

# Enhancing the categorization of intersectional equality policies: the case of Roma women in Central and Eastern European Member States.

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## **Abstract**

Although intersectionality has largely been theorized, research categorizing intersectional equality policies is still relatively little developed. To which extent are equality policies in the European Union (EU) intersectionality-oriented? How is intersectionality operationalized in policies? Existing literature answers these questions by focusing essentially on the institutional mechanisms resulting from the operationalization process, like laws and equality bodies. This paper aims at enhancing the traditional categorization of (multiple and/or) intersectional equality policies by adding less-institutional criteria, like the presence of an "intersectional vocabulary" in both policy and legislative documents and the implementation efforts of national governments for supporting specific groups "at intersections". Policies towards Roma<sup>1</sup> women in the new Central and Eastern European Member States (CEEMS) are used as test-cases to check the reliability of the proposed "new" criteria set.

**Keywords:** Central and Eastern Europe, comparative research, equality, intersectional equality policies, methods and methodologies, multiple discrimination, political intersectionality, public policies, Roma women.

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<sup>1</sup> The term "Roma" is used here according to the definition provided in the 2011 "EU Framework for Roma Integration Strategies", namely "as an umbrella which includes groups of people who have more or less similar cultural characteristics, such as Sinti, Travellers, Kalé, Gens du voyage, etc. whether sedentary or not" (EC 2011: 2).

## Introduction

Until the entry into force of the Amsterdam Treaty in 1999, equality measures at Community level were mainly regulating discrimination on the ground of gender in the employment context. Throughout the introduction of Article 13 of the EC Treaty, the EU was empowered to take appropriate action to combat discrimination based on several grounds, i.e. sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. This innovative approach was further strengthened by the adoption in 2000 of the so-called "EU Equality Directives"<sup>2</sup>, contributing to develop EU equality and anti-discrimination frameworks based on a "multiple strand" perspective. A new "awareness" emerged at EU level at the beginning of the 2000s, based on the assumption that "discrimination can be experienced on more than one ground" (EC 2007: 5). The concept of "multiple discrimination" gained ground and was used to refer to "a situation where discrimination takes place on the basis of several grounds operating separately. For instance an ethnic minority woman may experience discrimination on the basis of her gender in one situation and because of her ethnic origin in an other" (EC 2007: 16).

In the meanwhile, a new approach to discrimination was dominating the equality discourse in the United States and starting to attract European scholars: the "intersectional approach". This new approach went beyond the logic of *addition* characterizing the concept of "multiple discrimination" and introduced the logic of *interaction*, according to which interacting inequality categories (e.g. gender, race and class) determine unique situations of discrimination where different grounds cannot be separated and no ground is prevailing.

Intersectionality emerged in the late 1980s and early 1990s from critical race studies for theorizing identity and oppression. The legal scholar Kimberle Crenshaw coined this term "to denote the various ways in which race and gender interact to shape the multiple dimensions of Black women's employment experiences" (Crenshaw 1989: 139).

Although this concept has been often criticized for its complexity, the vagueness of its definition and the lack of an "intersectional methodology" (Nash 2008: 3), some scholars consider it as one of "the most important theoretical contribution that women's studies, in conjunction with related fields, have made so far" (McCall, 2005: 1771). Intersectionality brings a conceptual shift in how researchers, civil society and policy actors understand social categories, their relations and interactions (Hankivsky 2012: 18). For Lombardo & Rolandsen Agustín, in politics this could correspond to the formulation of policies taking into account groups at the intersections of inequalities and the way these groups are affected by policies (2011: 484). At this proposal, Crenshaw's (1991: 1251) concept of *political intersectionality*<sup>3</sup> proves to be particularly relevant, as it "captures the ways in which

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<sup>2</sup> Namely, Directive 2000/43/EC of 29 June 2000, implementing the principle of "equal treatment between persons irrespective of racial or ethnic origin" and Directive 2000/78/EC of 27 November 2000, establishing a general framework for "equal treatment in employment and occupation".

<sup>3</sup> In *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, Crenshaw makes a distinction between political and structural intersectionality. With "structural intersectionality" she refers to "the ways in which the location of women of color at the intersection of race and gender makes our actual experience of domestic violence, rape, and remedial reform qualitatively different from that of white women" (1991: 1245).

inequalities and the interaction between them are addressed in political and institutional strategies and struggles” (Krizsan *et al.* 2012: 18).

Albeit some statements on combating intersectional discrimination are located in soft law instruments or in policy programs (Kantola & Nousiainen 2012: 33), the EU approach to inequalities tends to be still multiple rather than intersectional. *Political intersectionality* is still at an embryonic stage in European policy making (Lombardo & Rolandsen Agustín 2011: 486) and there is a need for a political space to elaborate alternative strategies for tackling intersectional discrimination (Kantola & Nousiainen 2012: 51). The European Parliament (EP), and in particular the *Committee on Women Rights and Gender Equality* (i.e. FEMM) and the *Committee on Civil Liberties, Justice and Home Affairs* (i.e. LIBE), has made some steps in this direction. In 2006 the FEMM Committee referred to the peculiar discriminatory situation of Roma women as “multiple or compound discrimination” and “twin disadvantages of racial and gender discrimination and their combined effects” (EP 2006: 4). It is interesting to note the evolution of the term “compound discrimination” to “intersectional discrimination” in the 2013 FEMM *Report on Gender Aspects of the European Framework of National Roma Inclusion Strategies*, where the Committee specifies “Roma women often face multiple and intersectional discrimination<sup>4</sup> on the grounds of gender and ethnic origin – which is more intense than that against Roma men or non-Roma women” (EP 2013a: 4). Is this just a terminological shift or it represents a first step towards a substantial evolution of a “multiple approach” to inequalities to an “intersectional” one? Is there an increasing recognition of intersectionality as a policy problem among policy-makers?

Based on the concept of *political intersectionality*, this paper intends to propose a new set of criteria for assessing whether and/or to which extent equality policies in the European Union are intersectionality-oriented. In particular, it aims at enhancing the traditional categorization of (multiple and/or) intersectional equality policies, focused on the presence of institutional mechanisms like equality legislation and institutions/bodies, by adding less-institutional criteria, like the use of an “intersectionality vocabulary” in both policy and legislative documents as well as the implementation efforts of national governments for supporting specific groups at the intersection of different inequalities. Applied to several countries, the proposed criteria set becomes an operational tool for comparative research on intersectional equality policies, as it facilitates the identification of similarities and differences among equality and non-discrimination regimes at national level.

Starting from the assumption that the application of intersectionality in the context of policy can be considered a political action, “as it demonstrates a commitment to ameliorating inequitable relations of power<sup>5</sup> that maintain inequity” (Hankivsky 2012: 18), this paper aims at creating the ground for a more comprehensive analysis of how intersectional equality policies are currently operationalized and to which extent intersectionality is infiltrated in

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<sup>4</sup> The term “multiple and intersectional discriminations” is also present in the EP’s 2013 Study on “Empowerment of Roma Women within the European Framework of National Roma Inclusion Strategies”.

<sup>5</sup> “Power” is a crucial concept in intersectionality research. It mainly refers to the social dynamics of oppression and subordination between privileged and unprivileged ones (or, in Crenshaw’s terms, between privileged group members and “multiply-burdened” ones).

the policy tissue. Policies towards Roma women in Central and Eastern European Member States, namely Hungary, Slovakia, Romania and Bulgaria, are used as test-cases to check the reliability of the proposed “new” criteria set. Roma women are treated as one of the main groups “at intersections”, where race- and class-based discriminations are aggravated by gender-based one.

Although this paper focuses on intersectional equality policies and makes a clear distinction between multiple and intersectional approaches to inequalities, the concept of “multiple discrimination” has to be taken into account in the application of the proposed criteria set. The need for including it within the scope of the analysis is due to the fact that the term “multiple discrimination” is still prevailing and explicitly mentioned in policy documents at both EU and national levels, while there is a common trend towards treating intersectionality implicitly. Being the document analysis conducted so far at its initial phase, further steps are necessary to properly assess the implicit and explicit recognition of intersectionality as a policy problem and to investigate whether and when the terms “multiple discrimination” and “intersectional discrimination” are voluntarily or accidentally construed by policy-makers as distinct or interchangeable. Consequently, both terms are taken into consideration at this stage, through the expression “(multiple and/or) intersectional”.

This paper is organized as follows. Section 1 reviews the literature on political intersectionality and provides a general picture of the existing mechanisms identified for categorizing (multiple and/or) intersectional equality policies. Section 2 introduces the “new” criteria set. Section 3 applies the proposed criteria to policies addressing Roma women in CEEMS.

### **Reviewing the literature on political intersectionality: existing criteria for categorizing (multiple and/or) intersectional equality policies**

This paragraph illustrates the typologies identified by scholars for categorizing and assessing (multiple and/or) intersectional equality policies and points out the gaps to be addressed by future research on political intersectionality.

A review of the relevant literature shows an increasing interest towards the operationalization of intersectionality in policies and the development of appropriate methods for assessing it. Existing academic works essentially look at the ways policies are operationalized from an institutional perspective, by taking into account the institutional mechanisms resulting from the operationalization process, like constitutions, case-law, legislation and institutions. Brilliant examples of literature on intersectionality aiming at evaluating “the ways in which multiple inequalities are being addressed institutionally in Europe” have been collected in *Institutionalizing Intersectionality* (Krizsan et al. 2012). Through an empirical analysis of *equality institutionalization* across Europe, this collection contributes “to understanding patterns and processes of operationalizing intersectionality for policy purposes” (p. 19). By investigating the changes in equality machineries, it intends to identify the scope for creating the conditions for the recognition

and integration of intersectionality as a policy problem. How does the State empower and institutionalize inequality categories? What does it do in terms of policy actions? These are two of the main questions this analysis wants to answer.

*Institutionalizing Intersectionality* represents a fundamental contribution for understanding the evolution of equality policies in Europe and the shift from policy approaches dealing with gender inequalities separately to approaches addressing multiple inequalities in integrated ways (EC 2007, Lombardo and Verloo 2009). It looks at this shift mainly in institutional terms, putting equality bodies at the center of the analysis. Equality institutions are considered as *one of the most specific expressions of equality policies* (p. 8) and are based on a tripartite structure differentiating them according to their functions (i.e. law-enforcement antidiscrimination bodies, political administrative bodies, and consultative bodies). Can this institutional approach exhaustively explain the operationalization of intersectionality in policies? To which extent does it contribute to understand how much intersectionality-oriented are “policy actions”?

As Hankivsky<sup>6</sup> underlines elsewhere, “a pressing and ongoing challenge in advancing this line of work (i.e. operationalizing intersectionality in policies) is the further development of explicit and user-friendly methods than can more effectively translate intersectionality theory into practical approaches that can be used by decision-makers and policy researchers” (2012: 20). This paper intends to contribute to this discourse by proposing a set of criteria integrating the existing (and prevailing) institutional approach with less-institutional standards.

Academic works looking at (multiple and/or) intersectional equality policies from a less institutional angle are mainly focused on policy-content and policy-making. Lombardo and Rolandsen Agustín (2011) propose a fascinating set of quality criteria for assessing “good intersectionality” in (gender) equality policies. Starting from the assumption that intersectional inclusion is one of the aspects that could improve the quality of policies (p. 483), these authors have conducted a frame analysis of gender equality policy documents in the EU context, showing that “intersectional dimensions are increasingly present but they are treated implicitly and from a separate perspective” (p. 481). In order to improve the quality of policy-making at both EU and national levels and create the ground for further investigations about policy implementation, these scholars propose the performance of an “intersectionality impact assessment” to be used as regular practice prior the adoption of policies.

According to Lombardo and Rolandsen Agustín, a “good” intersectional policy analysis should be based on the following criteria: *explicitness* and *visibility* of certain inequalities as well as *inclusiveness* of a wide range of multiple inequality categories; extent of *articulation* of intersectionality; *gendering* of policy issues and intersecting inequalities; *transformative approach* to intersectionality; *structural understanding* of inequality;

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<sup>6</sup> Hankivsky has contributed to this discourse by developing an *Intersectionality-Based Policy Analysis (IBPA) Framework*. IBPA is rooted within the critical paradigm and aims at providing an innovative framework for “action-oriented policy methodologies” (2012: 128). The two core components of this Framework are a set of guiding principles and a list of (descriptive and transformative) questions leading the (health) policy analysis.

awareness/challenging of *privileges*; avoiding the *stigmatization* of specific groups; *consultation* of civil society in the policy-making process.

Along the lines of Hancock's (2007) framework on the conceptual differences among approaches to the study of race, gender, class and other categories of difference in political science, they treat intersectionality as an "open empirical question": the assessment of how intersectionality is articulated by policy-makers and civil society actors is defined gradually and is not based on any predetermined idea of how an intersectional approach should look like (Lombardo & Rolandsen Agustín 2011: 485).

The need for "more intersectional" equality policies, better facing "the reality of existing mutually constituted inequalities that women and men experience in European societies" (Lombardo & Rolandsen Agustín 2011: 497), implies as well the need for their implementation. With reference to the four case-studies analyzed in this paper, scarce implementation trends in the fields of equality and non-discrimination have been detected so far: although CEEMS have transposed the formal EU *acquis* in a fast and successful way, its enforcement and application largely lag behind (Krizsan 2009: 1). Investigating whether and how equality policies are implemented is a necessary step in political intersectionality research.

While the content of equality policies, especially gender-based ones, has been deeply analyzed, categorized and framed by scholars, research on policy-implementation processes is still quite marginal. Although by the early 1970s a variety of studies had demonstrated that "the implementation stage is crucial to the success or failure of a policy" (Adolino & Blake 2010: 22), policy outputs, i.e. what governments do to implement and enforce their policies, are not always comprehensively analyzed while assessing policy operationalization in the fields of equality and non-discrimination.

To which extent do national governments put into practice (multiple and/or) intersectional approaches to inequalities? How can we assess their implementation efforts? Which kind of criteria should be taken into account to assess both the content and the implementation of (multiple and/or) intersectional equality policies? By combining traditionalism and policy implementation studies, the "new" criteria set presented below has the potential to facilitate the investigation of these issues, not yet exhaustively addressed by political intersectionality scholars.

### **Developing "new" criteria for categorizing and comparing (multiple and/or) intersectional equality policies**

The criteria set presented in this section has been developed for an empirical reason: disposing of an operational tool facilitating the categorization of intersectional equality policies and the comparison among equality regimes. The need for enhancing the existing categorization criteria has emerged from the gaps identified through the literature review process and the empirical data analysis, showing the necessity for further investigation on the operationalization of intersectionality in policies, including policy-implementation practices and processes.

With the aim of bridging these gaps, the "new" criteria set gathers together

the traditional institutional criteria adopted for assessing how intersectionality-oriented public policies are, with less-institutional criteria, taking into account different aspects of the policy-making, like the way policies are formulated and articulated, and the policy-implementation processes, like the resources allocated by national governments to support relevant civil society organizations (CSOs) and implement projects addressing specific groups “at intersections”.

As mentioned above, the categorization proposed in this paper merges together institutional criteria (1 & 2) with less-institutional ones (3, 4 & 5).

The first two criteria are clearly inspired by the academic works collected in *Institutionalizing Intersectionality* (2012) and take into account the institutional mechanisms traditionally associated with the operationalization of policies. They are articulated as follows:

1. **Presence of relevant bodies/institutions** – specifying whether they are (i) single- and/or multi-strand Equality and Anti-discrimination Bodies/Institutions and/or (ii) specific Bodies/Institutions dealing with Roma issues. Single-strand institutions are further classified in gender- and ethnicity-based ones.
2. **Reference to “multiple and/or intersectional discrimination” in national Anti-discrimination and Equality legislation.**

Less-institutional criteria are taking into consideration both the policy-making and the policy-implementation processes. Criterion no. 3 takes inspiration from the work of Lombardo and Rolandsen Agustín on *Framing Gender Intersections in the European Union* (2011). This criterion essentially focuses on policy formulation and content and aims at identifying the “intersectionality vocabulary” explicitly or implicitly used in policy documents:

3. **Appearance of the term “multiple and/or intersectional discrimination” in policy documents** (targeting the Roma) – at both national and international levels.

The development of criteria focused on terminology (e.g. 2 & 3) derives from the recognition of “explicitness” and “visibility” as core elements of “good” equality policies: as observed by Lombardo and Rolandsen Agustín, “the mere naming of the problem gives it some visibility and provides a term to define the phenomenon. This opens up possibilities for discussing the problem and finding solutions to it” (2011: 489).

With regards to policies addressing Roma women, the concept of “visibility” is particularly relevant. As for Black women (Crenshaw 1989: 140, 1991: 1251), the experience of Roma women, at the point of intersection among race, gender and class, has been frequently made invisible by both gender and anti-racist movements. In *Re-envisioning Social Justice from the Ground Up: Including the Experiences of Romani Women*, Oprea affirms that “the work done by Romani women aimed at combating triple marginalization (racism, sexism and poverty) is not considered ‘Romani politics’. Nor is it given due respect as gender politics, since it deals with Romnia who are considered ‘Gypsies’ not women. Feminist discourse in Europe effectively ignores the

existence of Romani women and other minority women while preaching a universal doctrine of gender empowerment. The two terms 'Roma' and 'women' have effectively been constructed as mutually exclusive" (2010: 33). This "invisibility" has had obvious repercussions on policy-making, where the peculiar condition of Roma women has not always been considered as a priority. Some authors have referred to this phenomenon as "naturalization of intersectionalities", with regards to the fact that in the definition "Roma women" all the inequalities of ethnicity, class, family status and gender are often interpreted as "nature", thus determining a great obstacle to their legitimation in (gender+) equality policies (Stoykova 2008: 60).

The last two criteria (4 & 5) intend to address the gaps in existing literature by assessing the implementation efforts of national governments in terms of resources allocated for funding relevant civil society organizations and projects/programs. These criteria are the following:

4. **Existence of subsidized projects and/or programs** addressing Roma women;
5. **Existence of relevant subsidized Civil Society Organizations** (CSOs).

The remarkable role played by civil society in promoting intersectionality at both EU and national levels confirms the importance of taking into consideration the involvement of non-institutional actors in implementing public policies as well as the need for using less-institutional criteria in assessing how intersectional equality policies are operationalized. Academic works analyzing EU equality policies show that civil society documents "are in general more advanced in terms of including intersectionality perspectives in a more explicit and elaborate manner" (Lombardo & Rolandsen Agustín 2011: 496). These new "implementing" actors are demonstrating to be crucial in shaping equality and non-discrimination policies "from the bottom". With regards to CEEMS, Romania is a well-known example of how civil society interventions can be important in transforming equality regimes: as confirmed by several scholars (Krizsan & Zentai 2012, Popa 2008), the advocacy efforts of Romani women have strongly contributed to introduce the concept of "multiple discrimination" within the Romanian equality legislation and to promote intersectionality as a "critical policy tool and movement strategy" (Popa 2008: 5). By taking into consideration the role of CSOs in implementing (multiple and/or) intersectional equality policies, the proposed criteria set has the potential for contributing to the debate about top-down and bottom-up theories of implementation, particularly relevant in EU policy research.

### **Testing the "new" criteria set: how intersectionality-oriented are policies addressing Roma women in CEEMS?**

This paragraph provides a first embryonic application of the proposed criteria. As previously indicated, policies towards Roma women in CEEMS are used as test-cases for checking the reliability of the "new" criteria set as an operational tool for comparative research on intersectional equality policies.

Testing this tool on Central-Eastern European Countries contributes (i) to assess how a “new” area of the EU where equality policies have been traditionally driven by ethnicity (and not by gender as in Western European Member States) uses the concepts of “multiple discrimination” and/or “intersectionality” for shaping its equality and non-discrimination regimes and (ii) to investigate how the EU and its Member States with the highest percentages of Roma population deal with the integration of the biggest “ethnic minority” in Europe.

The integration of CEEMS within the traditional structure of the EU occurred in conjunction with the adoption of the Treaty of Amsterdam, making significant changes to the Community Treaties, especially with regards to Fundamental Rights and Non-Discrimination. As observed by Krizsan (2009), “the European Union had a critical role in shaping equality policy in its new Central and Eastern European Member States (...). During the accession process, these states went from having fragmented, unenforceable equality policies limited to a few politically-privileged inequality grounds, to adopting, in most cases, comprehensive, legally-enforceable equality policies and adjacent institutional structures that cover multiple inequality grounds and multiple inequality domains in complex ways” (p. 1).

The decision of the EU to expand eastwards highlighted Roma minorities as the most discriminated and excluded minority group in Europe (Tremlett & McGarry 2013: 3). This led to make the integration of the Roma community a high priority issue on the EU policy agenda.

According to the 2012 estimations on the Roma population by the Council of Europe (CoE), approximately six million of Roma people live in the EU. Regarding the four country case studies investigated by this paper, almost 10% of the Bulgarian population is Roma, followed by 9.02% in Slovakia, 8.63% in Romania and 7.49% in Hungary<sup>7</sup>. Within the Roma community, women are the major victims of multiple and/or intersectional inequalities: ethnic and class-based discriminations are aggravated by gender-based discrimination. The main sources of the exposure of Roma women are the low educational level and the resulting disadvantaged labor market position. In Hungary, the educational qualifications, employment level and income of Roma women are significantly lower even compared with Roma men. Concerning education, only 5.8% of Roma women have vocational qualifications, in contrast to 17.5% among Roma men, while the employment rate does not overcome 10%. In Bulgaria, functional illiteracy is three times more frequent among Roma women than men. Similar situations can be detected in Slovakia and Romania.

During the last decades, Romani studies<sup>8</sup> have gained *momentum* in several research fields and disciplines. According to some scholars, the salience of the Roma as a critical issue of EU policy has never been greater than today (Sobotka & Vermeersch, 2012: 801; Goodwin & De Hert, 2013: 10).

Researchers have tried to investigate and understand the peculiar situation of

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<sup>7</sup> Bulgaria, Hungary and Slovakia Roma population is estimated to be between 400.000 and 800.000. Romania, with an estimated 1.8 million Roma, has the largest Roma population in terms of number, while, in terms of percentage of total population, Bulgaria has the highest concentration.

<sup>8</sup> Tremlett & McGarry define “Romani studies” as “the academic arena for research on Roma minorities” (2013: 4). The Council of Europe and the EU have jointly established a new “European Academic Network on Romani Studies”. Further information is available at <http://romanistudies.eu>.

the Roma community by exploring its complex relations with the mainstream society, as well as the intra-community tensions and power dynamics. Nevertheless, little progress has been made in investigating the so-called “Roma issues” from an intersectionality perspective.

In connection with Romani studies, intersectionality represents an innovative approach for analyzing and addressing the causes of discrimination against Roma people from a more comprehensive and exhaustive angle. From an intersectionality perspective, Roma people are containers where different categories of social identity converge and interlock, creating an exclusive identitary dimension where no category is prevailing.

This paragraph presents an experimental application of the five criteria explained above. Each criterion has been applied to each country and summarized as follows.

### **Criterion no. 1 - Presence of relevant Bodies/Institutions**

In order to have a broad and comprehensive picture of CEEMS' approach towards multiple and/or intersectional discrimination against Roma women, this criterion takes into account different kinds of Institutions, namely (i) Equality and Anti-Discrimination Bodies/Institutions and (ii) specific Institutions dealing with Roma issues. Within the first group, a sub-distinction is made between single-strand (addressing one specific discrimination ground, with a focus on gender and ethnicity) and multiple-strand (addressing several grounds of discrimination) bodies.

(i) Concerning discrimination on the grounds of race and ethnic origin, Article 13 of Directive 2000/43/EC obliges Member States to designate “National Equality Bodies” aiming to promote equal treatment and assist victims of racial discrimination.

In the four target Member States, the status of Equality Body is provided to the following institutions:

- a. Bulgaria: Commission for the Protection against Discrimination (CPD);
- b. Hungary: Equal Treatment Authority (ETA) & Office of the Commissioner for Fundamental Rights (AJBH);
- c. Romania: National Council for Combating Discrimination (NCCD);
- d. Slovakia: Slovak National Center for Human Rights (SNSLP).

(ii) Regarding the institutional setup for Roma policies, the 2011 EU Framework for “National Roma Integration Strategies” (NRISs) led to the appointment of specific bodies in charge of the implementation of the strategies in each Member State, i.e. the “National Roma Contact Points”. In the four Countries, the appointed Institutions are:

- a. Bulgaria: Administration of the Council of Ministers, Secretariat of the National Council for Cooperation on Ethnic and Integration Issues (NCCEII);
- b. Hungary: Ministry of Human Resources, State Secretariat for Social Inclusion;
- c. Romania: State Counselor, The Prime Minister`s Office for Roma issues;
- d. Slovakia: Office of the Plenipotentiary of the Slovak Republic for Roma Communities, Ministry of Interior.

The application of criterion no. 1 facilitates the comparison among CEEMS' relevant institutions.

This comparison highlights two different trends in the current equality institutional frameworks: while Hungary and Slovakia are still based on a single-strand equality regime, Bulgaria and Romania tend towards, at least in theory, multi-strand institutions. In Hungary, handling of intersectional cases shows a tendency to establish hierarchical relations between inequalities and prioritizing the most feasible one for deciding on the case (Krizsan and Zentai 2012: 199). In Slovakia, although the SNSLP is one of the few equality bodies having the right to represent a victim of discrimination before court in the new Member States, it does not include "multiple (and/or intersectional) discrimination" within the existing forms of discrimination. Some scholars (Koldinská 2009: 551) affirm that the need to cope with the mandatory parts of European Law has been met by CEEMS in the easiest way and led to the establishment of single bodies, without the issue of "multiple discrimination" being on the agenda.

The Bulgarian CPD can be considered in theory an example of multiple-strand Equality Institution. The Commission was created under the Protection Against Discrimination Act (PADA) in April 2005 with the main objective "to prevent discrimination, to protect against discrimination and to ensure equal opportunities". It is structured in six standing specialized panels (SSPs) where single-ground discriminations are tackled plus an *ad hoc* 5-member Panel dealing with "multiple discrimination". Beyond its official status and mandate, no specific approach to multiple discrimination cases has been taken so far by the CPD, e.g. imposing higher sanctions to acts of discrimination based on two or more grounds. Case law on "multiple discrimination" is still underdeveloped and does not yet properly distinguish the specificity of multiple discrimination claims (Ilieva 2012: 20).

Regarding the NCCEI<sup>9</sup>, its initial mandate was to advise the Bulgarian Government on minority and gender issues and to serve as a mechanism for cross-sector dialogue between governmental and non-governmental organizations. Nowadays, it represents the main body in charge of Roma Integration policies, both within the NRIS and the Decade for Roma Inclusion<sup>10</sup>.

Both Institutions have been recently blamed by a group of Bulgarian NGOs for being not active enough in fighting against racism towards Roma people and contributing to their effective integration. With an open letter<sup>11</sup> addressed to the Prime Minister of Bulgaria and the NCCEI Chairman, these NGOs have referred to the stasis of Roma integration in Bulgaria as a "flagrant institutional passivity".

The Romanian NCCD<sup>12</sup> is a multiple-strand equality institution with sanctioning powers and an explicit mandate to address "multiple discrimination".

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<sup>9</sup> Formerly called National Council on Social and Demographic Issues (1995-1997) and National Council for Cooperation on Ethnic and Demographic Issues (1997-2011).

<sup>10</sup> The Decade for Roma Inclusion 2005-2015 is an international initiative bringing together governments, intergovernmental and nongovernmental organizations, as well as Romani civil society. The twelve countries currently taking part in the Decade are Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Hungary, Macedonia, Montenegro, Romania, Serbia, Slovakia and Spain. Slovenia and the United States have observer status. Further information is available at <http://romadecade.org>.

<sup>11</sup> Open Letter (April 2013) available at <http://romediafoundation.wordpress.com/2013/04/10/celebrating-the-8th-of-april-2013-with-massive-protest-by-roma-representatives-in-bulgaria/>.

<sup>12</sup> The national equality body, *Consiliul Național pentru Combaterea Discriminării* [National Council on Combating Discrimination (NCCD)] was effectively established in 2002 and started opening regional offices

Although data on cases of “multiple discrimination” are contradictory (Iordache 2011: 42), through its casework, the body became aware of a disproportionate number of cases involving Roma women (EC 2007: 50). Some scholars consider the casework of the NCCD an important area to follow in the future as a potential ground for developing the notion of intersectionality in Romania (Popa 2008: 61). Another Institution contributing to spread the concept of “multiple discrimination” has been the National Agency for Equal Opportunity between Men and Women (ANES), established in 2004<sup>13</sup>.

**Criterion no. 2 - Reference to “multiple and/or intersectional discrimination” in national Anti-discrimination and Equality legislations**

The application of this criterion shows that the term “intersectional discrimination” does not explicitly appear in any of the analyzed legal tools. Romanian and Bulgarian anti-discrimination laws recognize the peculiar character of discrimination based on two or more grounds by using the term “multiple discrimination”.

In Slovakia, the inclusion of a definition of “multiple discrimination” was proposed in 2008 in connection with an amendment to the Anti-discrimination Act<sup>14</sup>, but the proposal was rejected by the Government (Koldinská 2011: 245). The concept of “multiple discrimination” is not present in the Hungarian legislation and there are no plans to adopt specific regulations addressing this issue separately (Kádár 2012: 24). However, the open-ended list of discrimination grounds provided by the Hungarian Anti-discrimination Law could potentially lead to the introduction of “multiple (and/or intersectional) discrimination” at least into case law.

Concerning Romania and Bulgaria, it has to be highlighted that in the peak of their accession negotiations, “multiple discrimination” was already an issue in the EU agenda (Krizsan and Zentai 2012: 197) although the term was nearly absent in EU equality legislation. In 2007, Romania was one of the few Member States addressing “multiple discrimination” into national legislation. 2006 has to be considered a crucial year for the introduction of “multiple discrimination” in this Country: the intense advocacy efforts made by Roma women’s groups led to the amendments of the major national legal tools on anti-discrimination and equality. Namely, under the Romanian Anti-Discrimination Law<sup>15</sup>, covering the grounds of age, disability, race and ethnic origin, religion and belief, and sexual orientation, “discrimination on two or more grounds” became an “aggravating circumstance”. Furthermore, under the Law on Equality between Men and Women<sup>16</sup> “multiple discrimination” was directly defined as “any discriminatory act based on two or more

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at the beginning of 2007. It is an autonomous public authority under the control of the Parliament, whose independence is clearly spelled out in the Law.

<sup>13</sup> ANES is the main actor of gender equality policies. It shares some responsibilities with NCCD but does not enjoy autonomy from the government. The most enduring contribution of the Agency to intersectional thinking in Romania, achieved through a good cooperation with Civil Society groups, mainly Roma women activists, is the introduction of the concept of multiple discrimination in the 2006 amendments to L. 202/2002 and GO 137/2000. In the context of the European Year of Equality Opportunities for All (2007), the Agency has chosen “multiple discrimination” as the year’s core issue in Romania. Unfortunately, the Agency does not have either the power to create a strong policy on “multiple discrimination” or the mandate to push for the concept through litigation, which is a domain of NCCD.

<sup>14</sup> Act No. 365/2004.

<sup>15</sup> L. 324/2006 amending G.O. 137/2000.

<sup>16</sup> Act 340/2006 amending L. 202/2002.

discrimination criteria" (Article 4(h)). In Bulgaria, the Protection Against Discrimination Act explicitly identifies multiple discrimination as "discrimination based on more than one of the [protected] grounds" and places a statutory duty on public authorities to give priority to positive action measures for the benefit of multiple discrimination victims<sup>17</sup>.

**Criterion no. 3** - Appearance of the term "multiple and/or intersectional discrimination" in policy documents

This criterion has been applied to two of the major national and international policy instruments on Roma issues adopted by each of the targeted Countries, namely the *National Roma Integration Strategies* (NRISs) up to 2020, at national level, and the *Decade for Roma Inclusion 2005-2015* (hereinafter "the Decade"), at international level.

In the framework of the *National Roma Integration Strategies*, developed under the *impetus* of the European Commission in 2011, all Countries take into account the disadvantaged situation of Roma women *vis-à-vis* the rest of the Roma community (mainly Roma men) in accessing basic services, like education, health care and employment.

However, it is only in the case of Hungary and Slovakia that "multiple discrimination" against Roma women is explicitly mentioned, in contrast with the results emerging from criterion no. 2, where this term appears exclusively in Bulgarian and Romanian legislation.

The Slovak NRIS defines "multiple discrimination" as the "simultaneous effect of various causes for discrimination, where, aside from ethnicity, both gender and age are disadvantaging factors" (p. 8). It also specifies that gender stereotypes "often prevent Roma women from asserting themselves, and lead in the end to multiple discrimination" (p. 12). The Hungarian Strategy dedicates a specific section to Roma women, underlying that "Roma women may be regarded as a social group affected by multiple discrimination for socio-cultural reasons" (p. 30) and that "gender-based discrimination in the case of Roma women is aggravated by ethnic discrimination" (p. 26). With the aim of reducing educational and labor market disadvantages of Roma women, the Hungarian Strategy also foresees the creation of targeted employment equalization programs and sub-programs.

Although the Hungarian and Slovak NRISs seem more innovative in recognizing the discrimination against Roma women as a multi-strand form of inequality causing a unique discriminatory situation, the term "multiple discrimination" disappears in the related implementing Action Plans. In its 2013 assessment of the steps forward done by Member States in implementing the NRISs, the European Commission confirms this trend, presenting Romania as the only Country where some initial actions have been taken in tackling multiple forms of discrimination towards Roma women (EC 2013: 9). It is interesting to highlight that prior to the adoption of the 2012-2020 Strategy, a ten-year "National Strategy for improving the situation of Roma" already existed in Romania<sup>18</sup>.

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<sup>17</sup> PADA, Art. 11 (2).

<sup>18</sup> Government Decision no. 430/2001 on approving the Strategy for improving the situation of the Roma persons. This Strategy (2001-2010) had the merit to build an institutional framework at all administrative levels but its implementation proved to be very difficult: deadlines were not respected, there were frequent changes in the institutions in charge of implementation, politicization (due to an agreement between the Social Democrat Party and the Roma party, the Roma Party was the only NGO involved in the selection of the staff for departmental offices) (Ignatou-Sora 2013: 215).

The term “intersectional discrimination” is not explicit in any NRISs. Whether the lack of explicit reference to multiple and/or intersectional discrimination against Roma women in most of the analyzed NRISs and implementing Action Plans is a matter of inaccurate wording or a consequence of the “naturalized” character of intersectionality in the term “Roma women” is the first important question emerging from the application of this criterion.

With reference to the *Decade for Roma Inclusion 2005-2015*, only the Romanian Presidency Plan 2005-2006 addresses “multiple discrimination” against Roma people in general and Roma women in particular as one of the main causes of social and economical marginalization and exclusion. The Hungarian National Action Plans contain articulate statements on Roma women (e.g. precise measures to be taken to facilitate their social inclusion, like the establishment of flexible forms of employment and vocational training, the access to the most important preventive health services, etc.) but any explicit reference to “multiple discrimination”. However, although most of the documents related to the *Decade* do not explicitly refer to multiple and/or intersectional discrimination against Roma women, several projects targeting Roma women have been/are funded under the *Decade* itself, mainly through the *Decade Trust Fund*<sup>19</sup>.

**Criterion no. 4** - *Existence of Projects and/or Programs addressing Roma women*

The first approximate results deriving from the application of this criterion show that projects and programs addressing Roma women have been/are implemented in all targeted CEEMS.

Whether relevant actions funded by international donors (e.g. EU, UN, etc.) and/or private foundations (e.g. Open Society Foundation) are available online in English, projects and programs financed by national governments are difficult to identify due to the lack of information on the official websites and/or to insufficient language skills.

Several stakeholders (national, international, State and non-State actors) participate in the development and implementation of actions addressing Roma women’s needs in CEEMS and several financial mechanisms are involved. Many projects/programs carried out at national level can be considered as “good practices”, e.g. the creation of kindergarten-like services for Roma children and related training sessions for their mothers in Hungary and the introduction of Roma assistants – mainly women – into schools in Slovakia. However, most of them are single initiatives not forming part of a systematic policy aimed at intersectional equality for Roma women in Central Eastern Europe (Koldinská, 2011: 246).

As mentioned in the description of criterion no. 3, many of the projects targeting Roma women have been/are funded under the *Decade for Roma Inclusion*, especially through the *Decade Trust Fund*, which is administered by the World Bank and financed out of contributions from all *Decade* countries as well as interested international partner organizations. Among these projects, there also are several actions addressing Roma women indirectly, as part of the larger Roma community, e.g. “Adult education: Second chance

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<sup>19</sup> The *Decade* as such does not provide financial support for individual Roma inclusion projects. Joint activities of the *Decade* countries are mainly funded by the *Decade Trust Fund* (DTF) and the *Roma Education Fund* (REF). Additional information is available at <http://www.romadecade.org/article/decade-trust-fund/9243> and <http://www.romaeducationfund.hu>.

for a better life" (2011/13) in Bulgaria, implemented by the "Centre for regional development ROMA – Kyustendil" and "Reducing prejudices with the help of alternative means" (2012/13) in Hungary, implemented by "Chance Community Association".

A well-known action addressing Roma women in Romania and referring to them as "one of the most vulnerable groups", "victims of a double discrimination, at the intersection of ethnicity and gender" is the Fem.Rom project. The Ministry of Labour, Family, Social Protection and Elderly - Department for the Implementation and Management of Projects Financed through Non-Reimbursable European Funds (Diapffen) - implements this project in partnership with the National Agency for Roma (ANR) and other national and international stakeholders<sup>20</sup>. Although Fem.Rom is not part of the Decade for Roma inclusion, the partnership with ANR, which is one of the Decade's National Coordinators, creates some indirect connections with it. As briefly anticipated in the previous paragraph, in 2007 a major achievement in CEEMS' equality policies has been the implementation of the *European Year of Equal Opportunities for All* by the Romanian ANES. Many institutions of the central public administration, non-governmental organizations and social partners have been involved in the development of the implementing strategy and several specific activities have been carried out, including a seminar and a study on multiple discrimination in the labor market as well as an ethnographic research on multiple discrimination in Romania.

#### **Criterion no. 5 - Existence of relevant subsidized Civil Society Organizations (CSOs)**

The difficulties in sourcing proper and reliable information about this criterion lead to the necessity of investigating the role of CSOs and their relation with national governments in CEEMS directly on the field.

Several women organizations, organizations dealing with Roma issues and Roma women organizations exist in the targeted Member States. Many of these organizations participate with different roles (e.g. partners, beneficiaries, etc.) in projects addressing Roma women funded and/or co-funded by international donors (mainly the European Union, the Open Society Foundation and the EEA Financial Mechanism) as well as by State Aid, in particular through the Structural Funds<sup>21</sup>.

Despite that, one of the main organizations advocating for the rights of the Roma community in Europe, i.e. the European Roma Rights Center (ERRC)<sup>22</sup>, has appraised to receive no public funds from the Bulgarian, Hungarian, Slovak and Romanian governments for activities targeting Roma women<sup>23</sup>.

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<sup>20</sup> The Fem.RRom project aims at improving the access of Roma women on the labor market and supporting social economy by promoting and developing integrated services, creating cooperatives for women, ensuring access to formal education and developing specialized and customized employment services. This project is based on trans-national cooperation; the other stakeholders involved are KDEDAM Greece Dyktio Rom (Roma Network) Greece Bolt International Consulting - L. Katsikaris & Co. Limited Partnership, Greece, Greece DIASTASI Training and Consulting Services Association Pakiv Romania, ISCTE - Instituto Superior de Ciencias do trabalho e da Empresa in Lisbon, Portugal, Euro Project Association Bihor. Further information is available at <http://www.femrrom.ro/en/>.

<sup>21</sup> Structural Funds are considered as national resources and may therefore constitute a State Aid. Source: <http://europeanfundingnetwork.eu/policy/state-aid> (accessed on 28/01/2014).

<sup>22</sup> ERRC is an international public interest law organization based in Budapest and working to combat anti-Romani racism and human rights abuse of Roma in several Countries, including the four target Member States. Further information is available at <http://www.errc.org/about-us-overview>.

<sup>23</sup> Information provided via e-mail on 21/01/2014.

Some scholars (Koldinská 2009: 558) consider the involvement of NGOs decisive in intersectional discrimination cases (i.e. Roma women) and also in institutionalizing intersectionality in CEEMS. As previously mentioned, this is particularly evident in Romania, where Romani women advocates are among the forefront promoters of the concept of “multiple discrimination” in equality legislation. The Romanian National Equality Body has declared in the 2007 EC Report on Multiple Discrimination: “(...) after having had numerous complaints from women with a Roma background where the women could not discern whether discrimination was due to their ethnic origin or their gender, we [the Equality Body] made a suggestion to amend the equal treatment act so that we could handle cases of Multiple Discrimination. The legislation was amended to the effect that if a person were subject to discrimination on more than one ground it would be considered an aggravated situation.”

No additional information on national subsidies provided to relevant CSOs is available at this stage.

Table 1 below summarizes the results obtained from the first embryonic application of the proposed criteria set. The combination of institutional mechanisms and less-institutional standards allows a more comprehensive policy analysis, where several policy-levels are taken into account. By applying the “new” criteria to each case study, the country-comparison is facilitated and it is possible to obtain an immediate overview of the similarities and differences concerning the policy-solutions identified by different countries for addressing (multiple and/or) intersectional discrimination.

With regards to policies towards Roma women in CEEMS, the main similarities and differences emerging from the application of the proposed criteria set can be summarized as follows.

Although Roma women are generally recognized as victims of a unique discriminatory situation characterized by the “co-existence” of several discrimination grounds, the concept of “intersectional discrimination” is not yet embedded in policies and legislation at national level and tends to be neglected and/or treated implicitly in the four country case-studies. Conversely, a rather explicit use of the term “multiple discrimination” can be detected. Romania and Bulgaria explicitly address “multiple discrimination” in their anti-discrimination legislation and tend towards multi-strand equality institutions. Hungary and Slovakia are still based on single-strand equality regimes but their National Roma Integration Strategies explicitly mention “multiple discrimination” with reference to Roma women. Implementation-wise, several gaps seem to emerge: although projects and programs addressing Roma women exist in all targeted CEEMS, most of them are ad-hoc actions and not long-term policy initiatives. Despite the fundamental role of civil society in shaping the discourse on “multiple discrimination”, public funds supporting CSOs dealing with and/or composed of/by Roma women are quite marginal or even absent and most of the financial resources are allocated by international donors.

**TABLE 1: First embryonic comparative results**

<b>Country Comparison: Multiple and/or Intersectional equality policies for Roma women in CEEMS</b>								
<b>Criteria</b>				<b>Countries</b>				
				<b>Bulgaria</b>	<b>Hungary</b>	<b>Romania</b>	<b>Slovakia</b>	
<b>1. Presence of relevant Bodies/Institutions</b>	Equality & Anti-discrimination	Single-strand	Gender	YES	YES	YES	YES	
			Ethnicity	YES	YES	YES	YES	
		Multiple-strand		YES	NO	YES	NO	
	Roma issues			YES	YES	YES	YES	
<b>2. Reference to “multiple and/or intersectional discrimination” in national Anti-discrimination &amp; Equality legislation</b>				YES multiple	NO	YES multiple	NO	
<b>3. Appearance of the term “multiple and/or intersectional discrimination” in policy documents</b>	National policy instruments	National Roma Integration Strategies up to 2020	Strategy	NO	YES multiple	NO	YES multiple	
			Action Plan	NO	NO	NO	n.a.	
	International policy instruments	Decade for Roma Inclusion (2005-2015)	Presidency Plan	NO	NO	YES multiple	NO	
			Action Plan	NO	NO	NO	NO	
<b>4. Existence of Projects and/or Programs addressing Roma women</b>				YES	YES	YES	YES	
<b>5. Existence of (relevant) subsidized Civil Society Organizations (CSOs)</b>				(For/Of) Roma women	tbc	tbc	tbc	tbc

(n.a.: not available / tbc: to be confirmed)

## Conclusions

Assessing the operationalization of intersectionality in policies is a significant challenge and a necessary step for comprehensively tackling inequalities. Intersectionality scholars have often addressed the lack of an “intersectional methodology”, emphasizing the need for further methods translating intersectionality theory into practical approaches to be used by decision-makers and policy researchers.

Despite the increasing interest towards intersectionality operationalization, research focusing on policy outputs, i.e. what governments do or intend to do to enforce their equality and non-discrimination policies, and policy-implementation processes is quite marginal. Existing literature categorizing intersectional equality policies is still strongly anchored to traditionalism, mainly based on equality legislation and institutions. This paper has emphasized the necessity of enhancing this traditional approach and demonstrated that policy outputs matter in political intersectionality research.

Investigating how intersectionality is and/or can be translated into policy practices requires the identification of methods going beyond the typical categorization of equality policies and involving policy-implementation within the scope of the analysis. By combining criteria based on both traditionalism and policy-implementation studies, this contribution has intended to give an empirical turn to intersectionality theory and has proposed a methodological tool serving a double objective:

- (i) to enhance the categorization of (multiple and/or) intersectional equality policies, by assessing to which extent intersectionality is infiltrated in the policy tissue at national level and
- (ii) to facilitate the comparison among equality regimes, by enabling the identification of similarities and differences among the ways national governments articulate, develop and implement their strategies, thus fostering the comparative research on intersectional equality policies.

Notwithstanding the need for further improvement and adaptation, the proposed “criteria set” has the potential for becoming an exhaustive comparative tool to be used by equality scholars to assess strengths and weaknesses of policy making and implementation processes.

The application and development of this tool can foster the research on the operationalization of intersectionality in policies and lead to the formulation of policy recommendations contributing to address inequalities in a more comprehensive and effective way.

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