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### **Noemi Kakucs: Bridging the Gap? EU Institutions and Civil Society Mobilization in Hungary.**

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## Introduction

Preparation for EU accession brought significant challenges for candidate countries. Among other things, equal opportunity policies were demanded from countries seeking EU membership as part of the accession negotiations. As a result, in the late 1990s, the equal opportunity discourse (re)appeared in the national political agendas of the Central Eastern European countries (CEECs), which for several decades had experienced statist-feminism, whereby equal opportunity was supposedly guaranteed by state-socialism. All CEECs had to work out new equal opportunity policies to comply with the EU directives, and Hungary was no exception. This new direction in equal opportunity policy has helped women's and ethnic groups to expose sexist and racist discriminatory practices throughout the region, including Hungary, by vesting their efforts with legitimacy and political resources. The legal harmonization necessary for EU membership has led to changes in important national laws as well as to the emergence of administrative machinery to address discrimination on all grounds. Alongside these changes, there has been a flowering of NGOs and networks supporting women's as well as minority and anti-discrimination activism.

This paper explores how different actors in the national arena relate to the political and discursive opportunities and constraints with respect to equal opportunity policies that exist at various national and supranational/EU levels by looking at the example of Hungary. By using two case studies pertaining to gender and ethnic minority claims, the paper aims to identify what kinds of political opportunities or constraints EU policies and discourses give rise to. Looking at these, we will also be able to identify which opportunities and constraints of EU policies have an effect, and the way these policies affect the agendas, strategies and framing of claims in these social groups or movements. We shall review what kind of institutional developments Hungary has witnessed with respect to gender and Roma issues, and whether and how NGOs interact with these formal structures when it comes to gender and Roma matters.

Before moving forward we need to clarify what we mean by anti-discrimination movements related to gender and ethnic minority claims. It is traditionally accepted wisdom that minorities (national, ethnic, but also those based on gender, sexual orientation, age or disability) often find themselves discriminated against by the majority. For the purposes of the present paper, however, we will limit our attention to examining gender claims and Roma claims, which are both crucial issues for Hungarian equal opportunity policy. We will particularly focus on the latter, since the Roma constitute the largest minority group in Hungary, accounting for approximately 4.2% of its population.<sup>1</sup> Our choice of Hungary as an example is also warranted by the fact that it has traditionally been considered a very generous country when it comes to minority protection (not least because of its intention to set a good example for neighbouring countries, which are home to considerable Hungarian minorities); nevertheless, the integration of the Roma into Hungarian society remains a serious problem.

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<sup>1</sup> Kertesi, Gábor / Kézdi, Gábor: A cigány népesség Magyarországon, Dokumentáció és Adattár, Budapest: Socio-typo, 1998.

## 1. Equal opportunity. Gender equality and minority protection at EU venues

Within Europe, the main transnational organizations promoting the protection of human rights are the Council of Europe and the European Union. One of the major objectives of the Council of Europe is the protection of human rights and recognition and respect for equal dignity and integrity for all. Originally, the European Union framed equal opportunity policies only in the context of employment and labour relations. Lately, however, the recognition that social inequalities unrelated to employment have wider implications for the society as a whole has pushed the EU to expand its demands for policy change into the wider area of social policy.

The evolution of EU gender policy is often represented as having three phases: equal opportunity, positive action and gender mainstreaming, with all three phases being present on the current EU gender equality agenda.<sup>2</sup> It was only in the 1970s that Europe witnessed a period of intensification in gender equal opportunity policy, following the introduction and implementation of Article 119 of the Treaty of Rome (1957). The three new directives on Equal Pay (1975), Equal Treatment (1976) and Social Security (1978) introduced by the Commission ended up becoming the cornerstones of gender equality policy in the long run. The EU has also supplemented its anti-discrimination legislation on gender with positive action initiatives. However, the non-binding formulation of soft laws has created uncertainties and confusion around these measures. Over time, the ambiguities concerning issues of equal opportunity issues have substantiated the need to introduce new political strategies to overcome women's structural discrimination.<sup>3</sup> Gender mainstreaming was endorsed as the official policy approach to gender equality in the EU and its member states in the 1997 Treaty of Amsterdam and new member states have also been obliged to adopt a gender mainstreaming approach as a condition of joining the EU.<sup>4</sup>

When it comes to minority protection, the Council of Europe is the leading international institution, with the most important point of reference being the CSCE adoption of the Copenhagen Document (1990), which committed Europe to a declaration on human rights, democracy, the rule of law, and minority rights. The most important elements of law-making by European institutions with respect to the internationalization of minority rights are the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities (FCPNM). The problem with both documents is that they do not define their subjects and leave states a measure of discretion vis-à-vis implementation, which leads to divergence of EU practice.<sup>5</sup> Given that a common and comprehensive EU regulation on minority protection would first require a clear definition of minorities and inevitably imply interference in member states' national affairs, it is very unlikely that real progress will be made in the near future. Thus, while minority protection is proclaimed to be an important principle in the Euro-

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<sup>2</sup> Rees, Teresa: *Mainstreaming Equality in the European Union. Education, Training and Labour Market Economy*, New York/NY: Routledge, 1998.

<sup>3</sup> Lombardo, Emanuela: *EU Gender Policy. Trapped in the Wollstonecraft Dilemma?*, in: *The European Journal of Women's Studies*, 2003 (Vol. 10), No. 2, pp. 159–180.

<sup>4</sup> Rees, Teresa: *Reflections on the Uneven Development of Gender Mainstreaming in Europe*, in: *International Feminist Journal of Politics*, 2005 (Vol. 7), No. 4, pp. 555–574.

<sup>5</sup> Toggenburg, Gabriel: *Minorities (...) The European Union: Is the Missing Link an 'of' or a 'within'?*, in: *Journal of European Integration*, 2003 (Vol. 25), No. 3, pp. 273–284.

pean Union, anti-discrimination directives are the most important legal tools provided at the European level by the Union to influence member states' minority policies.

First introduced by the Maastricht Treaty (1992) and reaffirmed by the Treaty of Amsterdam Treaty (1997) and the Treaty on the European Communities (1997), six key characteristics are recognized by the EU as requisite for combating discrimination: sex, racial and ethnic origin, disability, age, religion and sexual orientation. This evolution of the anti-discrimination principle has enabled the European Union to gain authority in issue areas that were not covered by the original treaty and has given rise to new frameworks for citizenship claims, including ethnicity, gender, disability, sexual preference, and religious tolerance. The anti-discrimination provisions of the Treaty of Amsterdam and subsequent regulations, like the Racial Equality Directive (Directive 2000/43/EC) and Employment Directive (2000/78/EC), clearly mark a shift in EU equality policy towards a more comprehensive approach to anti-discrimination.

The Race Equality Directive also contains a number of provisions that have directly affected national legislations through transposition: the introduction of the concepts of direct and indirect discrimination and harassment, reversal of burden of proof in judicial and administrative proceedings, and the individual right to legal standing in relevant courts and/or the administrative procedures of relevant associations and organizations. Besides this directive, other subsequent pieces of legislation stipulate binding requirements for member states to establish equality institutions. Article 13 of the Racial Equality Directive requires member states to *'designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin'*. Article 8a in Directive 2002/73/EC, which amends the second Equal Treatment Directive, obligates member states to *'designate and make the necessary arrangements for a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on the grounds of sex.'* Article 20 of the Recast Directive - Directive on Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (2006/54/EC) – reiterates the latter formulation.

During the enlargement process, the issue of anti-discrimination was given high prominence in EU rhetoric, despite the fact that equal opportunity legislation varied across nation states and even the old member states were facing (and continue to face) unsettled minority claims as well as gender claims of their own. Nevertheless, the EU did require the applicant countries to live up to the often very ambiguous 'common' EU standards as a condition of accession. In Hungary, as in other CEECs undergoing legal harmonization during the accession process, the implementation of EU norms and standards has occurred through a series of intergovernmental – and thus top-down – negotiations. Let us now go into the details of this process.

## **2. Importing EU norms and values. Initiating institutional and social changes**

Up until 2003, when faced with the demand for equal opportunity legislation, Hungarian parliamentary parties had generally rejected the idea of equal opportunity policy, arguing that domestic legislation already contained provisions on anti-discrimination. However, the parties conveniently overlooked the fact that most of these anti-discrimination provisions were of a declarative nature, without an adequate

system of sanctions attached. Concerning minority protection, the law on 'The Rights of National and Ethnic Minorities' was passed back in 1993. It contained inclusive measures, such as providing for autonomy arrangements, and it established privileged quotas of representation in local governments and granted collective rights and cultural autonomy to thirteen recognized minorities.<sup>6</sup> A comprehensive legal document addressing anti-discrimination on all grounds was not adopted until December 2003 (Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities). Ethnicity and sex are among the nineteen factors listed under the Equal Treatment Act as potential bases for discrimination. The 2003 Act stipulated two important things: first, it obliges institutions of majority state ownership with more than fifty employees to develop 'equal opportunity plans', and second, it established an Equal Treatment Authority (ETA), an independent judicial body to oversee the implementation of the Act and to ensure compliance with the new anti-discrimination law.

There is little research on equality bodies in the CEECs, including Hungary, and the existing ones focus mainly on women's policy machineries<sup>7</sup>. The literature identifies the presence of three types of equality institutions in the region: equality policy machineries, consultative bodies and statutory complaint bodies.<sup>8</sup> *Equality policy machineries* are usually ground-specific, with the mandate of introducing the voice and interests of the vulnerable groups whom they represent into policy-making; these machineries tend to be embedded within the government. *Statutory complaint bodies* have an investigatory and complaint-driven mandate; among other things, these bodies initiate ex officio investigations into patterns of structural or institutional discrimination, raise awareness and generate knowledge on discrimination. They are independent from the central administration in one way or another and thus also regularly monitor and review policy. This type of equality mechanism takes an equal treatment approach to inequalities,<sup>9</sup> but statutory complaint bodies are not concerned with giving voice to women's or other movements; their mandate is generally much more individualist and complaint-driven. According to Krizsán et al., the third type of equality bodies, i.e. council type *consultative bodies*, have gained specific importance in the region.<sup>10</sup> These consultative bodies bring together experts, NGO representatives and representatives of some or all government ministries with the explicit goal of channelling the voices of civil society and experts into the policy-making process. In this way, they often provide access to the state administration and policy-making processes for civil society actors representing disadvantaged groups. The evolution of these bodies in Hungary will be examined next.

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<sup>6</sup> Palermo, Francesco / Woelk, Jens: No Representation without Recognition. The Right to Political Participation of (National) Minorities, in: *Journal of European Integration*, 2003 (Vol. 25), No. 3, pp. 225–248.

<sup>7</sup> Stetson, Dorothy McBride / Mazur, Amy G.: Introduction, in: Stetson, Dorothy McBride / Mazur, Amy G.: *Comparative State Feminism*, Thousand Oaks/CA, London: Sage, 1995, pp. 1–22; Krizsán, Andrea / Zentai, Violetta: Gender Equality Policy or Gender Mainstreaming, in: *Policy Studies*, 2006 (Vol. 27), No. 2, pp. 135–151; EUMAP Reports 2005 available at [http://www.soros.org/initiatives/women/articles\\_publications/publications/equal\\_20050502](http://www.soros.org/initiatives/women/articles_publications/publications/equal_20050502)

<sup>8</sup> Krizsán, Andrea, Raluca Popa and Viola Zentai: Intersectionality: Who's Concern? Institutionalizing Equality Policy in New Central and Eastern European Members States of the EU, Paper prepared for the ECPR Joint Sessions April 2009, Lisbon, 6.

<sup>9</sup> Rees, Teresa: *Mainstreaming Equality in the European Union. Education, Training and Labour Market Economy*, New York/NY: Routledge, 1998.

<sup>10</sup> Krizsán, Andrea / Popa, Raluca / Zentai, Viola: Intersectionality. Who's Concern? Institutionalizing Equality Policy in New Central and Eastern European Members States of the EU, Paper prepared for the ECPR Joint Sessions April 2009, Lisbon, p. 6.

### *Equality policy machineries*

Ground-specific policy machineries and council type consultative bodies were established in the second half of the 1990s both in the frame of minority protection and gender affairs in Hungary. The women's policy machinery was re-established as a requirement of the *1995 Beijing Declaration and Platform for Action*. The policy machinery has since been restructured, relabelled several times and integrated into different ministerial departments. Although it had risen to the government office level in 2003, the machinery was gradually devolved into a small department and integrated into the Ministry of Youth, Family and Social Affairs and Equal Opportunities by April 2006. Changes in institutional setup were accompanied by a significant shift in policy: gender equality policy was integrated into a more general equal opportunities policy. Indeed, the women's policy machinery is greatly hampered by its lack of independence from politics and the corresponding vulnerability to political shifts. The continuous restructuring and lack of financial – and more importantly, human resources – has from the outset limited the machinery's legitimacy and authority within the state administration as well as in society.

The institutionalization of ethnic-minority protection into the national bureaucracy seems to be less controversial and less affected by politics. Since its establishment, the Office for National and Ethnic Minorities has enjoyed a high government office level and has been present on inter-ministerial committees; some state secretaries and ministerial commissioners have also been appointed to it. As with the case of gender equality policy, the 2003 restructuring that affected the Gender Equality Agency has had major implications for policies on the Roma population as well. A special agency on the Roma was established within the Ministry of Social Affairs and Labour, thus largely devolving and limiting the urgent tasks of Roma protection to social policy issues. The integration of Roma issues into a general equal opportunity policy framed in the field of social and employment policies undermines the legitimacy of a separate and comprehensive Roma protection package that would overarch the various sectoral politics. In addition, a further motion to restructure the institutional framework dealing with minority issues was issued on 31 January 2007, and as a result, the fifteen-year-old Office for National and Ethnic Minorities was closed down.<sup>11</sup>

### *Consultative bodies*

The relationship between the various equality policy machineries, NGOs and social movements has been identified as controversial, and the emergence of consultative bodies is primarily attributed to the fact that the machinery failed to give voice to the different movements' agendas on the state level.<sup>12</sup> In order to understand the interplay of civil society and the state, one should first look at the developments in the non-state sector. The 1990s witnessed a rapid increase in the number of NGOs dealing with hu-

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<sup>11</sup> Ejala, William: ENAR Shadow Report 2006. Racism in Hungary, Brussels: European Network Against Racism, 2007; ERRC, European Roma Rights Centre: Written Comments of the European Roma Rights Centre Concerning Hungary For Consideration by the United Nations Committee on the Elimination of Discrimination against Women at its 39th Session (July 23–August 10, 2007), in: <http://www.errc.org/cikk.php?cikk=2135>

<sup>12</sup> Krizsán, Andrea / Popa, Raluca / Zentai, Viola: Intersectionality. Who's Concern? Institutionalizing Equality Policy in New Central and Eastern European Members States of the EU, Paper prepared for the ECPR Joint Sessions April 2009, Lisbon, p. 12.

man and minority rights and also saw a rise in women's organizations.<sup>13</sup> By now, some of these NGOs established in the early 1990s have grown into influential social actors at the national level, with relatively high visibility in society.

NaNE (Women for Women against Violence), along with human rights organizations such as the Women's and Children's Rights Center and the Habeas Corpus Working Group (HCWG), have become leading figures in mounting awareness-raising campaigns about the violation of human rights and racial and gender-based discrimination. Besides these groups, there are a number of women's organizations with different profiles complementing each other's work, as well as grass-roots organizations working at the community level. The influence of the EU supranational women's organization is clearly reflected in the establishment of the Hungarian Women's Lobby (HWL) in 2003. In 2008, the HWL consisted of forty-eight women's organizations, including some grass-roots and Roma women's NGOs.<sup>14</sup>

However, this Hungarian branch organization was established only recently, and it will take some time for Hungarian women's organizations to legitimize their goals at the national level via this transnational actor. Moreover, while the importance of the umbrella organization has been trumpeted by many leading feminists, the impact and visibility of the HWL is less prominent than that of some its constituent organizations. An access point for feminist organizations to influence policy development and shape the equality agenda is their involvement in the various equality bodies – primarily women's policy machineries and consultative bodies. However, as mentioned earlier in the paper, the question of mandate and accountability arises, and it is impossible to gauge the extent to which these NGOs contribute to and shape the role of women's policy machinery in policy development. It is also difficult to discern which and whose agendas they are promoting, and to determine the degree to which their agenda is shaped by the very policy machinery granting them access to the policy-making process.

With respect to gender policy, a consultative body had been set up relatively early on due to pressure from NGOs to have adequate representation in policy-making processes. After years of being ineffective, the Council of Women's Affairs was dissolved in 2005. However, a new Gender Equality Council was established in the autumn of 2006 upon the NGOs' demand for better consultation processes. While their role in granting access to women's NGOs in the policy-making process and in complementing the work of the weak women's policy machinery is indisputable, immediate questions about mandate and accountability as well as exposure to political will remain unresolved, thus calling into question the effectiveness of the entire machinery.

On the other hand, the mobilization of the Roma in Hungary largely translates into the agenda of anti-discrimination, as they are facing wide-ranging discrimination in employment, education, housing, healthcare, etc. Roma organizations were largely formed on the basis of ethnic or national identity as a part of the favourable societal changes and framing of minority protection legislation in the early 1990s. The greater availability of state and NGO funding for Roma issues has led to a rapid proliferation of

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<sup>13</sup> Krizsán, Andrea / Pap, Eniko: *Equal Opportunities for Women and Men. Monitoring Law and Practice in Hungary*, Budapest, New York/NY: Open Society Institute and Network Women's Program, 2005.

<sup>14</sup> See <http://www.noierdek.hu/home/tagok> on the members of HWL.

Roma organizations and events. By the end of 1998, more than 1000 civic bodies concerned with such issues had officially registered.<sup>15</sup>

Like most NGOs in Europe, the main challenge encountered by organizations dealing with Roma issues is securing long-term funding for their activities. While the government supports Roma organizations and minority self-governing bodies in organizing cultural events and tradition-preserving programmes, most of the NGOs dealing with minority issues cannot rely on charitable contributions from the majority population and thus have to find alternative sources of funding. Moreover, apart from those listed above, specific measures for enhancing Roma participation in public life are in short supply. The few civil society initiatives, such as Roma education programmes, awareness-raising campaigns and the creation of independent Roma media, disseminate information and promote the advancement of the Roma's situation.

Even though the Hungarian minority protection system is regarded as one of the most advanced in the region and some local initiatives have proven to be very successful, the Roma, the country's largest minority group, still face discrimination in many spheres of everyday life. There have been several policy initiatives, including medium- and long-term projects designed to improve the Roma's conditions, but the majority of these measures have had ambiguous results. One of the reasons for this is the unreliability of the data regarding the actual size of the Roma minority. Even though accurate data are obviously necessary for effective policy measures, actual governments have been reluctant to collect ethnically disaggregated data since 1993, claiming that constitutionally sanctioned privacy rights would thereby be violated. Thus, lack of information and input from the side of the Roma renders policy and planning ineffective, and monitoring changes is especially difficult.<sup>16</sup>

The Council of Roma Affairs was set up as an advisory board in 2003 to assist the Prime Minister's work. Its membership consisted of Roma and other public figures, representatives of Roma NGOs and academics dealing with Roma issues. The Council operated in close cooperation with the ministries and the national authorities, the National Roma Self-Government and competent NGOs. Representatives of the Roma have been continuously involved in the work of the national government; however, according to some reports, the government's selective practices have given rise to internal tensions between Roma organizations.<sup>17</sup>

In both gender and Roma policy, the consultative bodies complement the relevant policy agencies, with a formalized mechanism for the inclusion of NGOs in policy-making. They are coordinated from within the policy machineries and are perceived as coordination bodies for ground-specific equality policy developments. Meanwhile, it is important to note that recent cross-country evaluations<sup>18</sup> have emphasized the weak mandate that these consultative bodies have along with their vulnerability to political

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<sup>15</sup> Ringold, Dena / Ohrenstein, Mitchell / Wilkens, Erika: Roma in an Expanding Europe. Breaking the Poverty Cycle, The International Bank for Reconstruction and Development/The World Bank, 2005, [http://siteresources.worldbank.org/EXTROMA/Resources/roma\\_in\\_expanding\\_europe.pdf](http://siteresources.worldbank.org/EXTROMA/Resources/roma_in_expanding_europe.pdf)

<sup>16</sup> OSI, Open Society Institute and EU Monitoring and Advocacy Program: Equal Access to Quality Education to Roma, Budapest: Open Society Institute, 2007.

<sup>17</sup> Örkény, István: Minority Protection in Hungary. Country Report, in: Monitoring the EU Accession Process. Minority Protection, Budapest, New York/NY: Open Society Institute, 2002, pp. 243–296; Ejala, William: ENAR Shadow Report 2006. Racism in Hungary, Brussels: European Network Against Racism, 2007.

<sup>18</sup> Krizsán, Andrea / Zentai, Violetta: Gender Equality Policy or Gender Mainstreaming, in: Policy Studies, 2006 (Vol. 27), No. 2, pp. 135–151, Krizsán, Andrea / Pap, Eniko: Equal Opportunities for Women and Men. Monitoring Law and Practice in Hungary, Budapest, New York/NY: Open Society Institute and Network Women's Program, 2005.

will. As such, NGOs cannot compensate for the lack of a comprehensive strategy on the part of the government. As mentioned before, the collaboration of civil society actors and representatives of different groups is needed for the adoption and implementation of effective national policies. The main challenge social and institutional actors face today in Hungary is a lack the proper tools to mobilize the general public for combating racial/ethnic/gender discrimination.

### *Statutory complaint bodies*

Complementing the work of the previously mentioned equality bodies, statutory complaint bodies are also present to ensure the enforcement of anti-discrimination laws. Two separate institutions are prominent in this regard in Hungary: the Office of Parliamentary Commissioners and the Equal Treatment Authority. Gender and sexual discrimination falls within the scope of the authority of the Parliamentary Commissioner (Ombudsman) of Civil Rights, while complaints of racial discrimination are the jurisdiction of the Parliamentary Commissioner for National and Ethnic Minorities ('Minority Commissioner' or 'Minority Ombudsman').

The Equal Treatment Authority (ETA), established by Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, commenced operating on 1 February 2005. Functioning under the supervision of the Ministry of Labour and Social Affairs, ETA is vested with the power to act against any discriminatory act irrespective of the grounds for discrimination (sex, race, age, sexual orientation, etc.) or the field concerned (employment, education, access to goods, etc.). It also has the right to impose severe sanctions on persons and entities violating the obligation of equal treatment.<sup>19</sup> Novel provisions introduced by the ETA were (1) the possibility of associations and other entities to engage in proceedings on behalf or in support of complainants, and (2) the standing of representative organizations in *actio popularis* claims<sup>20</sup>. The agency also provides information on anti-discrimination laws, publicizes the availability of free legal advice, conducts surveys on discrimination, publishes independent reports and makes recommendations on discrimination, as required by the EU *acquis*.<sup>21</sup>

Since its establishment, the caseload of the ETA has increased significantly. In 2005, 491 cases were filed with the Authority; by 2006 there were 592, in 2007 the case number reached 756, and in 2008 it shot up to 1153.<sup>22</sup> Approximately 30% of the complaints were resolved with a binding decision. Amongst these, infringements of the requirement of equal treatment were found in approximately 13% of the cases; settlements were made between the complainants and the accused parties in 6% of the cases; 35% were dismissed as unfounded after an examination of their merits; a further 20% were dismissed without an investigation of merits because they fell outside the Authority's jurisdiction; and 26% were dismissed on procedural grounds. The continually rising number of cases lodged with the Authority indi-

<sup>19</sup> Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation – Hungary, European Union Agency for Fundamental Rights, 2008, [http://www.fra.europa.eu/fraWebsite/attachments/FRA-hdgso-NR\\_HU.pdf](http://www.fra.europa.eu/fraWebsite/attachments/FRA-hdgso-NR_HU.pdf)

<sup>20</sup> *Actio popularis*: an action against the violation of civil rights or a labour lawsuit may be brought by any representative organization, provided that the violation of the principle of equal treatment is based on a characteristic that is an essential feature of the individual, and the violation affects a larger group of persons that cannot be determined accurately.

<sup>21</sup> ECRI Report on Hungary CRI(2009)3, European Commission against Racism and Intolerance, 2009, <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Hungary/HUN-CbC-IV-2009-003-ENG.pdf>

<sup>22</sup> All figures given for the period between 2005–2008 were drawn from the relevant annual reports of the Equal Treatment Authority, <http://www.egyenlobanasmod.hu/index.php?g=kozadat.htm>

cates a growing level of public awareness about this body. However, the high proportion of cases (a total of 54% in 2008) dismissed either as unfounded on their merits or because they fell outside the Authority's scope implies a lingering lack of understanding of the concept of discrimination in Hungary, as well as a certain degree of ignorance vis-à-vis the Authority's fields of competence.

Based on the complaints filed so far, the main groups discriminated against are the elderly (individuals over the age of 50), disabled people, the Roma, pregnant women and young mothers. These groups face discrimination primarily in the labour market, or their right to equal access to goods and services suffers infringement. The majority of institutions against which complaints are filed are economic enterprises, labour market institutions, state administration and local government institutions, law enforcement institutions (especially the police) and service providers. Regarding the regional distribution of complaints, the prominence of the capital, Budapest, is noticeable.

Women's NGOs have criticized both the 2003 Act and the operation of the ETA, claiming that gender was lumped together with the many other factors of discrimination and that the legislation was thus inadequate to handle the specific aspects of gender equality. Major criticism was also launched against the organizational structure of the ETA (e.g. for lacking staff members dedicated to dealing with gender equality issues) and the classification of cases it used, which, according to some women's NGOs, masked the gendered nature of various acts of gender-based discrimination.<sup>23</sup> Similarly, Roma campaigners argued that establishing the ETA would limit the urgent tasks of Roma protection to social policy issues (mainly employment policies), while their specific status (meaning poverty, unemployment, under-education, and multiple discrimination) in fact required institutions designed solely for their integration into all facets of Hungarian society.<sup>24</sup>

As the number of cases show, the ETA, a statutory complaint mechanism covering multiple grounds of discrimination, serves as an additional tool for civil society actors and private individuals to exercise their right to enforce anti-discrimination laws. However, the complaint body is not really geared towards advocating the causes and agendas of various ground-specific movements. Moreover, as the enforcement mechanism is primarily complaint-driven and individualistic, the key role of the complaint body is to impose equal treatment rather than to address structural inequalities stemming from complex socio-economic factors.

### 3. Conclusion

In post-socialist Hungary, where civil society activism in general is a relatively recent phenomenon, global social policy and transnational alliances forged via international meetings have enabled both local activists and state authorities to draw on ideas and policy frameworks from outside the nation state. As we have seen, the European Union, with its supranational character, universal values and institutional system, can function as an opportunity structure for NGOs seeking international support to further their

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<sup>23</sup> HWL, Hungarian Women's Lobby: Shadow Report of the Hungarian Women's Lobby on the realization of the Convention on the Elimination of All Forms of Discrimination Against Women in Hungary incorporated with the critical examination of the sixth periodic report of the Hungarian government presented at the 39th session of the CEDAW Committee of the UN, 2007, [www.noierdek.hu/home/](http://www.noierdek.hu/home/)

<sup>24</sup> Ringold, Dena / Ohrenstein, Mitchell / Wilkens, Erika: Roma in an Expanding Europe. Breaking the Poverty Cycle, The International Bank for Reconstruction and Development/The World Bank, 2005, [http://siteresources.worldbank.org/EXTROMA/Resources/roma\\_in\\_expanding\\_europe.pdf](http://siteresources.worldbank.org/EXTROMA/Resources/roma_in_expanding_europe.pdf)

goals. By providing discursive frames and tools, the EU could be viewed as enabling interest groups to promote their agendas and increasing their power in brokering with national policymakers.

However, one cannot determine the extent to which anti-discrimination institutional and policy changes within Hungary can be attributed to the EU equality agenda. As we have shown, when it comes to *equality policy machineries*, institutional changes occurred well before the start of the accession negotiations in Hungary in the late 1990s. Yet at the same time, parallel to the gradual shift within the EU from ground-specific equality policies towards tackling multiple arenas of discrimination, one can also observe a gradual shift towards institutional integration as well as a dilution of specific equality agendas into general equal opportunity provisions. It seems that the diffusion of EU norms on equal opportunity did in fact affect how the Hungarian institutional setup was reorganized, yet the government should also review its policy of institutional reform and restructuring, because it is diluting the power of anti-discrimination agencies.

While EU norms on equal opportunity have indeed affected Hungarian policy and institutional choices, at present, the absence of positive legislation in Hungary vesting specific responsibility for the implementation of law and policy with identified government bodies circumvents any attempt of judicial interventions with respect to discrimination. Though introduced legal provisions as well as institutional developments show that measures have been taken to advance policy and structural change, one can question how far these structural changes have reached, and based on our non-exhaustive case studies, argue convincingly that the present Hungarian institutional changes are insubstantial at best and therefore pose obstacles to the institutionalization of equal opportunity policies into actual state practice. We have briefly examined Hungarian *statutory complaint bodies* only to find that their impact is very limited and society at large is still unfamiliar with these bodies and what they stand for.

We have seen that the attempts made to create a formalized mechanism to include NGOs in policy-making have resulted in the creation of different *consultative bodies*. Yet when we examined the role of these consultative bodies that complement the relevant policy agencies, we found that these have a very weak mandate when it comes to actual policy-making and that their role is dependent on the political will of the government. As such, NGOs cannot compensate for the lack of a comprehensive strategy of effective national policies.

Unless strong societal mobilization is readily available in support of the issues at hand, policy developments and the state machinery are likely to fail in transposing international norms on equal opportunity. To successfully tackle discrimination, be it based on gender, race, or ethnicity, not only legislative and policy changes are needed but also the political will to fight for change in social norms and values. Such change is only possible through awareness-raising programmes, government or NGO campaigns, a restructuring of the educational system, and positive discrimination programmes aimed at transforming the entire society. Unfortunately, both state authorities and NGOs have thus far failed to follow such a comprehensive strategy in the case of Hungary.