decision-making through an effective voice and vote" (1990: 251). Through empowerment, previously excluded social groups can be included in the participation and in the decision-making.

Agency on the other hand can be defined as "... the abilities to make a difference in civil society by [...] participation in political organisations, ..." (Marques-Pereira & Siim, 2002: 12). Agency covers, in a broad sense, extra-parliamentary participation and institutional representation but the question is what the significance and substantial content of this agency is (Christensen & Siim, 2001). An important question to pose here is whether or not agency is solely about maintaining an active citizenship through participation or if agency requires some degree of influence on policy processes for instance. The latter case may be conceptualized as the political

enactment of agency (voice becomes agency when it is enacted, i.e. have an impact[14] and thus reflects substantive representation of women's interests). Can change come about through pure presence (of women) or is it necessary to combine this presence with empowerment or political enactment of agency (i.e. willingness and ability to defend women's interests)?

The aspects of recognition and voice go hand in hand: the social groups gain voice through their formal recognition but we need to analyse how they are recognised and what their possibilities of enacting agency are within the field of EU gender policies. The inclusion into the participatory processes implies, in itself, presence and visibility, and thus an enhanced (passive / potentially active) agency for women in the EU and an increased possibility of the representation of women's interests (in this case through the TANs). However, we must also look for exclusions and invisibilities (non-articulated, non-voiced / non-channelled and non-recognised claims) in order to assess the impact and the actual empowerment (through enacted agency) of women and women's interests. The exclusion and/or the non-recognition of claims, and the possibilities of interest articulation, are indicative of the limitations on substantive agency within the institutional context of the EU.

3. Framing processes

In order to analyse the institutional interaction between the EU and the civil society actors, and grasp the representation of women's interests through civil society participation, we must look at the textual level of interaction. We cannot measure the influence but must instead interpret the *framing processes* that are taking place in the interaction.[15]

Frames[16] are structures that help to organize our experiences. Erving Goffman defines a frame as a: "… schemata of interpretation [...] rendering what would

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[14] The impact can both be about influencing actual policy outcomes and about contributing to the problem articulation through participation in policy negotiations.

[15] This analysis is part of a broader research (PhD dissertation) within this area. The textual analysis will eventually be combined with interviews with key actors from civil society organisations and EU institutions.

[16] The perspective of frames and frame analysis has been widely used by the social movement theorists concerned with explaining the mobilization efforts and participation through the concepts of *opportunity structures* and *resource mobilization* (McAdam, McCarthy & Zald, 1996; Tarrow, 1998; McAdam, Tarrow & Tilly, 2001).

otherwise be a meaningless aspect of the scene into something that is meaningful." (1974: 21). They are *basic frameworks of understanding* that we can access socially in order to make sense of reality (situations, events, policies, practices, etc.) and structure meaning. The frames are related to ideational structures in the sense that they are "basic cognitive structures that guide the perception and representation of reality" (Squires, 2006: 3). Frames are used to interpret issues in order to explain broader meanings and "to situate issues within a broader social and historical setting." (Payne, 2001: 43).

The question that concerns us here is not only that of the content of the frames within the empirical field of this study, i.e. the elaboration of gender policies in the EU, but also the agency, voice or power behind them, that is, the *frame-producers*. Power is constitutive of frames and thus it is necessary to look into the questions of *who* creates the frames and in *which (power) context*. In one of the key texts on frame analysis within the social movement theories, Snow et al. (1986) analyse how frame alignment processes work as "... linkage of individual and SMO [social movement organizations] interpretive orientations, such that some set of individual interests, values and beliefs and SMO activities, goals, and ideology are congruent and complementary." (1986: 464). The frame alignment processes are dynamic in the sense that they are interactional (performed in the interaction between a variety of actors), communicative and ongoing (constantly reassessed and renegotiated). My objective here is to use framing processes as an analytical approach to the interaction, not between the social movement and the individual, but between civil society actors and institutions. The frame resonance consists in this regard of making the framing *fit* the institutional context in which the actor operates. Frame resonance can be used strategically by norm entrepreneurs, such as TANs, to: "… "frame" issues to make them […] "fit" with favorable institutional venues." (Keck & Sikkink, 1998: 2-3). There must be an *ideational affinity* between the existing norms and the new ideas introduced for these to resonate (Payne, 2001).

When an actor tries to bridge between two frames, it is important to take into account the power hierarchy existing between the different discourses to which the frames belong. According to Verloo (2001), frame bridging often times concerns the introduction of subordinated ideas into a dominant system. This means that ideological power structures are at stake in the struggle between frames. Squires (2006) suggests

that due to the relative status of the differentiated discourses, it is 'more challenging to frame via subordinate discourse', meaning that frame bridging from a subordinate position, and by less powerful actors, into a dominant position requires a higher degree of persuasive effort and strategy adaptation f.i to make the framing fit with the hegemonic discourse. The risk is that the initial goal of the particular frame becomes invisible or disappears in the frame bridging process (Ibid.).

The main political strategy of the TANs is the construction of frames which they use in the struggle over meaning in which they engage in order to put issues on the political agenda (construction of new frames) and seek *receptive venues* (use of frame resonance). This all happens in a context of simultaneous pluralism (multiplying the voices heard) and internal exclusion within the civil society (non-recognition and marginalisation of voices) (Keck & Sikkink, 1998: x). The capacity of influence of the TANs depends on issue characteristics (salience and resonance of frame within existing agendas or the ability to insert new ideas and discourses into the political debates) and actor characteristics (network density, target vulnerability as well as the ability to achieve leverage in the international sphere) (Ibid.).

In the following, I will analyse the framing and frame resonance processes used by a number of European TANs in relation to a public consultation within the EU. The aim is to discuss whether the actors included, through participation in the policy-making processes of the EU, hold capacity of agency through the framing of their claims of if they, on the contrary, are constrained by more powerful and potentially hegemonic or dominant frames, affecting their capacity of agency and influence.

4. Analysing equality

In order to analyse the participatory inclusion of civil society actors, I have chosen to focus on the EC interaction with a number of TANs in relation to the consultation process following the publication of the Green Paper[17] on "Equality and non-discrimination in an enlarged European Union"[18].

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[17] An EC Green Paper is a document that is meant to "... stimulate discussion on given topics at European level. They invite the relevant parties (bodies or individuals) to participate in a consultation process and debate on the basis of the proposals they put forward. Green Papers may give rise to legislative developments that are then outlined in White Papers." (http://europa.eu/scadplus/glossary/green_paper_en.htm).
[18] COM(2004) 379 final, 28/05/2004.

The reference point for all non-discrimination policies in the EU is Article 13 of the Amsterdam Treaty (1997)[19] which states the objective of combating "discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation." The posterior legislation covers the Racial Equality Directive and the Employment Equality Directive, both from 2000, as well as the 2002 Directive on Sex Discrimination (2002/73/EC).[20] The Green Paper aims at evaluating these policies in the light of the currently most significant challenge, namely the enlargement of the EU. It evaluates the period from 1999 to 2004 and outline future challenges. It furthermore includes a public consultation measure aimed at gathering opinions related to this policy area, both from individuals and from authorities and organisations. The consultation was conducted online from the 1st of June 2004 to the 31st of August 2004. One of the decisions following in part from the Green Paper was the establishment of 2007 as the European Year of Equal Opportunities for All.[21]

The following analysis focuses on 2 main areas: the participatory process and the framing processes. I will focus on the written contributions to the public consultation from 7 organisations.[22] The selection has been made based on the organisations' relative focus on gender-related equality and issues. Some of the actors have an explicitly stated aim to influence gender policies (especially EWL, ILGA, and EWLA), others mention or deal with gender, often in relation to other differential categories (such as EDF and ENAR). The overall aim is to analyse the representation of women's interests in EU policy-making through civil society participation in (soft) policy-making within the field of equality and non-discrimination.

4.1. The participatory process

The public consultation was based on online questionnaires and written contributions. However, the EC emphasised its preference for online feedback: "We

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[19] The article has been modified by the Nice Treaty in order to introduce a limited possibility of qualified majority voting within this field.
[20] Another soft policy measure within this field is the Community Action Programme (exchange of information, awareness-raising campaigns and funding).
[21] EP and Council Decision 771/2006/EC, 20/06/2006. The European Year aims at mobilising, debating ways to strengthen participation, promoting diversity and eliminating stereotypes as well as raising "awareness of the advantages of a just and solidarity-based society" and of the individual legal right to equality and non-discrimination. See also the EC Communication COM(2005) 224, 01/06/2005.
[22] These organisations are International Lesbian and Gay Association (ILGA-Europe), European Disability Forum (EDF), Solidar, European Women's Lobby (EWL), European Women Lawyers' Association (EWLA), European Network Against Racism (ENAR) and the Social Platform.

encourage you to use the online answer form. This will make it easier for us to include your views in the consultation process. However, you may also send us a short written contribution..." (COM(2004) 379 final: 30). This indicates what kind of feedback the EC was looking for; it is not a question of going into a prolonged discussion and interaction with various stakeholders on the specific content of policies but rather a need for fast and precise feedback on EC initiatives within the field generally. This might be interpreted as a formal consultation, similar to a survey on opinions regarding the policy area, more than a possibility of an actual extra-institutional input. It is criticized by one of the contributing networks, stating that:

"..., the strong orientation on undertaking the consultation via questionnaire rather than emphasising that this method is only an additional means, not aiming to undermine the importance of written explorations and comments is worrying, as such a method can barely reflect the complexity of the matter." (Social Platform, 2004: 2)

The possibilities of substantial influence and the introduction of alternative framings are thereby considerably reduced. In spite of this, a number of organisations chose to make written contributions to state their opinion or position. In the following, I will focus on these contributions since they express the interest articulation and framing negotiation going on in an attempt at establishing a more profound dialogue and interaction between civil society and the EU institutions.

Several of the contributing TANs also complained about the timing of the consultation process:

"Taking place between 1 June and 31 August 2004, the public consultation is not timed very well. A wide involvement of stakeholders in the consultation over the summer is very difficult. Furthermore, the European Parliament, which traditionally has played an active role in this policy area, is on recess." (Solidar, 2004: 2).

The timing also had consequences for the TANs' working processes in relation to the elaboration of their written contributions and feedback: "... the European networks have been limited in their ability to fully consult with national NGOs across Europe as a result of the timing of the consultation. Social NGOs regret this missed

opportunity to reach a larger public ..." (Social Platform, 2004: 2).[23] The process in itself thus limited the possibilities for democratic interaction in the networks. These obstacles in the actual consultation process can be interpreted as a moment of closure, impairing the TANs' motivation to participate, the quality of their work and their working processes (not favouring possible deliberative, democratic measures within the networks) and their possibilities of influence.[24]

The access to the consultation process in terms of written contributions was completely open. This means that there were no formal exclusions or institutional selection of which actors were to have a voice. However, it is significant to see who did participate: among the European NGOs, it was to a large degree a matter of involvement of *the usual suspects*. The majority of the contributors were large networks that are well-known at the European level and inside the institutions. Some of them are enjoying EC funding for their activities under the Community Action Programme to combat discrimination (EDF, ENAR, AGE and ILGA) and 5 of them are among the 6 cases mentioned in the Annual Report on Equality and non-discrimination 2006 in relation to the planned activities regarding the European Year of Equal Opportunities for All (AGE, EDF, ENAR, ILGA and EWL). This means that these are NGOs with a high level of institutional recognition and experience of interaction with the EU. Thus, even though the consultation process was open (formal equality), it requires resources and an organisational infrastructure to participate, especially with a written contribution. Here we see an informal exclusion (lack of real equality) since some organisations are impaired in their participation due to economic resource-related reasons. According to Phillips, political equality depends on economic equality both when it comes to access to the institutional channels and to recognition. Lack of political resources (at the organizational level) and of time (due to work situation, caring responsibilities, etc., at the individual level) results in a lack of influence. Therefore formal access to the political institutions is not enough to gain a pluralized vision of civil society opinions

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[23] ILGA expressed a very similar concern: "... the short deadline will invariably translate into less involvement of key stakeholders. As a European umbrella network, ILGA-Europe regrets the limited possibility to arrange for a comprehensive consultation and debate on the future of non-discrimination policy within our membership." (2004: 3).

[24] The most important contextual elements regarding the opening or closure of possibilities of influence are the EU reform process and the EC communication strategy, the enlargement and the rising of right wing forces across Europe. This reflects a context of tensions and contested discourses, some enhancing, some disabling the possibilities of inclusion and influence of the TANs and their framings.

and interests. The ones who are present and visible in this case are the capable ones and thus the civil society representation is determined by possessing or lacking resources - an "empowerment of the already powerful" (Phillips, 1995; 1996; 2003).

4.2. Dominant frame: economy and employment

The Green Paper presents a dominant frame related to equality and non-discrimination, which is an economic, employment-related framing. Non-discrimination is primarily related to employment goals, inscribed in a frame of labour market participation. According to this frame, non-discrimination enhances the access to the labour market for a number of excluded groups and contributes to the overall economic growth of the EU through increased employment rates. This frame is related to the overall economic goals of the EU and in particular of the Lisbon strategy[25]:

> "Social participation and labour market measures are of course vital in improving
> the situation of disadvantaged groups. In addition, non-discrimination legislation and
> policies can clearly play a key role in supporting the Lisbon agenda. They are designed to
> tackle barriers that prevent members of certain groups from accessing jobs and training."
> (COM(2004) 379 final: 16)

With its significant focus on employment and labour market participation, the Green Paper frames the combating of discrimination as a measure to attain employment rather than an end or a value in itself.[26] Furthermore, the idea of equality in relation to employment and labour market reflects an individualist framing as opposed to a perspective on social groups which a broader notion of equality would imply.[27]

Some of the TANs take on these same assumptions about the priority of the employment-related frames, whereas others inscribe their arguments within this frame,

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[25] The Lisbon Agenda was adopted in 2000 and it is a 10-year strategy for long-term economic growth, full employment, social cohesion and sustainable development. It also aims at integrating underrepresented groups into the labour market and it is the frame of reference of the European Employment Strategy.

[26] Likewise the integration of ethnic minorities are articulated within a business frame, underlining the "positive benefits of diversity" (COM(2004) 379 final: 13), referring to measures of corporate reputation, diversity management and corporate social responsibility as well as "avoidance of costs related to workplace discrimination" (Ibid.: 32). The framing is economic but the Green Paper does, however, include both a perspective on the minority migrant groups and their 'employability' as well as the majority and their potentially stereotypical attitudes.

[27] See Cunningham (1992) for a similar interpretation of the equal opportunities policies.

reframing in this way their own claims in economic terms. EWLA presents a clear example of the use of reframing into the economic frame as a strategy to create resonance within the institutions. The association defends its overall aim (of creating equality) through an economic reframing to be convincing in an institutional setting marked by this approach. The EWLA position papers states, towards the end, that "the economic objectives are secondary to the social ones" (2004: 6). However, throughout the paper and especially in a section on "Gender Equality Issues and the Lisbon Strategy", the paper relates gender equality to economy and business strategies: "... the progress towards effective gender equality is still slow. This, inter alia, endangers the achievement of the Lisbon economic and social goals." (EWLA, 2004: 2). The framing is not unidirectional but contains certain tensions which support the interpretation of the EWLA strategy as a reframing of own goals and policies, according to the dominant institutional frame.

4.3. Counterframe: human rights

In several cases, the TANs present a clear counterframing in opposition to the exclusively economic approach. This counterframing provides an overall focus on rights and especially human rights[28]:

> "In a time of economic uncertainty, it is vital to ensure that the EU's social policy agenda is not reduced to economic objectives alone but contributes instead to the construction of a Union of shared fundamental rights." (ILGA, 2004: 3)

> "The "danger" with these [economic] arguments is that we might forget that discrimination is first and foremost a violation of very basic human rights and therefore the fight against discrimination makes a major contribution to the establishment of a society that respects the human rights of all its members. The fight against discrimination has undoubtedly secondary economic benefits, but it is not the economic benefits we are seeking, but an inclusive society, where all people enjoy the same rights." (EDF, 2004: 24)

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[28] Human rights are mentioned briefly in the Green Paper, in a very technical fashion and referring to UN and ILO conventions. It is clearly not the dominant frame.

Some of the TANs (like EDF) mention this possible counterframing towards the end of their position papers and it can thus be interpreted as a secondary discursive opening, whereas other (such as the Social Platform) place their position paper within a 'rights frame' from the beginning and the counterframing thus becomes crucial to their whole argumentation.

Several framing strategies are at work here; a reframing of the human rights issue according to the dominant frame of economy and employment would argue that the access to employment is dependent on the elimination of discrimination in other areas since several areas of discrimination are interrelated.[29] Equality, in all areas, thus becomes a measure to reach employment goals. The human rights counterframing, on the other hand, would argue the contrary, namely that labour market access is one aspect of reaching equal opportunities for all, which is a matter of fundamental social values, such as respect for diversity and social justice.

4.4. Contested frames: multiple discrimination and competition between equalities

Gender issues are mainly present in the Green Paper through the experience of policies and legislation regarding 'sex discrimination' which is considered to be the fundament upon which further non-discrimination policies are being built.[30] The focus seems to have turned from gender to race and, to a lesser degree, age and disability as grounds of discrimination. At the same time, multiple discrimination is highlighted where discrimination seems to be framed as equal or parallel regardless of the specific grounds or social category in question. Verloo argues that the approach of the Green Paper reveals an "incorrect assumption of sameness and equivalence of social categories" (2006: 14) which is not adequate and furthermore creates a hierarchy of inequalities which is not beneficial to the organisations working within each area. The different inequalities are not similar and the same criteria cannot be applied to gender, age and class for instance as differential or inequality-related categories since they are related to power and change in dissimilar ways (Verloo, 2006).

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[29] As argued by the Social Platform: "... barriers in access to employment will not be removed if discrimination in other areas of life is not tackled." (2004: 11).
[30] Some of the TANs (the Social Platform and the EWL) criticize the overall lack of a gender equality focus in the Green Paper.

The EC mentions several times in the Green Paper its satisfaction regarding the establishment of 'singular equality bodies' in several member states that deals with all grounds of discrimination (in stead of several separate bodies, according to different types of discrimination). This tendency might highlight the various forms of intersecting inequalities and thereby create a more nuanced and complex response to discrimination – or it might be an attempt at rationalisation by covering several inequalities (prioritising some and neglecting others) at the same time, without specific regard to their different nature. Thus, the singular equality bodies can be both an advantage and a risk. In relation to this issue, the Green Paper also comments on the attitudes of the NGOs, most of which are centred on a particular type of discrimination (though they may and often do consider multiple discrimination as well):

"The integrated approach to the five grounds of discrimination covered by the programme has proved a useful basis for transfers of experience and good practice [...]. However, it is clear that some organisations that have a tradition of working with particular target groups have found the transition to this approach challenging." (COM(2004) 379 final: 23).

A clear pressure to follow the tendency to concentrate the fight against several discriminations in one unit is noted in this comment. This pressure is also economic, which is reflected in the following quote, referring exactly to the tendency to follow the 'integrated approach' and combine several discriminations in singular units:

"Funding made available to NGOs under the Community action programme to combat discrimination has also helped to focus attention on the new EU anti-discrimination policy framework [i.e. the 'integrated approach'] and the need to deliver results in accordance with this framework." (COM(2004) 379 final: 26).

To the NGOs, the problem of this integrated approach is that it might result in a watering down of their particular focus point (for instance gender in the case of the EWL) and a risk of invisibility of the particular area or approach. The EC is particularly considering the future approach to the area of gender issues, which has been a forerunner in the area of non-discrimination policies. This is reflected for instance in

some of the questions made in the online questionnaire regarding the necessity to deal with gender discrimination separately or in relation to other forms of discrimination.[31]

Certain social categories and issue areas have benefited more from the separate approach to various discriminations, whereas others have more to gain from a shift in focus towards an integrated approach, and especially towards an opening with regard to the existing policy priorities among discriminations. ILGA (2004) calls for "an equal level of protection against discrimination for all grounds" and a removal of "the equality hierarchy", and ENAR (2004) comments on the "unacceptable hierarchy of protection." The TANs have different goals in this regard, and each aims at protecting their own area of interest. From the position papers, it is clear to see that a great part of the political energy and space is used to protect the gender perspective which seems to be under threat institutionally. A competitive atmosphere is not very productive for the TANs and their cooperation which is necessary in order to exert political pressure but also when focusing on precisely the intersections between different grounds of discrimination.

This dispute between different categories, interests and defining criteria reflects a deeper critique of the content and the consequences of the measures highlighted in the Green Paper. Some of the TANs argue that the development towards an integrated approach must be analysed carefully because the different discriminations cannot be handled equally: "Different equality agendas have their specific dynamics of inclusion, exclusion, and marginalisation – and consequently need specific analysis and actions..." (EWL, 2004: 1). This is both a defence of the interest of the TAN in question and a reflection of the debate about the consequences of the tendency to create singular units to handle different grounds of discrimination. This critique is underlined several times:

> "The Social Platform is concerned by the underlying suggestion that gender equality and non-discrimination should be integrated both in terms of policy and institutional arrangements. The paper itself offers no analysis for supporting this approach ..." (Social Platform, 2004: 2)

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[31] The exact formulation of the questions were: "Do you agree that the efforts to tackle sex discrimination in the EU should be linked more closely to efforts to tackle discrimination on grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation?" and "Do you agree that it remains necessary to tackle specifically sex discrimination and the promotion of gender mainstreaming?". The use of the verb 'remains' in this sentence indicates that the EC considers the separate focus (as opposed to the integrated approach) as outdated.

The perceived risk of an integrated approach can be that there will be fewer resources for combating specific inequalities (due to rationalization) and less precise and adequate measures to deal with discriminations. This leads both to critique and to alternative solutions:

"... the Platform is concerned about the general trend it has observed in several Member States to merge specialised equality bodies into a single human rights agency. Instead of a more coordinated approach this has simply led to cuts in the overall budget allocated to the fight against discrimination and less resources to deal with complex issues. [...] At the same time we recognise the need for an integrated and coherent approach across these key agendas..." (Social Platform: 2004: 9)

"... acknowledging the added value of a horizontal approach ENAR nevertheless stresses the needs for safeguards against excessive "merging" of the complex problems caused by different forms of discrimination. While a lot of elements are certainly common, there also needs to be a clear margin of manoeuvre for the "specifities" in activities against different forms of discrimination." (ENAR, 2004: 4)

Thus, the focus on equal policy priorities, even though it can produce the before-mentioned rivalries between different TANs, should not be confused with an approach which equalizes different kinds of discriminations and can be disadvantageous to all the different fights against inequalities. Whereas the EC paper is based on a framing of equality and sameness, several TANs articulate a frame of equality and difference, which needs to be constructed in its complexity. This framing is strategic in that it 'acknowledges/recognises' the integrated/horizontal approach, but at the same time it aims at modifying this. However, a reframing of the actual concepts of discrimination and equality is not explicit (except in the case of EWLA, see the following section 4.5.).

4.5. Invisible frame: structural approaches

Overall there is no discussion, in the Green Paper, of the labour market structure or the balance between work and family life, which is articulated in other EC soft policy

measures.[32] The labour market participation seems to imply an integration into existing structures which is not questioned and there are no openings towards structural changes. Equality regarding access to the labour market implies integrating into the dominant (male) norms. Significantly, in this policy document, measures such as child care provisions, for example, are not articulated.[33] According to Laatikainen (2001), this reflects an underlying assumption, in EU gender policies, regarding men's employability as free for care responsibilities.

The only framing related to structural changes comes from the Social Platform which detects a tension between the "patterns of individual experience and […] systemic discrimination." (2004: 13), differentiating between the 'disadvantaged groups' in a diverse society and the 'need to protect individual employers from discrimination at work' (Ibid.: 10). This articulates a critique of the exclusive focus on workplace discrimination but without a parallel articulation of a counterframe such as for instance the values and balance of family and work life.

The EWLA position paper discusses the difference between 'inequality' and 'discrimination', arguing that the former is "different in nature and wider in scope" (2004: 1). The goal of antidiscrimination as a legal measure is to achieve formal equality but in order to achieve an elimination of inequalities, "the eradication of gender discrimination does not suffice." (Ibid.). What is needed is substantive gender equality through positive action. EWL wishes to move beyond antidiscrimination to reach a transformative approach in order to gain *de facto equality*:

> "The idea of "gender equality" foresees a transformation of gendered constructions
> that perpetuate inequalities, the redistribution of work between women and men (productive
> and reproductive), the eradication of male violence against women, and on fully ensuring
> the respect for women's human rights, ..." (2004: 2)

This is an expression of an attempt at a discursive negotiation (with material impact) concerning the structural impacts of non-discrimination policies. Overall, the

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[32] See for instance the "Roadmap for equality between women and men 2006-2010" and the "Report on equality between women and men 2007".

[33] The lack of reflection on structural changes is also visible in the fact that the Green Paper argues that knowledge, information and awareness-raising are the main measures. There does not seem to be a perception of need for changes, if the current legislation is implemented adequately and people become aware of their rights.

question is whether or not the policy development and frame should aim at structural changes to bring about equality (substantial equality) or if the objective is the inclusion of all groups into the existing structure (with a risk of producing limited, formal equality). Duncan (1996) criticizes the EU equality principle for not focusing on existing inequalities and the need for positive action. Women are constrained by unarticulated structural problems such as traditional gender roles which force the domestic and care responsibilities exclusively onto women. If these issues are not addresses (for example by providing public provision of care), women are discriminated by not being able to enjoy the principle of freedom of movement for instance to the same extent as men. Theoretically, it is interesting to note how some discursive fields of framing are opened institutionally (such as non-discrimination as an employment measure) whereas others are closed (structural changes in society needed to achieve substantive equality). This is due to the framing struggles between human rights or social justice and economic goals which are prioritized in the EU, making employment its main focus. This influences and limits the capacity of articulation and of action of the TANs and creates discursive invisibilities within the framing processes for example by limiting the framing options to discussions on equality outcomes, rather than the (structural) reasons behind them.

5. Concluding remarks: agency as enactment?

The mechanisms of civil society inclusion into the policy-making processes of the EU offer a possibility of enhanced voice and agency for women's interest through the TANs working within this area. This implies an extended idea of representation, including participatory inclusion and, with this, a pluralization of the perspectives represented. The TANs represent women substantially by defending women's interests, also in cases where gender is not the main focus of the TAN's actions and policies. However, the actual enactment of the potential agency depends to a large extent on the discursive openings offered by the institutional context. The institutional context constraints the agency through dominant framings (such as the one related to employment goals) within which the interests of the TANs must be articulated. Framings that are compatible with the dominant institutional frames are possible as are reframing processes and counterframings, to a certain extent. Thus, agency becomes

enacted, and the empowerment of women's groups enforced, under certain conditions, such as favourable power structures, resonance in framing strategies and in accordance with the status of legitimization of the actor making the claims.

The participatory inclusion stimulated from above does not imply organisation-building processes from below which means that only well-established actors participated in the consultation process. These actors are, on one hand, less likely to introduce new issues on the agenda and articulate new claims as their interests are already well-defined and well-known. On the other hand, their position as recognised actors, enjoying institutional legitimization, also makes them harder to overlook. However, it is especially problematic that the participatory inclusion does not imply a 'multiplicity' of voices and actors. Previously excluded and marginalised actors and framings are not included in the policy processes nor empowered. This means that an enhanced idea of representation does not necessarily lead to participation of oppressed groups, mainly due to a lack of resources and institutional limitations imposed on the process (such as timing). This furthermore impairs the functioning of the civil society as a transnational sphere of articulation of new frames and problems.

When the TANs' efforts of influence are integrated into the institutional policy processes, the deliberative element of the TANs' work is diminished. A deliberative deficit appears because of the institutional limitations posed which means that TANs are expected to represent clearly defined interests and, thus, cannot articulate and negotiate interests continuously nor reflect the internal diversity of the specific organisation or movement. The process resembles interest representation rather than interest articulation because the institutional context reduces the possibilities of a continuous construction of interests through interaction. However, formally it is a dialogue and especially the mutual influence between the TANs is an element of deliberation, contributing to interest negotiation through cooperation and relational positioning.

The representation of women's interests becomes substantial when the voice and agency are enacted and the possibility of changing policies and challenging frames is opened discursively in the interaction process. However, framing strategies are crucial, as new frames cannot always be introduced directly but through reframing and frame resonance strategies. The risk of these measures is, nevertheless, that the framing strategies do not produce any real change in the policies (due to power asymmetries

along institutional/non-institutional and recognition/non-recognition lines) and thus the agency is not effective, i.e. translated into actual influence. An enactment of the voice and thus a substantial agency requires willingness and ability on the part of the TANs as well as institutional openings. Therefore the framing strategies can both lead to a capacity of agency as well as to constraints within the institutional context of dominant frames. Considering these limitations on the agency, the analysis has showed that the interaction seldom leads to articulations around the substantial content of gender policies and the structural (power) relations causing inequalities but limits itself to technical discussions, interest competition and analysis of outcomes since some underlying frames are hard to challenge. Shortcomings are encountered both in the agency as inclusion into the policy processes through institution/civil society interaction, where the already recognised and legitimized groups are reaffirmed but no marginalised groups are included, and in agency as the political enactment of voice which shows tensions between openings and closures in the possibilities of framing processes and claims-making. In the latter case, the substantive representation of women's interests through participatory inclusion is questioned since ideas about changes in structural inequalities are not widely articulated.

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