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Interest Representation and
Need for Information

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Introduction

Being the centre of the institutions of the European Union (EU), Brussels has become over the years the second largest and most important town in the world after Washington D.C. for practising lobbying. Around 13,000 lobbyists work in the Belgian capital to represent before the EU the interests of many different groups: trade and professional associations, Non-Governmental Organizations (NGOs), trade unions, employers' organisations, chambers of commerce, agricultural associations, regional representations, and consultancies specialised in EU matters.

In an article published by *The Washington Times* Gareth Harding has drawn the picture of Brussels in relation to the phenomenon of lobbying: «there are not many growth industries in Brussels, the capital of Belgium and headquarters of the EU, but lobbying is definitely one of them»¹.

Due to the institutional multi-level governance structure of the EU and to the weakness of the European parties, interest groups have easy and effective access to the EU institutions, particularly to the Commission, to put pressure on them and to influence legislation. Not only can they highlight their interests and try to satisfy them, but they provide the so-called “Eurocracy” with the necessary technical information to make and to implement

1 Cf. Gareth Harding, ‘Analysis: Reining in EU Lobbyists’, *The Washington Times*, 8 March 2005.

EU laws. In other words, the effect of lobbying in the EU is twofold: on the one side, pressure groups raise their priorities; on the other side, the Commission receives expertise and assistance for making its job.

The Single European Act (SEA) of 1986 and the Maastricht Treaty of 1992 represented important steps in the development of the lobbying activity in Brussels: following the introduction of the measures to complete the single market, many European and non-European business interest groups opened their offices in Brussels to monitor the activity of the Commission; on the other hand, Regions and local authorities, after the creation of the Committee of the Regions in 1992, decided to establish a representation in the Belgian capital in order to be present where decisions are taken and, more importantly, where the distribution of structural funds is negotiated.

The novelties represented by the cooperation procedure and the co-decision procedure, introduced by the SEA and the Treaty of Maastricht respectively, improved and strengthened the role of the European Parliament (EP) in the EU decision-making process and implied the development of the lobbying activity on the Parliament.

As a consequence of these institutional transformations, since the mid-1980s the number of interest groups has increased considerably so that their role within the Community process as agenda setters as well as contributors to the definition of the legislation has been strengthened.

The development of lobbying has been the result of two other aspects of the Community legislation: not only the EU Justice takes precedence over the Member States legislation, but 80% of Community law is “made in Brussels”², so that national parliaments and governments have to comply with it when they pass national laws.

The subheading of this paper, *Interest Representation and Need for Information*, summarises in a few words the lobbying activity carried out in the Belgian capital: on the one hand, groups, associations and professional lobbyists want to sponsor their priorities before the EU; on the other hand,

2 Cf. European Parliament, Directorate-General for Research, Working Paper, *Lobbying in the European Union: Current Rules and Practices*, Luxembourg: Publications Service, 2003.

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the EU institutions require information, suggestions and support in order to perform their functions.

By and large the EU has benefited from lobbying. In fact, by gaining easy access to the EU and providing the bureaucracy and policy-makers with relevant information and support for the implementation of the European policies, interest groups have contributed during the 1980s to the realisation of the internal market through their input and support.

This paper will try to show that lobbying in Brussels is a necessity for the functioning of the system: because of its peculiar institutional structure, the EU needs information from civil society in order to draft the Community legislation.

This positive attitude towards lobbying activity should not induce to underestimate the shortcomings that it implies: not only can interest groups end up with representing the needs of civil society more effectively than political parties, which theoretically should be the representatives of the European peoples, but there is also the risk that only some groups are taken into consideration by EU institutions because of their size and resources. Moreover, the questions of transparency about clients and how money is spent as well as the lack of compulsory codes of conduct are still there.

Lobbying in the European Union has represented an important source of legitimacy because interest groups have given to the EU polices support for their implementation and have promoted the European integration among the Member States and the citizens. They have sponsored the increase in the EU competences to convince national governments to broaden the sphere of action of “Brussels” and have looked for support among their member associations.

Nevertheless, lobbying has not affected the political legitimacy of the EU as a whole: the EU continues to derive its legitimacy from the Treaties and the direct elections of the EP, so that interest representation and the process of consultation carried out particularly by the Commission are sources of input to the legislative process. Lobbying can help the EU to make its job, but it is not a way to solve the problem of the ‘democratic deficit’.

This paper is divided in six parts: after having presented the main categories of actors involved in lobbying and the targets of this activity of political pressure, it goes on to describe the reasons why interest groups lobby the EU. The fourth part is dedicated to the strategies and techniques of successful lobbying, while the fifth section wants to analyse the approach given by the European Commission to the consultation process with interest groups. The sixth part, on the contrary, focuses its attention on the question of the so-called ‘democratic deficit’ of the EU and on the possibility that lobbying can constitute a substitute for this lack. Finally, the paper tries to draw some conclusions.

1. *The Players*

The history of the European Union has been characterised over the decades by many “stops and gos”: there have been periods of progress and greater integration among the Member States as well as times of scepticism and retreat to national interests.

If one looks at the decades of the European experience, the Single European Act of 1986 can be rightly considered to be one of the strongest examples of the will of the Member States to achieve a closer and more significant integration.

Under heavy pressure from business groups to relaunch the European economy that had lost competitiveness in comparison to Japan, North America and South-East Asia during the 1980s, the SEA represented the possibility for both big and small companies to trade without barriers and to make profit in a larger market. Due to the relevance of these interests and to the crucial role played by the European Commission in setting the rules to implement the internal market, Brussels soon became the lobbying target for many companies and trade associations.

Another important event in the development of lobbying in the EU was the Treaty on the European Union (TEU) of 1992 which introduced the Committee of the Regions and the principle of subsidiarity. As a result of this, Brussels has seen the arrival and the establishment of many regional and

local authority offices to represent their interests directly at the heart of the EU.

All these factors thus convinced interest groups of the need to be present in Brussels in order to: monitor legislative developments and to influence decision-making procedures by the way of reports and studies, to provide information and advice to partners in the Member States about Community law and its application, to advance proposals to the European Commission, and to establish contacts with EU institutions' staff.

1.1 Lobbyists in Brussels

Many actors are involved in lobbying the European Union: trade associations, business and industry groupings, chambers of commerce, trade unions, Regions, public relations consultancies, law firms, think tanks, issue-specific conferences, NGOs, non-profit organisations, and church associations.

As far as associations are concerned, one of the most influential is the *Union des Industries de la Communauté européenne* (UNICE), which represents business interests and is composed of 39 national federations from 33 countries. Its Brussels headquarters has around 45 members of staff. It coordinates the seven policy committees and 60 working groups summing up to a total of 1,200 experts, and prepares position papers (about 100 a year) for the EU institutions.

On the other hand the *American Chamber of Commerce to the European Union* (AmCham EU) promotes the interests of around 135 European companies of American parentage that have manufacturing plants throughout the European Union. Each member company has representatives on AmCham EU and takes part in the activities of the 14 committees, two task forces and several working groups.

Other important interest groups include the *European Round Table of Industrialists* (ERT), which gathers around 45 chief executive officers drawn from Europe's largest firms (Nestlé, Philips, Shell, Unilever) and plays the role of 'agenda setter'; the *Union Européenne de l'Artisanat et des Petites et Moyennes Entreprises* (UEAPME); and the *Fédération Bancaire de*

l'Union Européenne (FBE), which represents over 4,500 European banks from 27 national banking associations.

As counterpart of UNICE, the *European Trade Union Confederation* (ETUC) defends the interests of 60 million workers and labour unionists. It comprises 76 member organisations from a total of 40 countries and 11 industry federations.

EUROCHAMBRES (*The Association of European Chambers of Commerce and Industry*), on the contrary, represents 44 national associations of Chambers of Commerce and Industry, that is to say, a European network of 2,000 regional and local Chambers with over 18 million member enterprises in Europe.

Other groups are: the *Centre Européen des Entreprises à Participation Publique et des Entreprises d'Intérêt Economique Général* (CEEP) representing public-sector employers; the *Conseil Européen des Professions Libérales* (CEPLIS); EUROCADRES (*Council of European Professional and Managerial Staff*), which operates under the auspices of ETUC and defends salaried, unionised professional and managerial staff; and the *Confédération Européenne des Cadres* (CEC), which represents independent organisations of managerial staff primarily in industry and commerce and is not affiliated to ETUC.

If on the one hand the ETUC suffers from the fact that national trade unions try to preserve their autonomy, so that it faces difficulties both in coordinating policies across countries and in establishing an effective counterweight to employers³, the AmCham EU, on the other hand, is the most effective lobbying organisation based in Brussels⁴: not only are its members very large employers in Europe – thus constituting a sort of threat for European employment –, but they are very familiar with the practices and techniques they use to lobby the US government. What is more, the EU

3 Cf. Grant Wyn, 'Pressure Groups and the European Community: An Overview', in Sonia Mazey and Jeremy Richardson (eds.), *Lobbying in the European Community*, Oxford: Oxford University Press, 1993.

4 Cf. Sonia Mazey and Jeremy Richardson, 'Introduction: Transference of Power, Decision Rules, Rules of the Game', in Sonia Mazey and Jeremy Richardson (eds.), *Lobbying in the European Community*, op. cit.

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Committee benefits from strong international links with the US industry business groups and American government officials.

The largest category of EU lobbying groups is that of trade associations. One of the strongest and most efficiently organised is the *Conseil Européen des Fédérations de l'Industrie Chimique* (CEFIC), which represents the European chemical industry. The authority and influence of this organisation is derived from its relatively small membership, from the fact that it is well resourced and from the strategic role that the chemical industry plays in being affected by European legislation in environment, competition and trade policies.

Another important actor at the European level is the *European Federation of Pharmaceutical Industries and Associations* (EFPIA): it includes 25 national pharmaceutical industry associations and 43 leading pharmaceutical companies.

Due to the weight of the CAP over the European budget, another strong lobby is that related to agriculture. It is represented by the *Committee of Professional Agricultural Organisations in the European Union* (COPA): 55 national agricultural associations from the 25 Member States are represented together with five other associated members from Bulgaria and Romania.

As far as the societal interests are concerned, the *Bureau Européen des Unions de Consommateurs* (BEUC) draws together 11 national consumer associations and may be considered to be one of the best resourced organisations in Brussels.

All the groups described above are the so-called “Euro groups”: in fact, they are European confederations or federations whose members are national associations. In other words, they are “federations of federations” that represent European interests.

Employers, workers and consumers from all over the EU have decided to coordinate themselves within UNICE, ETUC and BEUC respectively because, if they want to become more influential, they must take collective action. The more stakeholders they have behind them, the more likely they

gain access to the institutions. It goes without saying that an industry branch has more chances than a single enterprise to have its viewpoint seriously considered. Moreover, in dealing with the European institutions and in particular with the European Commission, it is essential that interest groups, after having identified policy problems and developed appropriate solutions, can mediate with one single voice and can take a homogeneous position.

Other actors involved in the lobbying activity are the permanent representations of the Member States to the European Union as well as the offices of the sub-national and local authorities of the EU countries. Sub-national interests are promoted by the *Council of European Municipalities and Regions* (CEMR) and the *Assembly of European Regions* (AER). In addition, Brussels hosts the delegations of third countries.

Among the NGOs and the groups which promote social interests such as environment, human rights, gender equality, health sector, education, and social welfare the most well-known and influential are: the *European Environmental Bureau* (EEB); the *European Platform for Social NGOs*; *Greenpeace*; *Amnesty International*; the *World Wide Fund for Nature* (WWF); the *European Youth Forum*; and the *European Women's Lobby*.

Last but not least are think tank interest groups, which developed in Brussels during the last decade reflecting the steadily increasing power of the European Union. Among the centres of study and research that aim to influence thinking among EU policy-makers, the main representatives are: the *European Policy Centre* (EPC), the *Centre for European Policy Studies* (CEPS), *Friends of Europe*, the *Centre for the New Europe* (CNE), and the *European Enterprise Institute*.

To sum up, in Brussels there are five categories of interest groups: business (companies and trade associations), territorial (national, regional and local level), collective (workers, environment, consumers, human rights, women, etc.), public affairs consultancies (that will be dealt with in paragraph 1.3), and research centres.

On the basis of the estimates made by the European Commission in the early 1990s, there were approximately 3,000 special interest groups of

varying types in Brussels and around 10,000 employees were working in the lobbying sector. More than 500 of these 3,000 groups were European and international federations and 50 were representations of Länder, regional or local authorities. In addition, there were more than 200 individual firms with direct representation, about 100 consultants (management and public relations) and 100 law firms⁵.

Although the number of the interest groups is quite high, the most effective key players are large companies and EU business associations.

1.2 The Maastricht Treaty as a turning point: the Regions come to Brussels

As pointed out earlier, the Treaty of Maastricht of 1992 marked a decisive step in the development of lobbying in Brussels by regional and local authorities.

Since the European Union's competences have increased over time, touching issues such as environment, industry and transportation, the impact of EU legislation on regional institutions has become stronger. In those policy areas where they have legislative powers within their respective Member States, Regions attempt to influence European legislation. In fact, because of the precedence of European law over national law, Regions are equally obliged to comply with regulations and directives.

The main objective Regions have when they open an office in Brussels is an informational exchange. In fact, they want to be present to provide their partners in the Member States (regional authorities, Ministries, universities, business activities and NGOs) with information about incoming legislation⁶.

5 Cf. Commission of the European Communities, *An Open and Structured Dialogue Between the Commission and Special Interest Groups*, SEC (1992), 2272 final.

6 Cf. Isabelle Smets, 'Les régions se mobilisent – Quel «lobby régional» à Bruxelles?', in Paul-H. Claeys, Corinne Gobin, Isabelle Smets and Pascaline Winand (eds.), *Lobbying, Pluralism and European Integration*, Brussels: European Interuniversity Press, 1998.

The second objective is to organise and participate in events such as seminars and conferences in order to promote themselves and their territories, to attract investment, and to look for regional partnerships. If their lobbying is to be effective, it needs to be organised and requires sub-national authorities not to approach European institutions individually. An example of this is offered by the Regions of Central Italy (Abruzzo, Lazio, Marche, Toscana, Umbria), which in 1999 decided to establish their offices in Brussels in the same building at Rond Point Schuman 14.

Regional lobbying turns to be successful if it is accompanied by the coordination with the regional offices in the Member States, a good relationship with the national Permanent Representations to the EU, and the support given by the home structures.

Lobbying activity by Regions appears to be stronger in federal and semi-federal states such as Germany, Austria, Belgium and Spain or where Regions have a strong sense of identity, language and culture.

In short, regional offices in Brussels have several objectives: information gathering and dissemination through, for instance, instruments such as newsletters; establishment of contacts and channels to put regional officers in contact with EU officers and to meet the Members of the EP (MEPs) of the home region; the promotion of initiatives; participation in the activities of the Committee of the Regions; finally, the most important task according to Lorenza Badiello, securing funding for their Regions⁷.

1.3 The galaxy of public affairs consultancies

Another way through which corporations or trade associations can lobby the EU is by resorting to third parties such as firms specialised in EU matters. The early 1990s did not only see the establishment of regional offices in Brussels, but also a sharp increase in the number of consultancies dealing with EU affairs aimed at providing assistance to companies or associations.

⁷ Cf. Lorenza Badiello, 'Regional Offices in Brussels: Lobbying from the Inside', in Paul-H. Claeys, Corinne Gobin, Isabelle Smets and Pascaline Winand (eds.), *Lobbying, Pluralism and European Integration*, op. cit.

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According to the data collected by Christian Lahusen through interviews with 260 companies involved in European affairs, the sector of consultancies is dominated by law firms and, to a lesser degree, by political consultancies⁸. The relevance of law firms is mainly due both to the role that European law plays in issues such as competition or business activity and to the precedence that it enjoys over national legislation.

Consultancies, whose task consists in information gathering and monitoring services and whose role is advisory, appear to firms or associations as a complementary instrument and a further tool for interest representation. To put it differently, they limit their involvement to giving advice on how to influence the EU decision-making process, but they do not prevent the interest groups from carrying out lobbying on their own.

Although they serve the interests of their clients, whoever they are, they can be seen as a transmission belt between the European institutions, national governments and interest groups. This is even more important if one takes into consideration the companies which do not have the resources to open a liaison office in Brussels and for which consultancies may constitute the only reliable providers of services.

The credibility of these private actors depends on the quality of the information they provide.

The biggest groups are *WeberShandwick*, *APCO Europe*, *Hill & Knowlton International Belgium*, *GPC International – Government Policy Consultant*, *Burson-Marsteller*, and *Blueprint Partners*.

1.4 *Washington vs. Brussels*

Several elements contribute to distinguish Brussels from Washington in the field of lobbying: not only the style and the number of people involved in

⁸ If the former are 151 and constitute 53%, and the latter are 86 and amount to 30.2%, economic and management (E&M) consultancies are 35 and represent 12.3% while the public relations firms are 13 and equal 4.5% of the total. Cf. Christian Lahusen, 'Commercial consultancies in the European Union: the shape and structure of professional interest intermediation', *Journal of European Public Policy*, 9, 5, 2002, pp. 695-714.

this activity (13,000 in the Belgian capital and 25,500 in the US capital)⁹, but mainly the political system and the institutional structure to which the activity is targeted. Furthermore, the EU bureaucracy is only 2% the size of the US federal government and is even smaller than the local government of Rotterdam.

While the US is organised as a federal state, the European Union is a set of Member States that have renounced some parts of sovereignty in order to attribute powers to supranational authorities. However, the EU is not a federal state since treaties are signed by national governments and, in order to enter into force, need to be ratified by all the Member States. Moreover, the principal decision-making body remains the Council of Ministers, which is made up of the ministers of the Member States. As Conor McGrath has pointed out, «there is no question that the way the European Union is organised has a very significant affect on how lobbying is undertaken»¹⁰.

The electoral campaigns are different on the two sides of the Atlantic. In the US candidates who decide to stand at the elections must seek political support and money, as there is no party discipline or candidature control. In the EU, on the other hand, national issues and national parties dominate electoral campaigns for the EP elections and MEPs look for votes in their constituencies. In other words, whereas the US Members of Congress consider corporations, NGOs, churches and associations as their electorate, the MEPs keep the idea that their constituency is represented by the voters and not by interest groups.

Differently to what happens in Washington, where lobbying is a long accepted tradition, and despite the ever-increasing number of interest groups, in Brussels it continues to be seen with suspicion and scepticism. While in the US companies finance electoral campaigns through the so called Political Action Committees (PACs), in Europe this attitude is looked at as being incorrect and unethical.

9 Estimates provided by the *Association of Accredited Lobbyists to the European Parliament* (AALEP). See the web site www.eulobby.net.

10 See Conor McGrath, *Comparative Lobbying Practices: Washington, London, Brussels*, Draft Paper, University of Ulster, 2002, p. 16.

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Whereas the European Commission, as it will be described later on, has supported the creation of some interest groups by giving them money, the US government usually does not finance non-profit organisations.

Another distinction is represented by the so called 'revolving doors': officials moving from public functions to business or interest groups and vice versa is less frequent in Brussels than it is in Washington.

Finally, while lobbying in the US is regulated by law and is subject to transparency requirements such as the obligation for interest groups to list their clients, the issues they deal with and the money they receive, in Europe there are no compulsory codes of conduct.

A limitation to the development in Brussels of a lobbying system closer to that of Washington is the presence of 20 official languages throughout the 25 Member States: this constitutes an obvious problem not only when interest groups have to approach MEPs who still want to use their native language, but also during the translation of directives and regulations because of the different meaning that words can have in different languages.

2. *The Targets*

Since the Single European Act realised the objective of the founding Treaties of the free movement of goods, services, people, and capital, it was the first substantial change to the Treaties of Rome: not only did it create the internal market, but it also marked the first important revision to the institutional structure of the European Community (EC) by providing the European Parliament with new legislative powers and by removing the need for unanimity within the Council of Ministers from those decisions related to the single market.

The new cooperation procedure granted the EP the right to a second reading of all Community legislation relating to the establishment and functioning of the internal market, to social and economic cohesion, to technological research and development, and to certain aspects of social and regional policies.

The strengthening of the EP and the broadening of its competences continued some years later when the Treaty of Maastricht introduced in some matters the co-decision procedure and re-balanced the Council-EP relationship by attributing to the latter the power to fully participate in the EU decision-making process. As a consequence, the Parliament was given the right to reject legislation.

Before the SEA entered into force and before the strengthening of the powers of the EP, the Council of Ministers enjoyed a crucial position within the legislative process: it was the only target of interest groups and there was just one route of lobbying, namely the national route via national governments.

Following the introduction by the SEA of the Qualified Majority Voting (QMV) system, national governments have progressively lost their veto power and their influence in the decision-making process. This has also had an effect on the lobbying process and has given rise to the development of a second route of interest representation: interest groups have started to put pressure on the Commission and the Parliament and no longer only on national cabinets.

The presence of two different and complementary ways of organising lobbying is due to the presence of both supranational (Commission, EP and European Court of Justice) and intergovernmental (Council of Ministers and European Council) institutions; furthermore, lobbying must, in order to be successful, reflect in its strategies and techniques the institutional architecture and the political system that it turns to.

2.1 The Council of Ministers

There are two channels that interest groups follow to ensure that their views are represented in the Council meetings: either by lobbying the national representatives of the home government and of other Member States or the staff of the Council itself. These ways are complementary and do not exclude each other.

Since everything is already decided when ministers are called to vote, lobbyists should try to intervene in the earliest phases of the examination of a

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directive or a regulation by the Council. This is the reason why interest groups prefer to lobby the Permanent Representations to the EU: diplomats serve their governments as members of the COREPER, whereas civil servants participate in the Council working groups and prepare the ground for meetings of COREPER and ministerial Councils.

Lobbyists should also target the civil servants of the Council's Secretariat-General and the staff of each presidency. In fact, the government that holds the 6-months presidency of the Council of Ministers and of the European Council is responsible for setting the political agenda and for coordinating the activities of these two bodies. As a result, it is fundamental for interest groups to address their lobbying towards the Permanent Representation of the country that holds the presidency, since this body is the *trait d'union* with the national cabinet.

Lobbying the Council goes beyond the attempt to influence the positions by national governments: in order to form coalitions either to pass a proposal or to block it, it turns also to other governments. In fact, as a consequence of the QMV system, interest groups are encouraged to put pressure on other executives than only on the national ones if they are not able to convince national ministers to adopt their position or if their points of view differ. In addition, the influence of a national government over the adoption of a particular measure is reduced because of the QMV system.

Another element that characterises lobbying on the Council is the type of information this body needs in order to legislate: differently from the Commission, which looks for detailed and technical knowledge, the Council is interested in what can facilitate the bargaining process among Member States.

Despite its crucial role within the decisional process, lobbying the Council is neither easy nor completely accessible: its meetings are secret and closed and interest groups have no direct access to it.

Though it may seem difficult to lobby national governments and despite the increasing role of the supranational institutions vis-à-vis the Council in the EU decisional framework, the role of Member States still remains fundamental and lobbying through national channels determinant: as a result, in-

terest groups should continue to try to persuade their home government to adopt a certain proposal and to defend it within the Council of Ministers because what matters in the end of the process is what the minister votes¹¹.

Small firms and interest groups, which have insufficient resources and staff to open an office in Brussels, find this national route, which takes place in the respective capitals, easier. Moreover, one should not forget that national governments respond directly to their Parliaments and to their electors of the positions taken within the Council: they gain politically from sponsoring domestic interest groups as the latter in the future will be grateful to the government in terms of political support.

2.2 *The European Commission*

Having the right to initiate legislation by drafting proposals to submit both to the Council and to the MEPs, the Commission plays the role of agenda setter and it is considered to be the driving force in the EU's institutional system.

The Treaties envisaged three main functions for this body: drafter of legislation; guardian of the Treaties and of the *acquis communautaire*; and executor of policies and actions of the Union. Moreover, since trade policy is an exclusive competence of the EU, not only the Commission leads the negotiations within the World Trade Organisation (WTO) on behalf of the European Union, but it handles all the cooperation agreements with third countries.

As far as the first competence is concerned, no directive or regulation can be elaborated or passed without the proposal by the Commission. Being the institution responsible for the protection of European interests, the Commission has to be independent from the Member States and is required to pursue the priorities of the Union and of the citizens in general rather than of a particular economic sector, professional category or country. To do so,

11 Cf. Grant Wyn, 'Pressure Groups and the European Community: An Overview', in Sonia Mazey and Jeremy Richardson (eds.), *Lobbying in the European Community*, Oxford: Oxford University Press, 1993.

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it needs to consult national governments and bureaucracies, business sectors, trade unions, experts and academic advisors.

Its competences and the crucial role that it plays within the institutional architecture of the EU make the Commission the foremost target for interest representation. Expert knowledge is the critical resource for the Commission's legislative work: since it has to write technical and expertise-based proposals, the Commission needs help from external groups and is open to them.

Being interested in policy inputs and in practical as well as technical suggestions, particularly since the implementation of the single market in the mid-1980s, when it needed the support of the business community and economic actors, the Commission has sponsored the building of a system of stable consultation. More than 1,000 committees and expert groups give assistance in the preparation, adoption and enforcement of regulations and directives. Through these bodies interest groups can promote their point of view, negotiate with the other groups, and even influence the Commission; besides, since the drafted text is sent both to the Council and the Parliament to be examined, amended if necessary, and finally approved, lobbyists can indirectly affect the Council as well¹².

Even if it comprises 16,000 officials¹³, the EU bureaucracy suffers from understaffing and budget constraints because it is relatively small if compared to national administrations.

Its openness to consultation is mainly due to the necessity of a large consensus among those parties interested in a particular policy area: what is then important in the eyes of the Commission is not only the drafting phase, but also, and even more so, the next stage, that is to say, the implementation of EU legislation in the Member States. To put it differently, the Commission has to make sure that a particular measure is accepted by the stakeholders: as Martin Donnelly has stated, «the Commission [...] needs external allies if it is to ensure that the policy proposals agreed through its

12 Cf. Stefania Panebianco, *Il lobbying europeo*, Milano: Giuffrè Editore, 2000.

13 One fifth of the Commission' staff is employed in translation and interpreting services.

complex internal co-ordination process are to be successfully translated into Community law»¹⁴.

Interest groups resort to different ways of lobbying the Commission: they can address their activity to those officials who write a particular proposal that concerns their field of action; otherwise they can turn their attention and efforts directly to the Commissioner who is in charge of the matter to which lobbyists are interested in. In addition, they can try to convince the Commissioner of their own nationality to put pressure on the College to adopt a certain measure.

Lobbying the Commission starts from lobbying the Commissioners' cabinets, because the staff follows all the issues and are in continuous contact with the members of the Commission.

2.3 *The European Parliament*

Elected every five years by direct universal suffrage, the European Parliament is the expression of the democratic will of the Union's citizens. It has substantial budgetary powers and is responsible, with the Council, for decisions on the majority of European Union legislation.

Unlike national assemblies, the EP has neither a defined majority nor a proper opposition: not only do the majorities vary depending on the matters involved, but party families, such as the socialists and the Christian democrats, register within themselves national and ideological orientations.

Over the decades and thanks to some important revisions of the Treaties, the Parliament has gained more and more powers and competences and has positioned itself at the centre of the EU decisional process.

Being conscious of this institutional change, interest groups have built a more complex lobbying strategy: no longer only aimed at making pressure on the Commission in the initial phase of the legislative process, but also at the Parliament stage, when proposals can be amended.

14 See Martin Donnelly, 'The Structure of the European Commission and the Policy Formation Process', in Sonia Mazey and Jeremy Richardson (eds.), *Lobbying in the European Community*, op. cit., p. 81.

It exercises an important function of scrutiny and control over the activity of the other institutions thanks to its prerogatives above all in the budgetary field; however, it does not legislate autonomously, but it co-decides on the basis of the proposals drafted by the Commission and approved later on by the Council. Hence, in all the cases where legislative power is shared between the Council and the Parliament under co-decision, lobbying of the EP may be crucial.

The Parliament has constituted a point of reference for many groups, such as environmentalists, consumers and social interests, which may not have enjoyed such easy access to the Commission or national governments.

Lobbying the Parliament starts when the *rapporteur*, who is the member of the parliamentary committee responsible for examining a new measure and reporting on it, begins to write the report before the committee and party groups start discussing it. This is the reason why the most important people to lobby are the *rapporteur* and the chairman of the committee that examines the proposal of the Commission. Given their relevance, some interest groups try to influence the appointment of certain MEPs as *rapporteurs* on subjects in which they are known to be helpful.

As they offer the opportunity to hear experts, special standing committees are more accessible to interest groups than the plenary session and they represent the best place to convince MEPs to amend the legislative text under review.

There are other ways to lobby the EP: by addressing leaders of party groups, especially those of the two biggest groups – PES and EEP –, so that they give voting instructions to their colleagues both within the committees and the assembly; and through the intergroups, that is to say, semi-official committees where parliamentarians belonging to different party groups meet to exchange information and talk about particular issue areas.

3. The Reasons for Lobbying

The lobbying activity is not only a way for lobbyists to bring to the attention of EU policy-makers the priorities of the associations they represent,

but it is also a mechanism through which the EU political bodies and administration can gain information.

Lobbying in the EU results to be necessary, and in some circumstances even vital, for the policy-making process as well as for the implementation of policies. Therefore, what is fundamental is the exchange of information, both under the form of political input and technical suggestions especially towards the Commission, and the feedback and support that the institutions receive from interest groups.

3.1 The institutional structure of the EU

The European Union is built on an institutional system that is the only one of its kind in the world: Member States delegate sovereignty for certain matters to independent institutions, which represent the interests of the Union as a whole, its member countries, and its citizens. While the Commission traditionally upholds the interests of the Union as a whole, each national government is represented within the Council and citizens directly elect the members of the European Parliament. This ‘institutional triangle’ governs the EU together with the Court of Justice and the Court of Auditors.

The institutional multi-level governance structure that the Treaties established is neither a federal state nor a state in the traditional European sense, but an organisation that on the one hand is still dominated by national governments and on the other hand is governed by supranational authorities.

What distinguishes the EU is the fragmented character of its institutional system due to multiple levels of policy-making and to the diffusion of power between its constituent parties. This makes the system easily accessible to interest groups as there is almost an infinite number of access points through which they can get in contact with the EU authorities. As a consequence, there is no shortage, but an over-supply, of potential routes of influence. On the one hand this can constitute an advantage, but on the

other hand it can become a disadvantage because of the plurality of actors and the complexity of the decision-making process¹⁵.

3.2 *The 'information deficit' of the EU institutions*

Lobbying in the European Union plays a double role: on the one hand, it is an instrument for interest groups to represent the priorities of their associates and to influence the decisional process; on the other hand, it constitutes an important and decisive remedy for the so-called 'information deficit' suffered by the EU institutions.

In order to explain how the information exchange works, which actors are involved and what kind of information they provide each other, Pieter Bouwen has presented the theory of demand and supply of access goods¹⁶. According to his theory, what is crucial in the whole EU decision-making system is information: the whole lobbying process can be described as being a market where the access good at stake is information. Hence, like every market, also this one implies that someone asks something and someone else provides it in exchange of something else: whereas the EU bodies need information to carry out their activities, interest groups need to have access to these institutions to influence their decisions. Both sides gain since the latter acquire the information and expertise they need to formulate the policies, while the former get in contact with policy-makers.

Nevertheless, the private actors supply the access goods if the access good is demanded by that institution. Besides, not all access goods play the same role and have the same relevance: it goes without saying that the criticality of an access good for the functioning of an EU institution determines the degree of access that the institution will grant to the private sector's group.

Once having made clear that access to the institutions does not necessarily mean influence on them but that, however, gaining access to the EU institutions is a *conditio sine qua non* to exert influence within the EU legislative

15 Cf. European Parliament, Directorate-General for Research, Working Paper, *Lobbying in the European Union: Current Rules and Practices*, Luxembourg: Publications Service, 2003.

process, Bouwen has listed three kinds of information the EU needs: Expert Knowledge, information about the European Encompassing Interest (EEI), and information about the Domestic Encompassing Interest (DEI).

Expert knowledge is the expertise and technical know-how required by the EU from the private sector to understand the market; in other words, EU officials may need precise information in developing effective legislation in a particular policy area. As far as information about the EEI is concerned, it is required from the private sector in the field of the internal market. Finally, the last kind of information concerns the aggregated needs and interests of a sector in the domestic market. To put it differently, Expert Knowledge involves single private actors such as individual firms; information about the EEI concerns an association that is spokesperson of the interests of a particular category at the European level; on the contrary, information about the DEI has to do with national markets.

The Commission needs Expert Knowledge for its legislative work and information about the European Encompassing Interest to identify common EU interests and to monitor the compliance of Member States with their Treaties obligations.

On the other hand, the European Parliament needs both information about the EEI and that one about the DEI. In fact, if on the one side the MEPs look for information that allows them to assess the legislative proposal made by the Commission, on the other side they want to retain links with their electorates back home. To do so, they need information about national political constituencies.

Being composed by national ministers who are interested in the reaction of their own electorates to EU decisions, the Council requires information about the Domestic Encompassing Interest. However, Bouwen has stressed that the Secretariat and the Presidency of the Council, in order to carry out their tasks, need information about the EEI.

16 Cf. Pieter Bouwen, *Corporate Lobbying in the European Union: Towards a Theory of Access*, Firenze: EUI (Working Paper SPS), 5, 2001.

In sum, which are the critical resources of each institution according to Bouwen's theory? Expert knowledge for the Commission, information about the EEI for the Parliament, and information about the DEI for the Council.

In conclusion, interest groups obtain access if they provide the access goods. However, the same access goods have to be demanded simultaneously by the EU institution to which the private actors want to gain access. Private actors should provide the highest quality and quantity of the critical access good in the most efficient way in order to get the highest degree of access to the EU institution.

3.3 The increase in the EU competences

As already stated in the previous chapters, over the decades, and particularly since the Single European Act of the mid-1980s, the EU has become more and more relevant for regulating the market. At the same time it has achieved competences in other matters and has started to legislate more efficiently and rapidly thanks to the QMV system.

The broadening of competences has meant that the EU has gained power to decide and to allocate resources: one can think at millions of Euro of structural funds that are managed and distributed in Brussels in favour of the Member States.

Moreover, the EU has extended its sphere of influence at the detriment of national parliaments: since EU laws and justice take precedence over the laws passed by the Member States, no group can afford to ignore legislation drafted and approved in Brussels.

4. Some Tactics of Successful Lobbying

Since access is not given to all interest groups because of their high number and because the institutions have time constraints to reach a compromise, interest groups should prepare their lobbying in order to make it more convincing than that of the others. This means that lobbying has to be profes-

sional rather than unrehearsed and to resort to some strategies and techniques.

Nevertheless, even if lobbying in the strict sense of the word is the pressure exerted on government bodies, this phase represents the last step of the whole process: before addressing their questions, lobbyists should consult their associates, collect information, elaborate one or more proposals on the basis of it, and form alliances.

Moreover, lobbying is not only about influencing or changing public policy, but also knowing what is going on: as a result, interest groups should be always up-to-date and ready to act.

4.1 Factual, clear and brief information

The theory of demand and supply of access goods by Bouwen has shown that the relevance of information influences the degree of access given to a particular interest group and affects both its reputation and its reliability. If it offers good information, it is more likely that the bureaucracy of Brussels will ask again help and assistance and will grant access.

Scholars and lobbyists have used different adjectives to define how information should be: factual, concise, precise, brief, specific and scientific, so that the more targeted to the objective, the more relevant at the eyes of the EU it becomes.

In order to carry out a successful lobbying, lobbyists should not focus just on the position of their own groups: as the final result of the legislative process will be a compromise among all the interests at stake and the institutions involved, lobbyists should be ready to bargain and to modify their view. Besides, they may need to set up an *ad hoc* organisation to present a certain alliance aimed at influencing a particular issue. Not only does this imply the preparation of a coherent strategy that avoids that more groups express the same view in different words vis-à-vis the EU institutions, but also that they have to review and take into account the ideas of other key European interest groups on the same and related issues.

4.2 *The 'meta-game of triple P': persons, positions, procedures*

In order to describe the best situation for making lobbying effective and to stress that what matters is which buttons one pushes, M.P.C.M. van Schendelen has provided the so-called 'meta-game of triple P': persons, positions, procedures. It consists in trying to place the friendliest *persons* in the best *positions* in the most beneficial *procedures*.

If the representatives of an interest group have friends who work at the DG of the Commission that drafts a particular directive or regulation concerning that specific group and if they share with these EU officials values, interests and even nationality, this can constitute an advantage for that lobby association.

The interest group should also be interested in acquiring crucial positions in the decision-making process such as chairman or *rapporteur* of the consultative committees or of the expert groups established by the Commission.

Finally, interest groups should look at which procedure is applied to pass a certain Community act: not only can one manipulate the issue and change the procedure, but co-decision is different from the consultation of the European Parliament as well as the application of the QMV system differs from unanimity. Van Schendelen has made the example of Commission's proposals about taxation: if they are reframed as open market measures, they do not need anymore the unanimous voting in the Council. It is essentially a question of interpretation¹⁷.

Experts and officials at a lower level write most legislation. In many cases these experts are the main starting point because they turn out to be fundamental since after their drafting any modification to the original text will be difficult. As a consequence, it is necessary to make pressure on them rather than waiting that the Council or the Parliament can effectively intervene.

17 Cf. M. P. C. M. van Schendelen, *Machiavelli in Brussels: the Art of Lobbying the EU*, Amsterdam: Amsterdam University Press, 2002.

According to James Gardner, lobby associations need «to find the Eurocrat working on a problem or subject area at the *lowest possible level*»¹⁸.

People to be lobbied should be approached on the basis of issues and not on the basis of political sympathy: as far as national politicians elected in the EP are concerned, they should be addressed irrespectively of the political party to which they belong, but taking into consideration their interest in a particular issue.

What is more, lobbying has to be done at all the decisional levels and should take advantage of the presence of a member of the group in the decisional process such as in the consultative committees and in the committees of experts set up by the Commission. These bodies are obviously the best place where groups can have a say and give the view of the future addressees of the Community initiatives.

4.3 *The right timing*

The earlier an interest group intervenes in the legislative process, the more effective it is. However, the “rapidity” with which it acts does not involve only the action of pressure, but it implies also the necessity of building relationships: it has to schedule introductory meetings with officials and other contact persons to get to know each other, exchange views and adopt the right approach with every official.

Lobbying should intervene as early as possible, in particular at the beginning of the drafting process and before the publication of the proposal: in fact, civil servants of the Commission cannot be in charge of detailed expertise on each and every topic, so they need assistance immediately, and because later on it will be more difficult to modify the proposal. As Robert Hull has pointed out, «95 per cent of lobbying takes place at the stage after

18 See James N. Gardner, *Effective Lobbying in the European Community*, Deventer: Kluwer Law and Taxation Publishers, 1991, p. 70. The italics are in the original text.

the proposal has been through the process of drafting within the Commission»¹⁹.

To be successful lobbyists must be up-to-date and informed about the EU policy-making: the principal sources of information are the Official Journal, the regular reports issued by the Commission or the Parliament, the Green or White Papers, finally the annual legislative programme of the Commission. However, they have to pay attention also to the presidencies of the Council and of the European Council that can modify the political agenda.

The follow-up stage should not be underestimated: interest groups have to follow up every letter they write, every contact they make, and every initiative they take.

4.4 A summary of successful techniques

The lobbying process can be divided in different phases: fact-finding, analysis, influencing, and follow-up.

At the beginning it is necessary to gather information and to build an information network within EU associations that can alert if a proposal is going to be drafted. Then, interest groups should monitor what the institutions are doing and are going to do, that is to say, they should go through the agenda in order to match it with the own priorities. Finally, they communicate with policy-makers and attempt to influence them.

As van Schendelen has observed, «the puzzle for EU public affairs management is to find the optimal selection, the best connection, the right timing and the correct approach»²⁰. To put it another way, ‘how to get the right information to the right person at the right time’.

Being mindful of his personal experience as Commission official, Hull has drawn the prototype of successful lobbyists: having «perceived that the policy-making in the Community is at the same time diffuse and yet more

19 See Robert Hull, ‘Lobbying Brussels: A View from Within’, in Sonia Mazey and Jeremy Richardson (eds.), *Lobbying in the European Community*, Oxford: Oxford University Press, 1993, p. 83.

open than in most national administrations»²¹ and that «the Community is *sui generis* and not to be approached as if it were a national administration or the US White House»²², they «begin their contacts on an issue when legislation is little more than a gleam in an official's eye»²³.

Last but not least, cultural and national differences have to be taken into account, namely in approaching MEPs coming from different countries and speaking different languages.

To summarise, which are the best tactics to lobby effectively the European Union? What is considered essential is to have a clearly defined strategy based upon what to look for, whom to ask, and how to achieve it. This requires: to gather as much sound and accurate information as possible; to develop long-term or permanent relations with the authorities concerned; to find out who is drafting an item, that is to say, to identify the right 'Eurocrat' in the Commission; to be well prepared for meetings; to present own positions with brevity and clarity; to be aware of all sides of the argument; to keep all viable channels of communications open; to know the system and how to entry to the decision-making process, i.e. to know the legislative process and its procedures, especially the QMV system in the case of the Council; finally, to follow the next stages²⁴.

5. The European Commission and the Interest Groups

Consultation with interest groups is not the only form of interaction between the EU and the outside society: on the one hand, MEPs are the elected representatives of the citizens of Europe; on the other hand, the Treaties provide the Commission with some other duties regarding consultation.

20 See M. P. C. M. van Schendelen, *Machiavelli in Brussels*, op. cit., p. 98.

21 See Robert Hull, 'Lobbying Brussels: A View from Within', op. cit., p. 87.

22 Ibid., p. 92.

23 Ibid., p. 87.

24 Cf. Justin Greenwood, *Representing interests in the European Union*, London: Macmillan, New York: St. Martins press, 1997.

The Protocol No. 7 on the application of the principles of subsidiarity and proportionality annexed to the Amsterdam Treaty, for instance, stipulates that «the Commission should [...] consult widely before proposing legislation, and, whenever appropriate, publish consultation documents». Moreover, with regard to the two institutionalised advisory bodies, the European Economic and Social Committee and the Committee of the Regions, the Commission consults them according to the specific consultation framework provided in the Treaties. Finally, article 47 of the *Treaty establishing a Constitution for Europe* sets out the general principles of participatory democracy in the EU. In particular, it states that «the institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society»²⁵ and adds that «the Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent»²⁶.

5.1 *The approach of the Commission towards consultation*

The start of the Communication *An Open and Structured Dialogue Between the Commission and Special Interest Groups*, published by the European Commission in December 1992, summarises the positive attitude of this institution towards consultation and interest representation:

the Commission has always been an institution open to outside input. The Commission believes this process to be fundamental to the development of its policies. This dialogue has proved valuable to both the Commission and to interested outside parties. Commission officials acknowledge the need for such outside input and welcome it²⁷.

This document envisaged some guiding principles in order to define the Commission's relations with interest groups: confirmation of the open relationship between the former and the latter on the basis of open administration; the equal treatment accorded by the Commission to all interest groups,

25 Article 47, par. 2.

26 Article 47, par. 3.

27 Cf. Commission of the European Communities, *An Open and Structured Dialogue Between the Commission and Special Interest Groups*, SEC (1992), 2272 final.

so that «every interested party, irrespective of size or financial backing, should not be denied the opportunity of being heard by the Commission»; finally, while dealing with representatives of special interest groups, the requirement by Commission officials to know exactly ‘who is who’ and ‘who does what’.

In this Communication the Commission opted for a self-regulation policy by inviting the interest groups to adopt their own codes of conduct on the basis of the minimal criteria as listed in Annex II to the Communication.

With regard to this, since they «are best placed to establish and enforce codes of conduct», «the Commission feels that special interest groups have to be given a chance to organize themselves freely and without interference from the public sector». In this way, the Commission encouraged lobbyists to create a professional body and suggested the establishment of one or more organisations of interest groups as a means of communication with the Commission.

However, some minimal requirements were defined: to deal with the Commission with honesty and competence; to declare the name of the client for whom lobbyists work; neither to seek to employ officials who work for the Commission nor to offer them any form of inducement or gift in order to obtain information or to receive special treatment; finally, not to sell confidential documents of the Commission for profit²⁸.

As the rules aimed at disciplining accreditation and registration, they did not exist and the Commission preferred not to set them up: on the contrary, it decided to continue neither granting privileges to special interest groups, such as the issuing of entry passes and favoured access to information, nor giving associations an official endorsement by recognising them consultative status.

In 2001 the ‘Working group 2a’, entrusted with the task to write a report on ‘Consultation and Participation of Civil Society’ in view of the publication by the Commission of the White Paper on Governance, made clear the idea

28 Cf. also Andrew M. McLaughlin and Justin Greenwood, ‘The Management of Interest Representation in the European Union’, *Journal of Common Market Studies*, 33, 1, 1995, pp. 143-156.

that coherent and transparent consultation processes contribute to increase the accountability of the EU institutions. However, even if interest groups provide valuable expertise, wide support and social acceptance for decisions, the political sphere of legitimacy results unquestionable: only the Council and the Parliament have the power to take decisions and are politically responsible for them²⁹. As remarked by the White Paper, «better consultation complements, and does not replace, decision-making by the Institutions»³⁰.

The Communication *Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission*, issued by the Commission in December 2002, emphasized again that legitimacy of the European Union lies in the Council and in the Parliament.

Though it recognised that «every individual citizen, enterprise or association will continue to be able to provide the Commission with input»³¹ and that «there is no contradiction between wide consultation and the concept of representative democracy»³², the Communication concluded that «the guiding principle for the Commission is therefore to give interested parties a voice, but not a vote»³³.

This document of 2002 reaffirmed that consultation can contribute both to improve the quality of the policy outcome and to broaden the involvement of interested parties.

29 Cf. Commission of the European Communities, White Paper on European Governance – Report of Working Group ‘Consultation and Participation of Civil Society’, 2001.

30 See Commission of the European Communities, *European Governance. A White Paper*, COM (2001), 428 final, p. 16.

31 See Commission of the European Communities, *Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission*, COM (2002), 704 final, p. 11.

32 Ibid., p. 4.

33 Ibid., p. 5.

5.2 *The 'European Transparency Initiative'*

Giving a speech at 'The European Foundation for Management' of the Nottingham Business School, Siim Kallas, Vice-President of the European Commission and Commissioner for Administrative Affairs, Audit and Anti-Fraud, launched the so-called 'European Transparency Initiative' on 3 March 2005.

Aimed at enhancing transparency throughout the European Union, this initiative is based on the idea that transparency is needed for the proper functioning of the decision-making process, for gaining the trust of the public, and for helping policy-makers to refrain from fraud and abuse of public money.

The 'European Transparency Initiative' will contribute to increase financial accountability of the EU with regard to its budget and to strengthen personal integrity and institutional independence. In other words, its goals are to increase openness and accessibility of EU institutions, raise awareness over the use of the EU budget, i.e. taxpayers' money, and make the Union's institutions more accountable to the public.

As far as personal integrity and institutional independence, Kallas made reference to the 15,000 lobbyists who work in Brussels and asked for more transparency, openness and respect of high ethical standards in carrying out their professional activity.

Owing to their role as representatives of particular interests and to the impact that their lobbying has on Community legislation,

people are allowed to know who they are, what they do and what they stand for. There is nothing wrong with lobbies because each decision-making process needs proper information from different angles. [...] But transparency is lacking.

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With regard to NGOs, on the other hand, the Vice-President of the European Commission stressed the necessity to increase transparency in the use of the money that these organisations receive from the Commission³⁴.

In a speech given on 20 October 2005 Kallas confirmed the ideas illustrated in March: increasing transparency can help to restore confidence of EU citizens in the EU, so that they are able to know how and why decisions are taken, and to strengthen the legitimacy of the institutions. In particular, a transparent system is open to dialogue with the interested parties and produces sound policies. However, not only are the EU institutions called to more transparency, but also the lobby organisations which work in Brussels³⁵.

In November 2005 in a Communication to the College the President Barroso and the Commissioners Wallström, Kallas, Hübner and Fischer Boel reiterated the concept that transparency contributes to increase the credibility of the EU institutions and the accountability of those who distribute and receive EU funds.

The Commission considers the gaining of the trust of the European public in the EU one of the challenges of the coming years and one of the strategic objectives of the College in the period 2005-2009. More particularly, the President Barroso and the Commissioners Wallström, Kallas, Hübner and Fischer Boel have proposed to set up a compulsory registration system for all interest groups, including lobbying associations, and have asked them to adhere to a common code of conduct. Finally, they have announced that a Green Book concerning consultation practices will be published in early 2006³⁶.

34 Cf. Siim Kallas, *The need for a European transparency initiative*, Speech held at 'The European Foundation for Management', Nottingham Business School, 3 March 2005.

35 KALLAS, Siim, *Transparency restores confidence in Europe*, Speech to the European Policy Institutes Network at the Centre of European Policy Studies, Brussels, 20 October 2005.

36 *Communication to the Commission from the President, Ms Wallström, Mr Kallas, Ms Hübner and Ms Fischer Boel proposing the launch of a European Transparency Initiative*, adopted by the European Commission on 9 November 2005.

6. Lobbying and Legitimacy of the European Union

So far it has been argued that lobbying has contributed to the process of European integration through the exchange of information between interest groups and EU institutions. Now, however, it is time to shift the focus of this analysis and to try to answer the following questions: does lobbying in Brussels constitute a remedy for the so-called ‘democratic deficit’ of the EU? Can interest representation be deemed a means to increase the trust of citizens in EU institutions?

6.1 The ‘democratic deficit’ of the European Union

As already pointed out in the previous chapters, the institutional structure of the European Union is based on intergovernmental and supranational elements, which give to it a double legitimacy: a direct legitimacy stems from the direct elections of the MEPs, whereas an indirect legitimacy derives from the Member States that are signatories of the Treaties and are politically responsible of their action before the democratically elected respective national parliaments. Moreover, scholars tend to identify a technocratic and utilitarian legitimacy that depends on the capacity of the EU to address problems at a European level and to solve them³⁷.

Although the institutional novelties that have provided the European Parliament with new powers and have made it co-legislator with the Council, according to Marcus Höreth the problem of ‘democratic deficit’ is still there. In fact, the Council of Ministers is not accountable to the EP and continues to enjoy primacy in the EU legislative process, so that the European Parliament cannot be considered to be a real parliament.

The ‘democratic deficit’ stems from both the lack of a European-wide people and of a truly European party system: not only do people continue to think of themselves in terms of national affiliations, but political events and issues at the European level are monitored by national media from an inter-

37 Cf. Marcus Höreth, ‘No way out for the beast? The unsolved legitimacy problem of European governance’, *Journal of European Public Policy*, 6, 2, 1999, pp. 249-268.

nal perspective as well as European elections are dominated by national problems.

Even more, EU elections differ from the domestic ones as electors cannot sanction those who govern the EU: if on the one hand it is true that the EP can force the Commission as a whole to resign, on the other hand it is as much true that the Commission does not have any political colour as it happens in the case of national executives.

6.2 *The impact of lobbying on the legitimacy of the EU*

Two different kinds of legitimacy of the European Union can be identified: input and output legitimacy. The former concerns the democratic decision-making at the European level, so that a bigger involvement of citizens and interested groups can provide a higher legitimacy to the system. The output legitimacy, on the contrary, regards the EU's general efficiency and effectiveness in dealing with issues, that is to say, its ability to achieve the citizens' goals and to solve their problems. The more the EU is effective, the more likely it is accepted by citizens as an important political actor: it raises both their confidence in the institutions and the accountability of the latter vis-à-vis the citizens themselves³⁸.

By and large scholars argue that interest groups increase both kinds of legitimacy. On the one hand they constitute the 'natural constituency' of the Commission and Parliament who can rely on their information; on the other hand, they promote European integration as they persuade national governments to consent to broad EU competences and they contribute to legitimise the EU in the eyes of the citizens.

If Justin Greenwood has observed that «organized interests have historically been an important means of contact for EU central institutions that are remote and lacking in democratic legitimacy»³⁹, for Bernard O'Connor the

38 With regard to the distinction between input and output legitimacy see also Pieter Bouwen, *Corporate Lobbying in the European Union: Towards a Theory of Access*, Firenze: EUI (Working Paper SPS), 5, 2001.

39 See Justin Greenwood, *Interest representation in the European Union*, Basingstoke: Palgrave Macmillan, 2003, p. 5.

open question of the ‘democratic deficit’ can be partially tackled by the direct representation by interest groups⁴⁰.

Interest groups play also the role of replacing the lacking European-wide political representation: European political groups do not always effectively represent the different European problems and in some cases they do not even perceive them because they are too far from the grassroots. Interest groups, on the contrary, especially trade federations and European associations, can bring truly European priorities to the attention of the EU institutions.

Whereas political representation is weak, interest representation is strong and effective. However, in Europe there is no link between political parties and interest groups in terms of involvement of the latter in electoral campaigns; this may seem a contradiction, but it is due to the negative idea that prevails in Europe with regard to lobbying.

Lobbying has also contributed to the affirmation of an independent political system from that of the Member States and has increased the autonomy of the EU over the interests of national governments. This is the reason why Svein S. Andersen and Kjell A. Eliassen have underlined that the «Europeanization and lobbyfication of EU decision-making»⁴¹ has been one of the main consequences of the Single European Act.

Although this work has repeatedly stated that lobbying activity and the European Union are interdependent and that above all the latter needs the former to carry out its actions and policies, the role of lobbying should not be overestimated. In fact, if on the one hand nobody can question the idea that lobbying is not a danger to democracy, on the other hand it is necessary to point the finger at those aspects that still show some shortcomings. Not only what Commissioner Kallas has highlighted, i.e. the lack of trans-

40 Cf. Bernard O’Connor, *Some basic Ideas on Decision making and lobbying in the European Union*, Castellanza: Liuc, 1997.

41 See Svein S. Andersen and Kjell A. Eliassen, ‘Informal processes: lobbying, actor strategies, coalitions and dependencies’, in Svein S. Andersen and Kjell A. Eliassen (eds.), *Making Policy in Europe*, second edition, London – Thousand Oaks – New Delhi: SAGE, 2001, p. 44.

parency particularly by profit-making organisations, but also that not all interest groups are heard by the Commission.

In conclusion, does lobbying in Brussels bring benefits to the EU's political and administrative system? The answer cannot be entirely affirmative, because otherwise it would disregard the questions that are still open ended. However, one can argue, together with Andrew M. McLaughlin and Justin Greenwood, that «interest representation brings more advantages for EU institutions – in terms of providing information, carrying issues between institutions, selling EU policies to national authorities and legitimating the policy process – than disadvantages»⁴².

As far as the questions raised at the beginning of this section are concerned, the problem of 'democratic deficit' is closely related to the institutional structure drawn by the Treaties and, as a consequence, the Treaties themselves should put an end to this drawback. The lack of accountability of the Council of Ministers vis-à-vis the EP cannot be replaced merely by more participation of interest groups in the legislative process.

On the contrary, lobbying can continue to be a means to increase the trust of the citizens in EU institutions. If citizens feel the EU a far away institutional complex, they do not know how it works and what it does, interest groups can represent a sort of transmission belt between "Brussels" and the European peoples. What is more, the Commission without interest groups would not be able to comply with the duty of legislative initiative envisaged by the Treaties.

It is difficult to contest the idea maintained by the Commission and reported in the fifth part that lobbying does not affect the legitimacy of the EU policies since they are thought, elaborated, adopted and implemented according to the Treaties and involve the 'institutional triangle'. Nevertheless, saying that interest groups contribute to increase this legitimacy is not equivalent to questioning the legal framework of the EU: it is obvious that policies adopted in Brussels are legitimate on their own because they are

42 See Andrew M. McLaughlin and Justin Greenwood, 'The Management of Interest Representation in the European Union', *Journal of Common Market Studies*, 33, 1, 1995, p. 154.

taken by abiding by the rules, but it is as much evident that they would be less legitimate if there were no consultations with civil society.

Legitimacy not only implies respect for the rules, but also the perception that the addressees of these decisions have of them: if a policy seems to be imposed or it is incomprehensible and unknown, it may mean that it lacks the necessary legitimacy.

Conclusions

This paper has tried to describe the lobbying activity within the European Union and to highlight its pros and cons.

Although the sixth section has already drawn some conclusions with respect to the relationship between lobbying, ‘democratic deficit’ and legitimacy of the EU, some elements that characterise the European process of interest representation can be summed up.

Firstly, lobbying in the EU developed during the 1980s when Member States agreed to launch the SEA to complete the single market. As a consequence of the broader sphere of competences achieved by the European institutions, interest groups started to lobby them in order to influence decisions and policies. Over the decades the lobbying activity has tried to adapt itself and its tactics to the changing institutional system: not only have interest groups turned their attention to the EP, but also new actors such as the Regions have started to put pressure on the EU.

Secondly, lobbying has constituted a benefit both for the EU and for interest groups: the latter have provided the policy-makers with information and suggestions, both of political and technical nature, and support for sponsoring all over the EU the policies agreed in Brussels. They have been an important transmission belt between the decision-makers and the stakeholders, so that they have promoted the European integration among the citizens and partially substituted the political parties in representing the interests of the EU peoples. On the other hand, companies, associations and NGOs as well as Regions have taken advantage of the opportunity to influence the EU and to raise their priorities before it. Therefore, lobbying

Lobbying in Brussels

should be looked at being a phenomenon that has enriched both sides and has contributed to give legitimacy to European policies.

Thirdly, the political legitimacy of the EU is not questioned by lobbying, since “Brussels” is legitimised by the Treaties and the direct elections of the MEPs: however, interest groups have allowed a broader involvement of citizens and interested parties in the EU political and decisional process, so providing the EU policies with legitimacy and support.

On the other side there are still questions to be solved: the lack of transparency by the public affairs consultancies and the lack of regulation for lobbyists.

Finally, despite the shortcomings of the system, lobbying in Brussels has turned out to be the combination of the necessity to give representation to the interests of economic, sub-national and social actors, and of the need of the EU for information. In other words, interest representation and need for information.

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