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LOBBIES INSIDE THE EUROPEAN INSTITUTIONS:
AN OBSCURE RELATION AT THE HEART OF EUROPE

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INTRODUCTION

This thesis aim is to sheds light on the intricate and rather obscure world of lobbies inside the European Union, and more precisely amongst two of the main European Institutions: the European Commission and the European Parliament. My personal experience in Brussels, where I had the opportunity to spend few months as an intern at the DG Enlargement and the following year at the representation of the Emilia Romagna region, gave me the first hunch of what lobbying is about.

First of all, the term “lobby” is definitely not a synonym of multinational corporate; anyone can lobby, and the public national side is a big part of these lobbying system. The Commission receives pressures and influences by many different groups, such as NGOs or, as I witnessed myself, from national and regional entities too. My curiosity for this matter pushed me, during my Erasmus period in Strasbourg, to see what was going on inside another major institutional apparatus of the Union, the European Parliament. There, being part for three months of the Inter-institutional relations unit of the ALDE group, gave me the perspective of party lobbying, which is completely different than what I saw in Brussels. These events made me curious enough to make me willing to disclose some of the gray areas of lobbying inside these two European Institutions.

To date, the European Union has done little or nothing to make the world of lobbies more transparent. Why is so, and the efforts of progressing towards such ends are the focus of the thesis. Inevitably, lobbies have become an important part of the legislative process of the European Union but it is not well regulated, and this is a crucial problem for the democratic governance that the Union tries to follow since its formation. After all the historical and definitional regards, we will concentrate on how lobbies act inside these two Institutions and why they have become so important to the decision process. We will try to find an answer to the classical question surrounding lobbies. Are they really a viable help to democracy, or are they just exploiting what the Union has put up in the last 40 years? The answer is nothing but easy, as there are not many general theories in the role of lobbies inside a democracy, and finally this thesis tries to take what has been said in the past about lobbies and put it in a more recent context, making a step forward towards the understanding of the importance of both regulating the lobbies but also of having their assistance in during the decision process.

The first chapter is all about setting the tone of the thesis, elucidating what lobbies are and how they pursue their final goal, namely influencing the decision process in order to have a predicted outcome that is favorable to them as much as possible. We will analyze how lobbies work, both today but also how they developed during the years in the European context. We will use an internal point of view that will help us understand why and especially how lobbies behave to fulfill their interests, looking at different methods they can. Lastly on this first chapter, we will introduce the European dimension, which is the battle ground that lobbies chose to perform their activities.

The second chapter, being the bulk of the thesis itself, focuses on the relationship between lobbies and the two European Institutions analyzed, from different points of view: the legislative process and lobbies presence in it, both applied to the two Institutions analyzed, namely the European Commission and the European Parliament. Subsequently, we will move to how lobbies gained and use the power they now retain in the decision process, what we called power sharing; this is a central topic as lobbies are now not just an accessory to the democratic governance but a fully operational part to it, and this new embodiment of power is thoroughly analyzed. We will also analyze the influence process from an European and domestic perspective, so to better understand who influences who and from what to what level, using vectors as empirical explanation for such influence. Another point is that made with the clarification on the misuse of the term lobby, often paralleled with the idea of a “great evil” rather what is in reality (with the subtle irony of the use of this term, which is organizations which are nothing else than lobbies themselves). The chapter is concluded by some examples of disputes that lobbies fought inside the European perimeter, both between them or facing the European apparatus.

The third and last chapter follows the approach of regulating the behavior of lobbies inside the European Institutions, an important step if we want to modernize the European Union in a safe and controlled way, but as we will see, it is not the path undertook by the European authorities so far. Also, it is crucial to understand future possibilities regarding lobbies, especially if we look at how fast they have changed since their arrival in Brussels and the consequent compliance with the EU Institutions. Finally, using two theories on the role of lobbies inside of democracies, we will try to give an answer to the question: are lobbies a viable aid to the democratic governance and therefore to democracy as well? The two theories taken

into account are the pluralistic theory and the transaction theory; these two theories start from the same question but are symmetrically opposite in their findings, which is the best way to understand what could be the answer for today's lobbies, as it gives two different perspectives which vied by each other.

The conclusions will wrap up these three chapters, making essential statements on what we can extrapolate from each one of them, all in the spirit of finding a better understanding of the relationship of lobbies inside the European Institutions. Finally, advocating a better regulation but also acknowledging the need of primary technical information, we will try to give our foreshadowing for a viable success of this relationship; based on the findings of this research, we propose a stronger regulation on lobbies inside the Commission and Parliament, but also more transparency, measures which go beyond what has been done so far.

The passion for political science and the more recent interest for lobbies are what pushed me to write on this subject, trying to benefit from and exploit what I learnt during the course, thus adding my personal ideas and stimulus to this interesting and hectic matter.

CHAPTER 1

DEFINITION, ORIGINS AND DEVELOPMENT

Lobbies are very complex bodies, both in terms of internal structure and how they operate to pursue and accomplish their interests. To better understand what a lobby is, we start off with looking this word up in the dictionary grasping its basic concepts, yet the simple grammatical definition is nothing more than a starting point. The basic idea of a group is only a primordial shell of what a lobby truly is. In fact, the complexities of lobbies brought many scholars studying its behavior to a deeper analysis, where an example is the one provided by Robert Salisbury, who was among the first to break down the idea that lobbies are simple groups of people, but rather Institutions working under corporate interests instead of pursuing the collective interests of its members.¹ Adding to such internal complexity, there is the fact that there exists many different types of lobbies, from governmental to private firms and many more. Distinction among these must and will be made. We will focus also on the historical side of lobbies, starting from where they come from and getting to what lobbies have transformed into today. Knowing their past means understanding why they behave in a particular way now, after decades of changes and improvements. A third point in this chapter is devoted to a deep understanding of what a lobby really do and it works from the inside: its hierarchy, its decision strategy and so on. Inevitably, different types of lobbies use different types of measures to influence. The fourth and last point of this chapter is devoted to the European dimension of lobbies, as this is the field in which we will be focus on subsequent chapters.

1.1 WHAT IS A LOBBY?

If we look up the word lobby in the Oxford dictionary, the definition is: “a group of people seeking to influence a legislator”². This, of course, is a too generalist elucidation on this term, but it already gives us two very important points to focus on, which are common to every type of lobbies (we will later explain how not all

1 R. Salisbury "*Interest Representation: The Dominance of Institutions*", in *American Political Science Review* 81 (1984): 64-76; R. van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University Press, (2005).

2 *Oxford Dictionary of English*, Third Edition, Oxford, Oxford University Press (2009).

lobbies are of the same type), which are the influence process and the interests at stake. As the influence process is one of the subjects in chapter 2, we will now concentrate on the interests of lobbying. It is very important to understand that interests are the driving force for lobbies, who under this internal push use pressure and influence schemes on legislators. For this reason, with a short exception on chapter 2, we will use the term lobby for all types of groups, may those be interest organizations, pressure groups, interest groups or organized groups as these terms can be found in different articles and books on the topic³.

In a broader sense the lobbies are groups, a gathering of people that are interested in a precise outcome to be cast in a precise environment, therefore they work in order to make that outcome (may that be a legislation, a setting of the agenda or any other legislator-related mechanism) swing towards their interests. As said before, we can spot different groups of lobbies, that classify under different methods of action and different fields of interests. We have private lobbies (such private firms or companies or from the civil society) to national ministers, national agencies and local governments which go under the so called public lobbies. They have different sizes, which means that they also have a different weights in the final decision, and depending on its expansion around the world also a ramified internal bureaucracy and organizational staff. Sometimes lobbies are a group of different firms, and sometimes is even a specialized company that works for a bigger entity. To make a more clear example of how many different types of lobbies there are in the system, and of how their interest shape who they are and how they behave, we can take Non-Governmental Organizations (or NGOs). These establishments acts as lobbies in many different legislative areas, and even if they share (more or less) the same basic values, they come into different shapes and forms: we have those who cover hybrid organizations, called quasi-NGOs (or QUANGO), or those that are governments organized (called GONGO), which enjoy a mix of public and private agencies in different fields of interests. We also have the BONGO, or Business Organised NGOs, which are the exact opposite of the previous type. To be observed with the same critical eye are the government-interested NGOs, also know as GINGO, which

³ Also, we don't want to create confusion in using to many similar terms that could mislead the reader. The term Lobby here is to be understood as an umbrella for all the others mentioned above. If specification is required, it will be underlined in the text.

can transform into Business-interested NGOs, or BINGO, by selling particular products and services⁴.

Of course there are also many other types of lobbies, such as national ministers and national agencies, who work in different environments but which share the same (or very similar) set of interest to each other, or private firms such as Microsoft and Bayer which pursue their interests in an even different way. Throughout the dissertation we will see how all of these different types use their position, or are used, in the European scenario and more specifically inside the Institutions of the European Union.

1.2 FROM SMALL GROUPS TO INTERNATIONAL ORGANIZATIONS.

Lobbies were not always what we see now. Big, international organization that can use their power to influence important decision, make pass or fail bills and be at the table with the power holders. As we have just seen, at the basic of lobbies there are shared interests (may those be shared by different lobbies or by different groups inside a lobby), and such interest where once people's needs. In fact, the minimal concept of lobby goes back to when the power of decision was not shared, but held in the hands of few if not one. With the collapse of absolute rulers and the rise of modern democracies, more and more small groups centered around a specific matter started to ask for recognition, and also begun to be more organized in asking for it. They started to apply pressure in the only way they knew which often resulted in violent protests (at this stage, we are still facing with a strong cultural and educational difference between the ruling class and the rest of the population), and that was the first glimpse of what would have become a much more complex influence mechanism. As time went by, and as the political system of countries developed into a more representative one, we started to see the appearance of advocacy groups and later even think tanks, devoted to better argument and channel the request of a group towards the proper subjects⁵. More interestingly, the verb “to lobby” was used around the 19th century in the US as the practice of the lobby of a house of legislature to influence its members into supporting a cause. This gives us

4 R. van Schendelen, *"Machiavelli in Brussels. The art of lobbying in the EU"*, Amsterdam University Press (2005).

5 F. Sobbrío, “*Indirect Lobbying and Media Bias.*” *Quarterly Journal of Political Science*, vol 6, pages 235-274 (2011).

the historical perspective of how lobbies were born, but here we are still on a regional, sometimes national level. With the ease of connection thanks to new communications systems, the emergence of globalization and other factors that brought once distant countries much closer, the lobbying system slowly turned international. Following new economic alliances, the need of a large-scale organization was in order, and so was the establishment of stable relationship between interest holders around the globe. The variety (may that be cultural, social-economic or political) among states now was to be overcome and lobbies helped a great deal in doing so; over the years, lobbies helped in a process of integration, at first on a regional and rather small environment by granting the possibility to people to speak up in a stronger and more organized manner, but subsequently also in an international domain.

Looking at the European Union, once it started to grow, lobbies helped negotiations between countries that until few years before have little or no agreements at all, playing sometimes the role of introducing the parties or other times advising them. The presence of lobbies was even further acknowledged when in the early 1990's the Single European Market (SEM) was being brought up to speed, and the private companies saw a shift of interest from the domestic to the European level. They could act more independently from their national government into a world that foreshadowed big profits. Now, Brussels is the central place to influence and pressure whatever aspect a lobby might want to inside the European Union (and sometimes it affects countries outside but having commercial relations with it), which is why thousands of lobbies have a permanent office there. They monitor and work on issues from the central base, managing or trying to shift the outcomes towards their corporate goals.

But lobbies also act under a political point of view, perhaps more discretely but nevertheless with the same degree of efficiency. More precisely, the ongoing political integration in the Union puts lobbies in a central place, as the job is that of bringing different parts together into a larger whole, in order to defy those irritations that are noxious to the European community, such as domestic taxation rules Which differ from each other, subsidy practices or technical standards⁶. Here the help given by lobbies to the Institutions, which of course is not *pro bono* but follows their own

6 R. van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University Press (2005).

interests as explained before, is that of reduce those irritating differences stemming from the many faces of diversity in the European Union, easing the work of the European Institutions.

1.3 UNDERSTANDING A LOBBY FROM WITHIN

Once we have settled the definition of a lobby under different points of view, and as its historical perspective has been assessed, we now have to understand how they work. It might seem pretty obvious for what we have seen so far: they put pressure, by any means they deem necessary, on the legislator in order to have a desired outcome and have a take advantage from it. But how exactly do they do this? What are those instruments that can be used by a lobby to influence a legislator in such a way that it feels compelled to steer in a certain direction, or can not even take any other solution as plausible but the ones proposed by the lobby itself? There are certain methods, common to each lobby, but that can be used in different ways regarding their composition (remember that there are more than several different types of lobbies around): these techniques are four, namely coercion, encapsulation, advocacy and argumentation. They are on four different degrees of intrusiveness, starting from the most aggressive to the least one.⁷

Coercion, the most aggressive method, is based on the idea that an imposition can firmly change the tides of a battle towards one specific side. Here, a distinction between public lobbies and private ones must be made, as they are bound to different rules in the playing field. For what concerns a public lobby, for example a national ministry, it can use coercion under the form of a legislation that will be consequently enforced by the police and judiciary system. In the EU environment, a national ministry can also try to do so at the international level through the EU Council of Ministers. Private lobbies, on the other side, can enjoy much more freedom as they don't have to go through official channels in order to use coercion. Instead, they can easily put up a hate campaign or a blockade against the opposing party, pushing the limits of aggressiveness towards its maximum. A clear example of private coercion is given by Greenpeace, going under the umbrella of the many NGOs, which protested massively against Shell in 1995 on the Brent Spar affair. The protest concerned the dismantling of an oil storage in the North Sea, which Shell claimed to be

⁷ R. van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University Press (2005).

environmentally safe and did not need any type of security work before its plunging into the North Sea itself. Greenpeace, after a brief campaign against the dismantling, started boycotting Shell in the Netherlands and in France at first, reaching subsequently most states in northern Europe causing economic and image related damages to the oil company. Greenpeace even made it to the Chancellor of Germany who openly confronted British Prime minister at the G7 conference in 1995 held in Halifax.⁸

The second method is that of encapsulation, which is less aggressive of the previous one but still very invasive. In fact, this method is basically move to take control over a major stakeholder, by having the power of nominating their leadership or by granting them regular funds (sometimes both of these options can happen). A more subtle way of encapsulating an agency is by being part of the decision making process, which gives the same result as the more aggressive version of this second technique. In this case is mostly the public lobbies who use this method; ministries keep in check independent agencies or private organization this way, and even at the EU level, NGOs can be controlled (and used) in this way. Yet, sometimes, even private firms lobbying in particular areas can use part of their budget to subsidize an agency, giving them the ability to control said agency other than merely exploit its abilities.

The third method is that of advocacy, which is widespread as is perceived as the most democratic and less obscure of all four. Advocacy has three variants, ranging from informal to formal. The most informal one is propaganda; in this case a lobby uses the medias in every form to foster their idea and gather recognition from the population, which plays a great role in putting pressure over the legislation itself. Although this is not a correct science as many times it can give unexpected results, even completely against those hoped for, it is of great impact in specific areas such as environment, health and education⁹. Clearly NGOs and trading organizations are the most avid users of this technique, as they are the most appealing to the people. A semi-formal variant is the lodging of a complaint, which is mostly used between companies that claim unreasonable or unfair market practices, and is used both at national and EU level, as a warning before the actual aggressive move, which is also

8 A. Anderson, "*Media, Culture and the Environment*", Routledge (2003).

9 M. Petrova, "*Mass Media and Special Interest Groups.*" *Journal of Economic Behavior and Organization*, vol. 84, pages 17-38 (2012).

the formal variant of advocacy, namely the litigation in court. In this case, the complaint is filled under the non compliance of laws and is fairly used in countries that are more socially formal (such as Germany and France), but is highly employed also at the EU level through the European Court.

The fourth and last technique of influencing a legislator or an outcome of a dispute is called argumentation. In this case the thesis is brought up by some sort of intellectual reasoning, based on logical and proved theories and empirically credible references. Of course, the effectiveness of this technique is proportional to the credibility of whom is using it. In the Brent Spar affair, neither Shell or Greenpeace had enough credibility, so when Shell claimed that dismantling the oil rig at sea and sinking it would have been less dangerous few believed the veracity of that theory. Same was for Greenpeace when it was discovered that it had greatly overestimated the quantity of oil that could have been dispersed at sea, proving that the sea dismantling process was not as dangerous as they said. Being so weak, argumentation is used in combo with the others techniques, also as a back up to more reinforced and effective methods; this fourth technique can be spotted in particular moments, such as when the discussion is still in an early phase and data are still being collected, when the problem becomes public and there is the need of a fast and strong support by the people (still, advocacy proved to be more effective after the very first moment) or when it needs to be presented to a wider audience to increase the magnitude of whatever maneuver the lobby is doing.

These four techniques can be used by themselves, in combination and are sometimes used even all together, and when spotted we have to remember a very important thing, which is the essence itself of understanding how lobbies work from within: all these moves, these techniques, are mirrors that hide the self interest of the lobby behind it: coercion, encapsulation, advocacy and argumentation work if they hide the self interest (the Brent Spar affair is the perfect example, once more) that they are pursuing.

1.4 THE EUROPEAN DIMENSION

Lobbies in Europe have a great advantage in terms of networking and shared powers: the European Union. The European Union provides lobbies for all they might need to run a more sophisticated work in any kind of area; Brussels is the brain of all EU Institutions and therefore lobbies created permanent offices, if not even

moved their headquarters, to have a direct link to the decision making environment. But it is not only in Brussels, as many EU Institutions are scattered around Europe: Luxembourg, The Netherlands and France house the most important ones and therefore lobbies have already three funding member states under their watchtower, but the list grows faster if we add all the EU Agencies present in most of the 28 member states. This ramification of offices around Europe, which all refer to the central Brussels in the end, can be compared as an umbrella of bureaucratic, economic and political interest.

Thanks to it, the lobbies place themselves under such umbrella and exploit it as much as they can in every way possible. Subsequently there has been an expected increase in the numbers of lobbies, especially privates (even though in the last years more and regional offices raised their voice in a constructive and effective way¹⁰) that started to use the connection system of the European Union, and the Union itself has increased exponentially its consultation and use of private firms or large lobbies to better plan and swiftly implement law, but also politically making legislation more effective and fruitful. The most interested policy fields are those of internal markets, environmental policies, health, social affairs, research and development and transport¹¹. What they try to do is to influence the early stages of decisions (this is why they all moved so close to EU's capital) and achieve their desired outcome by using the means that the Union provides them. In fact, is not just the connection web that spans all over Europe that lobbies are using, but also the influence that the European Institutions have over the national state. As of now, a lobby can try to intervene at a national level but if the dispute is big enough, it can try to change its outcome at a European level thanks to the newly accessibility the system. We can add the process of influence from inside the Institutions as a fifth method to those four we saw before: the old, classic methods plus a new and more vibrant one, which is way more complex and is formed by many different layers but is very effective and is proving to be even more effective than the “classic” ones put together. In fact, the European machinery can resolve many issues at one time, being an entity that attracts many different interest at a time it has the force power and willingness to resolve more than one dispute simultaneously. The most interesting and lucrative

10 L. Badiello, "*Regional Offices in Brussels*", Claeys and others, pages 328-344 (1998).

11 R. van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University Press (2005).

side of the European Union for lobbies is its continuous development; since the funding of the ECSC, this has been body that adapted itself to almost a whole continent, following and then even imposing on the laws of economy, social security, health and so on and so forth. What is today the European Union is just another version of an ongoing development that lobbies are almost free to use for their own interest, a well oiled machine that work on different fronts, providing them with the platform for influencing their policy of interest. This, as explained before, does not happen as simply as it seems, and in at a national level is even more difficult, which is why many lobbies turn to Brussels to do their job. This counts for both public and private lobbies: clearly, for private lobbies the Union means more free roaming and a bigger scene to play in, but for public lobbies the European Union is the embodiment of that person answering to their needs, as they actually have someone to push for a particular decision (one example is the coercion mechanism by national ministries at the EU Council of Minister which we saw before.

This practice of course was already ongoing in national countries, where its regulated on a state by state basis, but it became more and more diffused inside the building of the Union very rapidly and in a very complicated and twisted way. If it is true that on a national level lobbies participation in the legislative process is more or less controlled (in the US especially), for what concerns the EU Institutions this still remains a gray area. In fact, the relationship between officials and lobbyist varies from Institutions to institution, a phenomenon which needs closer examination¹². This is what we will do in chapter two.

12 J. Beyers, "*Voice and access: political Practices of European Interest Associations*" European Union Politics, vol.5, pages 211-240 (2004).

Chapter 2

CURRENT INVOLVEMENT IN THE EU

Today, lobbies are widely present in the European Union, at different levels and in different shapes, but always aiming to influence the outcome of the legislative process. Here we will focus on the European dimension of lobbies and lobbying; we will firstly see how two of the main institutions, namely the European Parliament and the European Commission, cope with their relationship with the lobbying parties, via institutional and official channels but also through less formal ones. We will not analyze the Council as, even though it takes part in most of the legislative process, it presents different conformations and is mainly represented by ministers or key governmental figures, and lobbyists prefer to act in more subtle ways as we will see, through lower channels of communication in the more vast and dispersive ambient of the Parliament or the Commission.

We will also analyze how deeply rooted lobbies are in the legislation process: their importance before and during the process of lawmaking, but also trying to understand if they actually hold a factual share of power, taken from the official institutions and used purely for their interests.

Inevitably, the influence process mentioned in Chapter 1 as sole theoretic has to be put to practice; the third subchapter will focus on this point, more precisely on what Rinus van Schendelen¹³ calls a “double dichotomy inside the influence process”. This distinction of influence process is very useful to better understand how the practical work is done by lobbies through the European institutions, and also it shed light on the (wrong) ideal that major lobbying activity is done by private parties: in fact, national committees and even national parliaments are very active at every stage of the legislative procedure.

Here we will also explain a recent political and social factor spread through the public opinion, which is the representation of lobbies as “great evils”. Why is that, and who does that but most importantly, who benefits from changing the common opinion on these organizations? Finally, we will analyze how certain intra-lobby wars on the European soil, which is important to specify as the old continent has

¹³ R. Van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University

been the ground for important economic and social related battles also for non-European lobbies, have dragged the main European institutions into trouble.

2.1 THE EU MAIN INSTITUTIONS AND THEIR RELATION WITH INTEREST GROUPS.

We know what lobbies are, where they work and how they do so. But how specific are the measures of these groups regarding the European scenario? The Commission and the Parliament work alongside each other to perform the democratic duty of lawmaking, where the Commission represent the executive and the Parliament the will of people who directly elected their delegates in Brussels. Consequently, lobbies will act in both these environments as they need each of these Union's bodies to work according to their plans if they want such plans to be successful. But as these two institutions behave in different ways, so do lobbies in order to maximize the effect of their influence process. Figure 2.1 gives us a rough idea on how the European institutions behave in parallel to external characters from the national level. This figure is important as it shows how lobbies are always part of any kind of legislative process.

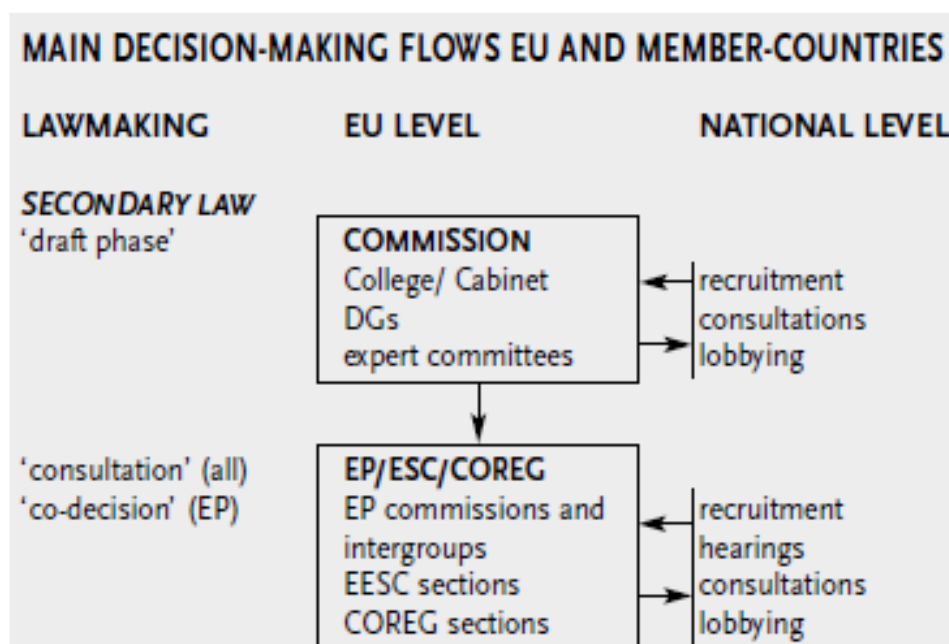


Figure 2.1¹⁴

¹⁴ R. van Schendelen, "Machiavelli in Brussels. The art of lobbying in the EU", Amsterdam University Press.

The Commission has a very specific way to embody the lobbies into the legislative process; simply put, they are enrolled as external experts leading in a specific topic who will help creating a better project or draft bill for the European Community. For what concerns the Parliament, the procedure is a more subtle one, where the member of the European Parliament (MEPs from now on) are the one targeted directly by lobbies. In this case the subject of interest is approached through the vote of a delegate or, if the lobby is strong enough, through the ensemble of an European group sitting in the parliament. So we can easily spot a difference under the light of different approaches on how to influence the process. We shall see it in further detail¹⁵.

a) The Commission and the accredited interest groups.

As previously said, the Commission stands as the executive body of the European Union and therefore it has its own body of government. What represents national ministers are Commissioners, responsible for different Directorates-General (DG) on specific policy fields, of which some are statutory and others are decided by the President of the Commission upon his or her election: climate action, humanitarian aid etc. The workload each of these DGs is huge, and therefore they rely on many sub-offices and infrastructures to focus their energy on particular matters. And here is where the lobbies step into the game. In order to help the DGs to scrutinize or even create from the start a bill, a proposal or any other kind of work that is in the sphere of competence of the Commission, these offices rely on two different processes: outsourcing and “insourcing”¹⁶.

The first process relies on handing out specific tasks to national governments (mainly for parts of implementation and inspection) but also to private firms (devoted to research and management). Needless to say, this technique of taking the matters into someone else’s hand paves the way for lobbies who want to influence the outcome of the research. In fact, to this stage, this is much more effective on the private firms rather than on national governments, as implementation rests on the treaties and laws ruling the European Union while private firms can find their way around it.

¹⁵ All academic references regarding the working procedures of the European Union, its institutions and so forth are taken from R. Schütze, “*European Union Law*”, Cambridge University Press (2005).

¹⁶ R. van Schendelen, “*Machiavelli in Brussels. The art of lobbying in the EU*”, Amsterdam University Press.

For what concerns the second process, what Rinus van Schendelen calls “*insourcing*”, relevant people to the matter in question (professors, experts, national civil servants) is basically brought in from outside, creating small committees which take the name of *expert committees*. Committees will behave like small formal offices with the task of advancing the work, respecting their nature and mandate; such practice is called “comitology”. The role of these committees vary: they look into a specific issue defining what is the problem, determine which can be the solutions to an issue or even draft proposals, depending on the task assigned¹⁷. Here, the selection for candidates is open, normally regulated by a “call for interest” which gives virtual access to every lobby who can or want to have a say in a matter of their interest; but some members of such committees are selected directly by the member states, as officially they have to be represented directly. This means that there is a mixture between the share of open calls and national delegates. What is interesting is that no rules declare who the member states should send to be part of these committees and act on their behalf. This procedure of committees is very intriguing, as it can lead to groups of people where private and national lobbies are overrepresented and might clash with another committees, mainly because of the presence of an “opposite force” on the other side. This is what happened with the preparation of the 2001 Tobacco Directive, where the pharmaceutical and “health” lobbies were more present than any others, facing no or little opposition from any other party interested in the discussion¹⁸.

All of these features are yet regulated inside the European Commission, so we can firmly say that lobbies are a lawful part of the democratic process, whether they engage into research for the Commission’s work, representing national interests or their own. These groups are listed and accredited to the Commission, being a fundamental part of the complex machine of the executive body of the European Union.

b) The European Parliament and the unaccredited interest groups.

It is not the same thing for what concerns the European Parliament. Here things go a little bit more differently. The parliament, being the chamber of the elected members from all over the member states, have only their constituents and their

¹⁷ European Commission, Rules of Procedure (C/2000/3614), Brussels (2000).

¹⁸ F. Duina, P. Kurzer, ‘*Smoke in Your Eyes*’, Journal of European Public Policy, vol. 11, 1, p. 57-77 (2004).

parties to be loyal to, not an impressive institutional body as the Commission. They pledged loyalty to their parties for the best interest of the Union. Or so it may seem. In fact, it is very common that loyalty between MEPs shifts in terms of national parties or European pacts between a session in Brussels and one in Strasbourg. Also, their interests are highly motivated by their national interests, sometimes conflicting with the work process of the Union. As Deschouwer states: “*The cleavage structure at the European level is directly linked to and affected by the national political competition (...). That produces thus a non-symmetrical picture.*”¹⁹

Nevertheless, work in the Parliament is as much as in the Commission and so this institution too needs a division of labor, in order to tackle issues more efficiently. This is why we find committees also in the parliamentary environment, one shadowing each major policy field. The division of seats in these committees represents the division of the parliamentary assembly itself, but there is a single figure who is central for the outcome of the work inside the committee: the *rapporteur*. Whomever has this important and prestigious role is the pivot of all the work that will be redacted and proposed to the floor of the parliamentary assembly. So far, the similarities with the Commission’s committees are nothing special, but the difference is just behind the corner. If in the “expert committees” of the Commission we had rules on who could apply and how, and an actual list of the lobbies present to work for/thanks to the Commission, here the situation is much less black or white²⁰.

The *rapporteur* has, due to the amount of work and interconnections needed to speed up the work, to perform his duties highly informally, leaving this role exposed to any kind of external pressure: other party members, other Commission members and yes, also lobbies. What is very different than the situation we saw with the Commission, is that here lobbyists are simply talking with a representative, not working for the institution they want to influence. There is no actual written record of what has been said, or why a particular pressure has been put on a particular point of a given policy bill. Thanks to the informality that grants the *rapporteur* his freedom of movement, the lobbies are free to interact and influence (indirectly)

¹⁹ K. Deschouwer, *The European Multi-level Party-System*, Firenze, EUI (working paper RSC 00/47), (2000).

²⁰ D. Cohen, A. Katsaitis, *Institutional and Constitutional aspects of Special Interest Representation*, Directorate General for Internal Policies, Policy Department C: Citizens’ Rights and Constitutional Affairs., Brussels (2015)

through informal meetings and any kind of non accredited behavior. The rapporteurs are approached externally, even if they represent the parliament holding a role of that institution, making it very difficult, if not impossible, to track down who is trying to influence the parliamentary process. This is why in the European Parliament there are no official lobbies, therefore no accredited groups of people who give assistance, research or influence to the European Institutions, but only informal advisors.

2.2 SHARING THE POWER

After this analysis, we can clearly say that lobbies are deeply inside the European Union, may them be accredited or not, and that they are *de facto* an essential part of major legislative processes of the Union. Brussels has become what Dinan and Wesselius called a “*lobbying paradise*”, adding that “*over 15,000 lobbyists are currently active influencing the EU institutions, most of them from offices in the four square kilometers around the European Commission headquarters and the European Parliament, the so-called European Quarter. Brussels now vies with Washington for the title of lobbying capital of the world*”²¹, a place where external interest come and join internal procedures, giving birth to a fair amount of new and interesting regulation which are not one sided or the result of a simple internal scrutiny.

Figure 2.2 gives us the numerical idea of how many of these groups are present inside or around the European institutions. Needless to say, these are impressive numbers. If we take into account all of these workers, we might see that they come from any kind of lobby group, but they are all accounted as one big family which, if we compare the data, has the same population as a rural community in central Europe. There is a phenomenon of a bureaucracy inside another bureaucracy, offices that shadow each other and work together.

²¹ W. Dinan, E. Wesselius et alii, *Bursting the Brussels Bubble. The battle to expose corporate lobbying at the heart of the EU*, ALTER-EU, Brussels (2010).

Type of actor	Description	Active actors	Employees
European trade associations	Sectorial groups of influence based in Brussels	About 1,200	5,000
National trade associations	National federations maintaining a representation in Brussels	500+	2,000
Corporations	Firms with a Brussels' representation	500+	2,000
Lawyers offices	Jurists and European affairs' specialised law firms	200+	2,300
European affairs consultants	Specialists of lobbying	150+	1,300
European trade unions	European federation of national trade unions	20+	100
Representations of territories	Delegations of cities, regions or other local territory x) ONLYLYON, Ceska...	200+	1,500
NGOs	Non-Governmental Organisations represented in Brussels x) Greenpeace, The Red Cross...	750+	4,000
Think tanks	x) Bruegel Group	50+	300
TOTAL		3570+	18,500+

Figure 2.2: Numbers of lobbyist in activity in Brussels in 2006.²²

What about the economic costs? It has been estimated that one of the biggest lobbies, which is that of pharmaceuticals, managed to spend over 40 millions of Euro in order to influence the legislative outcome every year²³. Such an amount of money cannot go unnoticed while analyzing the shaping of power in Brussels. Lobbies have the means to get to their ends, and the European Institutions, as we have seen with the case of the Commission, are very much willing to take any kind of help they might receive. We are not saying that lobbies are slowly buying their way up to the top of the decision ladder, but surely they hold, to date, a big share of decision power. This is why it is safe to say that in the recent years Brussels oversaw a shift into a division of power: highly organized, wealthy and aggressive groups are now fully into the game and the institutions became as much dependent to them as these groups are to them.

²² D. Gueguen, "European Lobbying", Europolitics, Brussels (2007).

²³ The data can be reviewed at <http://www.corporateeurope.org/pressreleases/2012/big-pharma-spends-over-40-million-year-lobbying-eu-dwarfing-public-health-ngos>

2.3 DOUBLE DICHOTOMIES IN AN INFLUENCE PROCESS

We have seen the weapons that different type of lobbies can use. Then, we have seen their actual work inside the EU Institutions and also how deep and powerful they become. Now we turn to four interesting patterns which every lobby, no matter the size, the position or the importance in the economic and social world, has to be part of. These patterns are deeply analyzed by Rinus van Schendelen²⁴ in his latest work "*Machiavelli*", are two dichotomies of influence, private versus public and European versus national/domestic. Why double dichotomies? Because thanks to then Brussels", providing a clear scheme of the power-sharing process we have seen before, these four are intertwined creating four dimensions of influence. The process of influencing can stem down from the European level or from the domestic level, and consequently to the private or public environment. We will call these patterns *vectors*, and we will find eight of them: four sources (public, private, domestic, European) multiplied by the direction (national towards European or vice versa). As the analysis will get deeper, we will see how some of these vectors are still completely under the control of the European Institutions, but also how some of them turned to the lobbyist side, thanks to that sharing of power we have seen before. We shall now make it more clear.

Let's start from the European level. From here, Influence can be private or public and can go towards private or public entities in the domestic environment. The first vector will be that of the European public sector going towards the domestic private sector. Here the link is pretty straight forward: the EU institutions "govern" over the domestic ones, making them prone to accept and implement the European law and their decision. This vector is clearly in the hands of the European Union.

The second vector will be that of European public sector towards domestic private sector. This vector is still in control by the EU, as many of its regulations bind and influence private organizations. An example can be the decisions on a competitive and open market

The third vector steers to the European private sector to the domestic public one. Here lobbies have the real power in their hands. In fact, private organizations can try

²⁴ R. van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University Press.

to influence indirectly the national system by influencing the institutions at the European level, which then will give bounding regulations to the member states. Here are where a big share of those 40 million spent by the pharmaceutical lobbies go.

The fourth and last vector stemming from the European level is that of private sector towards the domestic counterpart. Influence can be used at the European level (say, by food and drink industries), to create economic pacts to be sustained at the national level, and also making internal agreements which members are bound to follow as they are part of a consortium or an association at the European level.

Now let's take a look of what happens from the other side, which means from the domestic to the European level. Here the first vector will be from domestic public sector towards the European public one. The clearest example are the committees inside the Commission we have seen shortly before. Here, national delegates play the lobbyist role and try to steer the decision or draft proposal towards their national interest.

The second vector is that of domestic public sector influencing the European private one. This vector is rarely seen, as most of the times domestic entities prefer to go through official channels (the "comitology" approach we have seen or even the Council of Ministers), and also because it is difficult that national governments have enough to offer to private parties at the European level, it may be the case when there are private contractors working for the domestic public sector (see *Aerospatiale* case, discussed in the subchapter 2.5).

The third vector is the first of the domestic private sector going for the European public one. Once again, here the lobbies are the uncontested rulers. Thanks to the openness of the EU institutions, this vector of influence is highly used by lobbies of the private world. Committees presence, formal and informal hearings, this is where the bulk of work is also done, and here is where most of the major battles between lobbies take place, which we will see in the next sub chapter.

The fourth and last vector is that of the domestic private sector influencing the European counterpart. If the wars between lobbies are fought with the third vector, this one is the one settling them and maintaining a sense of control. It all comes down to federations and commercial agreements: domestic enterprises meet with each other and settle their dispute by arranging agreements on the European scale instead of fighting proxy wars through the European institutions.

After putting this eight vectors to practice and analyzing their behavior in real life events, we see how the influence process is shared between the lobbies and the European Union, which maintained supremacy over domestic law, but who is highly susceptible to external and internal pressures. the influence process can be very complex or incredibly straight forward, but in both ways it underlines the constant presence of lobbies.

2.4 THE “GREAT EVIL”

Before unveiling the wars that lobbies have fought on European soil, we might want to clarify an important point, which is a little more sociological than political, but yet crucial. The choice of wording, and to keep on using the term lobby, is not a coincidence, which is why we did not change it into “interest groups” or similar. In the word of Renda *“La spesso vituperata parola “lobby”, sostituita con la locuzione “rappresentanza di interessi” a Bruxelles, è dunque esercizio di necessità, quando non anche di virtù”*²⁵. This brief subchapter wants to better clarify on the use of the word lobby and its conception by the public opinion which, erroneously, sometimes perceives it as the embodiment of evil; the term “lobby” is in fact often used to describe a shadowy organization that is prone only to do the most horrific type of actions. At this point of the discussion it seemed right to spend few lines on this matter as we have seen how things are truly: lobbies are present in many different shapes and forms, as pharmaceutical conglomerates but also as non-profit organizations. We could have done this paragraph earlier but now there are no appeals, once the structure, the processes of influence and even its entrenched nature has been disclosed. To date, the term lobby is used in different ways by the academia and the public opinion. This is because, ironically enough, of the spoiled use that lobbies themselves do of this term.

To break down the argument in a more simple way, it is enough to look at classic NGOs like Greenpeace. They are the definition of lobby under every aspect, yet they are the most prolific users of such term in a negative way. This way they can manipulate the idea of what a lobby truly is, and redirect the public opinion against

²⁵ A. Renda, *“Fare lobby a Bruxelles nell’era della better regulation”*, Sinergie, rapporti di ricerca, vol. 35, pp. 83-98, (2012).

an evil corporation, responsible for all of their problems (we have seen how these types of lobbies use manipulated data and media coverage to turn people on their side). This persuasive commitment is nothing more than a display of what a lobby is most capable of doing: influencing. Persuasive communication is the most powerful arrow in a lobbyist's quiver, no matter what kind of lobby he represents. Della Vigna and Gentzkow²⁶ have analyzed how effective these patterns of persuasion are on people and public opinion more in general, showing how each individual is driven by beliefs, information and lack of alternatives when standing up for a cause. Understanding persuasion is a key factor to better understand public opinion response to lobbies and also to lobbies' final product, namely influence on the legislative process. We will see in the next sub-chapter how sometimes lobby wars have been fought with the help of the public opinion rather than inside the typical institutions. We are not trying to determine whether lobbies do more harm than good in a general and broad sense, but we must be sure to be open minded and not persuaded into thinking that a lobby is the "great evil", because it is most likely that is nothing more than another lobby who is trying to persuade us into embracing this narrow minded concept.

2.5 INTRA-LOBBY WARS ON EUROPEAN SOIL

Lobbies are in constant competition between each other. It can be open competition, as it is in the committees' positions to be obtained, but also on more decisive matters as the passing of a bill or the drafting of an important proposal. It is natural that, as lobbies use and are used by the European institutions, they see it as the perfect environment to fight over a disagreement. Many are the examples of intra-lobbies wars, from a quarrel over a minor change in a proposal by a parliamentary committee to a dispute on national contractors leading to a full scale war inside the institutions²⁷.

Let's take for example the 1998 *Aerospatiale* case. On one side we have the French national government who wanted to make its air-defense industry stronger

²⁶ S. DellaVigna, M.Gentzkow, *Persuasion: Empirical Evidence*, National Bureau of Economic Research, working paper n° 15298, NBER working paper series (2009).

²⁷ R. van Schendelen, "*Machiavelli in Brussels. The art of lobbying in the EU*", Amsterdam University Press

and more powerful than ever, on the other all the opposed parties who did not want an hegemony on this particular field. Many opposed this idea at the European level, as it would have give too much economic importance in the hands of a sole producer. The result was a quarrel at the institutional level fought by finance and defense ministers, but also by private defense conglomerates, acting as a sort of air-defense lobby. *Aerospatiale* was finally meant to go into a consortium with its British and German counterparts, creating a giant of the defense industry, which eventually did not happen (even if the French government privatized part of *Aerospatiale* to make it more tempting).

Another example, which took the resemblance of a proxy war between lobbies, is that fought by the tobacco industry in 2001²⁸. Here the two sides were the pharmaceutical lobby and the tobacco lobby, probably two of the most rich and influential lobbies in the game. The pharmaceutical lobby pressured, using its members in the committees both at the Commission and Parliament level, for a bill that would impose huge sanctions and prohibitions of smoking in public places inside the European Union. The proposal had many important features, from which it seemed that the tobacco industry was openly challenged for the better health of European citizens. And so it was, or at least partially, ads the pharmaceutical lobby, who won this battle, tackled down its biggest enemy on the taxes and drugs lists of national and European governments. With the tobacco industry so weak, the pharmaceutical companies had much easier life the subsequent years.

²⁸ Supra note 18

Chapter 3

WHAT NEXT?

Lobbies have an incredible importance inside the European institutions. They are part of them, both formally and informally, and became essential as they are now deeply rooted in the legislative process. As we have seen, comitology procedure is widely used and recognized, to make an example of how essential lobbies' participation have become. It is undoubtedly a grey area, and nowadays regulations are far from being perfect. If, from one side, national countries are going towards a clarification of the relationship of lobbies with the domestic centre of power, this is inevitably done under a nation - by - nation basis (we will see how, for example, the United States behave regarding the lobbies inside their political institutions). In fact, on the other side, which is the European one, things must be done in a more unanimous way, and this has proved to be much more difficult in practice than it is in theory. This is because, when it comes to regulating the behaviour and relationship with the European offices from external parties, lobbies feel a menace to their unmatched power of influence.

The first part of this chapter will deal with the analysis of the ongoing regulations directed to have a more transparent view of lobbies inside the European institutions. The question tackled here is if the same institutions that are targeted by the lobbies are doing enough. Terms such as *better* and *smart regulation*, *impact assessment* (which can also be found as *impact analysis*)²⁹ have been used to describe the attempt by both the Commission and the European Parliament to give a more transparent and efficient regulation on decision matters, thus including the role of lobbies. As we will see, many could argue that what has been done so far is insufficient, as we might need an actual system to control the lobbies and reduce their share of factual power (as explained in chapter 2), instead of only having the possibility to over watch them.

After seeing the past and the present, we will take a short and hypothetical look to the future. This is the focal point of the second part of this chapter; here we will analyse how past behaviours transformed and how lobbies are perceived less as a

²⁹ M. Kaeding, *Better regulation in the European Union: Lost in Translation or Full Steam Ahead*, Leiden (2007)

threat to the legislative process but rather as an important and, perhaps, indispensable ally.

The third and last part of this chapter follow the academic theoretical approach to the classical question: are lobbies reliable partners to these processes or their obvious personal interests drift the attention too far away? We will take into account two theories that will shed lights on the same theme, but from two very different perspectives.

3.1 TOWARDS A MAJOR CLARITY OR JUST A MERE REGULATION?

The need for regulations on lobbying increased as their power did. The more lobbies were present during the decision stages, the more question this presence risen. Domestic-wise, making this process transparent is a matter of democratization and public opinion, where these two factors push towards one side or another, depending how strong they are. The European Union and its institutions, being a much more complex body than a single nation, has to cope with a larger pressure than what a single government might deal with. The demand is to make the decision process more clear, open and possibly even shared (directly or indirectly).³⁰

The first step, in any case, is to make once classified documents open to public scrutiny. More precisely, we talk about those documents that are prepared by analysts and technical experts, who give detailed reasons on what could be the effect of a particular policy or decision; these documents are called *impact assessments*.

These analysis are crucial as they give the executive an idea on how effective (or not) a decision might be, and therefore how useful to the particular policy field might that be. These documents, at the European level, are nothing but the result of the comitology approach we have discussed before, where we have proved how important the presence of the lobbies is. To this date the Commission still thinks that, notwithstanding the importance of this passage, it is not crucial to the final adoption of the decision, therefore is not obligatory to have it under public scrutiny. To have another angle to look at this matter, we can compare the Union's behaviour to that of a non European country, which is a leading member of the economic and world

³⁰ A. Renda, "*Fare lobby a Bruxelles nell'era della better regulation*", Sinergie, rapporti di ricerca, vol. 35, pp. 83-98, (2012).

community: the United States. In the 50 States the approach to *impact analysis* is completely different; there, in 1981, the procedure of *IRA (Impact Regulatory Analysis)* was deemed a cardinal point of policy making, being added to the process of *notice and comment*³¹ that was part of the *Administrative Procedure Act* of 1947. This example is not to undermine the differences between the Union and the United States, which are inherently enormous, but is rather clear in underlining how a common practice as lobbying (which is present in both cases) is treated with great variation.

Another step on making the process much clearer to the public is that of transparency. The task is as simple as we might think: making all of the lobbies present accountable for their presence in the Commission or the Parliament. In this case we do not talk about the national governments lobbying, as they are obviously already recognised as members of the decision process. The move was the creation of the *Transparency Register*, a list of all the lobbies that are actively present at the European level. On the surface, it seems the perfect solution but, in reality, this register has some serious fallacies. In fact, only-third of the lobbies which operate in Brussels are registered to this date. But that is not all; in fact, the EU claims no responsibility on the economic details written on the register, as they are all given directly by the lobbies themselves. This create a huge problem, explicated by the EHYT case³²; this Finnish NGO, who declared 3 people on its personnel list, was accounted for an expenditure of roughly 57 millions of Euros in 2014, the only problem being that the budget for such a small NGO was less than 10 millions. This is what happens if bigger organization can evade the register but have to hide in plain sight the money which has been spent, as this money returns on other charts and has to be explained.

The idea of a register was very good, but so far it has not been fully embraced. Yet, a recent vote in the European Parliament, (646 votes in favour on 667 votes cast) made the registration compulsory by 2017, which is a sound and clear step toward real transparency.

³¹ These two provisions written down in 1947, with many others, oblige the executive on taking two specific actions, among the others: informing the population of the effect of the decision before it is effective and enabling the population itself to comment on its contents and ends.

³² The case can be reviewed at <http://lobbyfacts.eu/news/12-11-2015/list-biggest-ngo-spenders-eu-lobbying-reveals-register%E2%80%99s-absurd-data>

The last option is to make people actively part of the decision process. As we have explained thoroughly before, lobbies are everywhere during the decision process and the commission, in order to satisfy the requests from public opinion and national governments, decide to create groups of expertise which have both national and private components, making them accountable for each other. This form of sharing the table, held under the ideal form of *better regulation*, should help the Commission and these committees to be more and more proactive and efficient, together with being an example of democratic cooperation with private companies and national governments.

The actualisation of this process can be seen in the creation of two groups: the *High Level Group of national regulatory experts* and the *Stoiber Group*, the second being more focused on the reduction of administrative expenditures. The experiment is still ongoing, but it is not showing too much strength; after few years of life, the *Stoiber Group* was declared futile and no longer useful, therefore was dismantled the final day of its mandate, on the 31 October 2014³³. The same strategy has been applied to Commission and Parliament regarding the *Better Regulation* but, as facts proved to us, “*l’impatto della better regulation è sin qui stato praticamente nullo*”³⁴.

These events show us how present regulation is weak and far from clarify the role of lobbies inside the EU institutions. The Comitology procedure is possibly the most shadowy area, but these attempts to make things more open and transparent have failed so far. Yet, even if not specified, the role of lobbies can be of great help to the decision making procedure other than a mere advisory input. We shall see it how in the next sub-chapter.

3.2 PAST DIVERGENCES, FUTURE POSSIBILITIES

We have shown how, so far, the two European Institutions have failed or have done very little to make lobbies presence in Brussels more transparent and open to the public opinion. After we have explained how the term “lobby” must not be taken as the depiction of evil multinational corporations, and advocated for the need of better regulation on this subject, we must acknowledge the positive sides of lobbies

³³ http://ec.europa.eu/smart-regulation/refit/admin_burden/high_level_group_en.htm

³⁴ A. Renda, “*Fare lobby a Bruxelles nell’era della better regulation*”, *Sinergie, rapporti di ricerca*, vol. 35, pp. 83-98, (2012).

presence inside the European Institutions. From a chronological point of view, lobbies were considered enemies at their birth, which is somehow around the 1960s, when the European union became a much larger group leading in the old continent.

Yet, the process of “lobbization” has not stopped since its mass development in the late 70’s, when more and more lobbies converged to the new focus of power in Europe, Brussels, making it more interconnected than it was ever before. So, even if it is a little point in favor, lobbies contributed to the internationalization of Brussels making it even more effective in being the Union’s legislative capital³⁵. This process led to a call for every lobby in Europe, of every size and regional origin. As we have analyzed before, this multitude of lobbies also led to harsh conflict where the European institutions were the battlefield, which inevitably damaged at least partially the Union; but the competition also brought positive offspring.

In fact, as said by Cohen in a study commissioned by the Union itself, “*As technical information and expertise are becoming a primary access good, special interest activity across institutions appears to be converging*”³⁶, meaning that the common ground for fights is also a common ground where technical information can be shared. What is interesting is the evaluation of such information as a “*primary access good*”. Before, lobbies’ information were seen as nothing more than a subtle stratagem to impose their will on a matter of their interest, while now it is considered a viable use for the ongoing of the democratic approach.

Going back to the discourse of competitiveness amongst lobbies, there is a simple transition that became crucial to the European institutions. Basically, the EU relies on lobbies for advice on technical matters for specific policy fields. The lobbies are capable of giving the best advice possible but the EU has the possibility to “choose” amongst the various lobbies and decide which influence fall under. This is because no lobby as a virtual monopoly on any kind of policy field, and this thanks to competition. Rephrased, competition makes lobbies more prone to give the best they have in order to get a place at the decision meetings, favoring the best procedure for the European Union.

³⁵ Corporate Europe Observatory (CEO), *Brussels. The EU Quarter*, Brussels (2011).

³⁶ D. Cohen, A. Katsaitis, *Institutional and Constitutional aspects of Special Interest Representation*, Directorate General for Internal Policies, Policy Department C: Citizens’ Rights and Constitutional Affairs., Brussels (2015)

The pattern is clear: a once hostile idea became the first resource for analytical support of the European Institutions, thanks for the nature itself of lobbies. From this point to predict whether in the future, lobbies will have more say and power over the decision process is difficult, but surely who once were sworn enemies are now close allies. In the next sub-chapters we will see if this alliance is actually a long-lasting relationship or is destined to make someone prevail over the other.

3.3 A VIABLE AID TO DEMOCRACY

Before the conclusions, the last sub-chapter will be devoted to an empirical analysis of the simplest question, namely if lobbies are willing and able to help democracy for good or if it is nothing more than a mutual necessity that is based on greed and that is not going to remain unchallenged. The analysis is all but a simple one as, citing Lowery: “(...) while lobbying is a core topic within political science, fundamental differences in the interpretation of the role of lobbying in democratic systems remain”³⁷.

The two sides of the discourse are pretty easily identifiable: one believes that lobbies are corrupting influences which link the people with their governments, while the other believes that lobbies are part of a healthy and essential relationship with the two aforesaid parties, with the former responding to the name of transaction theory (or perspective), while the latter corresponds to the pluralist theory. Both of these theories have lobbies and their relationships with democracy as their main focus.

Chronologically, the pluralist theory developed by Truman was the first, stating that lobbying is nothing more than a gathering of people that wishes to improve the policies of their concern³⁸. In this view, lobbying was a tool in the hands of people that wanted to ameliorate their life conditions, not a dangerous method of influencing the government. To the critiques that not all lobbies have the same resources, Truman responds that even if that is indeed true what all lobbies have is, no matter their power or wealth, the ability to express influence in different ways according to the type of lobby that these people created. These assumptions, even after 60 years,

³⁷ D. Lowery, *Why Do Organized Interests Lobby? A Multi-Goal, Multi Context theory of Lobbying*, Polity, vol. 39, pp.29-54 (2007).

³⁸ D. B. Truman, *The Governmental Process*, Knopf (1951).

are still valid. As we have seen throughout the chapters, lobbies share the same influence process via different means, depending on their wealth and composition (national governments, NGOs, private corporations etc.). This benign view is what we believe to be the closest to what a lobby today is, as in this case lobbies are perceived as valuable assets aiding democracies.

Yet, what was not analyzed by Truman was the corruption and the self interest of lobbies. In fact, in his model these groups of people were acting solely for the overall benefit of the group, something that is definitely not what lobbies are about today (even those that say the contrary, as explained both in chapters 1 and 2). Olson provides a different approach that resembles a more modern one³⁹. In his view, he states that groups does not form naturally for the acquiescence of the society, but rather because of the incentives that people have in creating a lobby: the stronger I get, the best outcomes I can manage to influence for my own personal interests. If these lobbies manage to get to the decision and legislative process, they will inevitably poison it with special and personal interest. Thus, transaction theory is much more negative as it sees lobbies as threats to the democratic governance and therefore to democracy itself. Olson continued his studies enlarging the “negativity” of lobbies, stating that bigger and stronger lobbies do their influencing at the expenses of weaker ones which have only two ways to pursue: accept the decision by the stronger party or disappear.

These two key research are very helpful to understand what is the basic relationship between lobbies and the government or, as it is in this case, between lobbies and the European Institutions. Inevitably both of these theories have been surpassed by more recent ones (for example, the neo-pluralist theory or the profit maximizing model), but the core of what Truman and Olson found roughly fifty years ago still stands almost unchallenged: lobbies are created by a process of aggregating common interest and follow the law of influence, yet they are a helping hand to the democratic governance. It is not yet clear if that is a mutual exploitation between the two parties at stake, but what is sure so far is that lobbies, willingly or not, have helped developing democratic governance since they have been a part of it. If they will lead such democracies to worse path is not our scope to find.

³⁹ M. Olson, *The Logic of Collective Action*, Harvard University Press (1965)

CONCLUSIONS

Understanding what is a lobby was essential for the general proceeding of this thesis. Although the question was regarding the presence of lobbies inside the European institutions, it was essential that we understood what a lobby is and what it has been throughout the years since its “creation”. We cannot derive any theory or conclusion without acknowledging the many different types of lobbies out there. That is perhaps the first finding of this thesis, namely stressing the importance of recognizing different types of lobbies which act in different environments (the European Parliament and the European Commission) and in different ways according to their special composition, making without sense the idea of creating theory solely based on the lobby as a common entity. What is shared by lobbies is their primary ability to influence the legislative process, in many different ways but still looking for a change in outcome. So influence should be the key aspect of any research that is done on lobbies.

The growth of lobbyists presence in Brussels is incredible, as it became more and more acknowledged by the academia and the policy officers. In 1995, Andersen said: *“This phenomenon has attracted little attention so far (...) but we have witnessed a strong and rapid growth in attempts to influence EU decision making.”*⁴⁰. And she was right, as this rapid growth proved to be unstoppable and strong as it was twenty years ago, underlining the importance of a better understanding of this growing community. And such study should never stop as, looking back to chapter 1, lobbies have transformed themselves in time and changed shape also in relation to the governance they were facing.

We have seen how lobbies are well integrated into the European institutions, and it is safe to say that they are now a solid part of the decision process, both in the Commission and in the EU Parliament. This phase is greatly empowered from what lobbies can and do offer to the legislative process, adding technical information and expertise that are highly valuable to the European community when they have to make the final decision. Although lobbies present themselves in different moments and in different shapes to the Commission and the European Parliament, their value

⁴⁰ S. Andersen, K. Eliassen *“EU Lobbying: The New Research Agenda”*, in *European Journal of Political Research*, vol. 27, pp. 427-441 (1995).

is recognized by every policy officer, committee chair and rapporteur, which are used and use the advantages of having lobbyists so close to them⁴¹.

What is not safe, under any terms, is the freedom that such groups enjoy, inside the buildings of Brussels. We must remember, and this is imperative, that ultimately lobbies are pursuing their proper interests and that is their final end (this is important but we do not want to say that, as explained in chapter 2, lobbies must be seen as the parasite of democracy, but rather as a body with its particular needs). The “grey area” of comitology, for example, is one of those situations where the final end of lobbies cannot be scrutinized by the people, and lobbies must be held accountable. The lack of accountability is what is worrying, regarding the presence of lobbies inside the European institutions. Even more so, if we think that certain committees decide on very important matters such as defense and armament; a clear example can be the *Aérospatiale* case discussed in chapter 2. We do not feel completely safe with so much influence power in the hands of groups that are yes useful to the democratic governance, but are still pursuing their very personal goals.

As we have seen, the situation is far from being clear and easily comprehensible, yet it is highly logical. On one side, lobbies behave as the users of the European machinery in order to influence the process that might lead them to a favorable outcome. But this comes at a price; in fact lobbies, to be part of this process, have to give useful information to the actual decision makers, who will use said information to better understand the path to take and the decision to make. Unfortunately, the logic ends here.

First of all, the Parliament and the Commission behave differently on regulating the presence of lobbies inside their offices: while the process of comitology is somehow known (even though the actual members present are not always defined), in the European Parliament many meetings are done under the “informal” flag, making them almost impossible to trace back when someone asks the scrutiny of the decision process. Though, some steps forward have been made, such as the Commission decision to make some of those “informal” meetings official, so to make the preceding more transparent; the problem here is the term “some”, as the decision left out all of those lobbies that go under the umbrella of: social parties,

⁴¹ D. Cohen, A. Katsaitis, *Institutional and Constitutional aspects of Special Interest Representation*, Directorate General for Internal Policies, Policy Department C: Citizens’ Rights and Constitutional Affairs, Brussels (2015)

international organizations, religious communities or associations, philosophical and non-confessional groups⁴², leaving out a big part of active lobbies who can even change their denomination to escape to this simple form of transparency.

Another move towards a safer regulation was that of creating the *Transparency Register*, which is a sound failure so far, as only a third of lobbies did subscribe to it, as such register was not an obligated passage for lobbies in Brussels. Yet, a month ago the Parliament voted for an interesting turn: from 2017 on, the register will be rendered obligatory for any kind of lobby that is willing to participate to the legislative and decision process. This is a big, and perhaps actually suitable, move from the Parliament to give that transparency which we hope for. We will have to wait until the next year to know if it will work as we hope.

But this polarized approach to lobbies' presence is far from being the only problem. After a closer analysis, the presence of lobbies inside the European institutions is ill-regulated. Is not just the comitology approach or the informal parliamentary meetings that is dangerous, but the share of power that lobbies have been able to conquer along these years. We will not stress enough how important the role of lobbies is during the decision process, as it gives a better way for any branch of the Union to focalize its energies; but it does not have to be overwhelmed by them. Their presence is way too massive in certain stages of the legislative phase, which go way beyond giving valuable information.

The wars that have been fought by lobbies can be seen at the expenses of the Union, if we look it under a different lens. To make this argument easier to grasp, we can take back the example of the Tobacco directive of 2001⁴³, probably amongst the most important of the new millennium on policies regarding health and environment. What if the influencing of the tobacco lobby would have been stronger than that of the pharmaceutical industries and that of national governments? After all, the directive is the direct offspring of influence used by the lobby that won this battle, and we don't have to take it for granted. If, after months and years of discussion, the tobacco lobby would have resulted victorious, we would now look at a very different Europe. Probably less healthy and with an even darker and more polluted future. This

⁴² P. L. Petrillo, "*Trasparenza e gruppi di pressione: la Commissione Europea dà il buon esempio*", in *Quaderni Costituzionali*, vol.1, pp. 202-205 (2015).

⁴³ F. Duina, P. Kurzer, '*Smoke in Your Eyes*', in *Journal of European Public Policy*, vol. 11, 1, pp. 57-77, (2004).

example is to stress both the importance of lobbies, but also the great power they have in Brussels. Such responsibilities should be guarded with much stricter regulations, otherwise next time we could be less fortunate.

What Truman said about the nature of lobbies was and is still right, namely that their creation stems from the ability of people to come together naturally, as a common interest of a better life is shared⁴⁴. Is that concept of “better life” that can be seen in opposite ways from one lobby and another, and it is from there that proxy wars between lobbies start.

The democratic governance needs lobbies, as they are the will of the people expressed in a different matter than simple elections of officials; with these groups, anyone can pose the right influence on the matter that is mostly important for him and for her and can give valuable information so that such interest is respected and fairly evaluated during the decision process. But, when the process has little or no restrictions on external influences, this becomes a dangerous situation. Lobbies are part of the European institutions and so should be and remain, but with much stricter regulations; we cannot accept a loose rule on budgetary measures for lobbies when they can get to spend up to 40 millions in a year for “consulting”, as happened with the pharmaceutical industry (explained in chapter two).

Definitively, we need better and more precise regulations for the sake of the Union, which needs the lobbies expertise but not to be ruled by them. Without the proper measure, seen how fast and powerfully they developed, lobbies could just do that in a not so distant future.

⁴⁴ D. B. Truman, *The Governmental Process*, Knopf (1951).

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RIASSUNTO DELLA TESI

INTRODUZIONE

La presenza di lobby all'interno delle Istituzioni Europee è un fenomeno che non è stato ancora profondamente analizzato, per mancanza di informazioni e per la relativa novità di questa relazione a livello legislativo. La tesi, composta di tre capitoli a cui sono aggiunte le conclusioni finali, si snoda in modo lineare cercando di rispondere alla domanda posta dall'inizio: come possiamo al meglio definire la relazione tra lobby ed istituzioni europee? In special modo, la regolamentazione riguardante il comportamento di questi gruppi all'interno della comunità Europea è alquanto dubbia, se si considera che ad oggi pochi sono stati le decisioni ufficiali (le ultime e di maggior impatto risalgono all'anno in corso) dell'Unione Europea che direttamente riguardano il coinvolgimento di gruppi esterni durante il processo legislativo e dunque decisionale. In questo documento, l'analisi del rapporto lobby-istituzioni si concentra su due delle principali istituzioni dell'UE: la Commissione dell'Unione Europea e sul Parlamento. Questi due enti, di centrale importanza, trattano infatti le lobby in maniera differente, in parte per colpa di una mancanza di regole precise, ma anche per un mutuale beneficio, come viene argomentato nel secondo capitolo. In riferimento a questi benefici, viene analizzato conseguentemente come, di fatto, le lobby hanno sempre più influenza nel processo decisionale europeo, cosa che garantisce non solo alla compagine istituzionale una migliore fonte di informazioni da utilizzare come base per lo sviluppo di una decisione, ma che favorisce anche il lavoro finale delle lobby stesse, ovvero quello di essere efficaci nell'influenzare il processo legislativo, così da avere un risultato positivo finale nel riguardo dei loro interessi.

Il primo capitolo si suddivide in quattro sotto capitoli, volti a creare una base solida per la comprensione del ruolo e della relazione con le istituzioni delle lobby nel sistema dell'Unione Europea. Prima di affrontare infatti il discorso dei regolamenti e del ruolo nel processo decisionale, viene introdotto l'argomento delle lobby dal punto di vista di definizione, storico e pratico. Il primo approccio è direttamente a comprendere che cosa significa con il termine “lobby”; tante volte infatti si sentono parole come “gruppi di pressione” o “gruppi di interesse”, tipi di

nozioni che vengono racchiuse tutto all'interno del termine stesso lobby. Da questo punto in avanti, quindi, quando si userà lobby nel documento, si intende un gruppo di persone, altamente organizzate e sottoposte ad una certa forma di gerarchia più o meno rigida a seconda dei casi, volte ad influenzare il processo decisionale di un governo o di una istituzione, e più precisamente delle due istituzioni europee analizzate nel documento. Un punto importante è anche la descrizione dei diversi tipi di lobby; infatti sarebbe un errore presentare queste organizzazioni a solamente private solo come corporazioni di stampo economico. Come elencato nel documento, ci sono molteplici tipi di lobby che si distinguono per campo d'interesse, gerarchia e tipo di organizzazione, la quale può essere privata, statale o di stampo misto (con partecipazioni statali nel privato o viceversa). La cosa che accomuna questi gruppi è una ed unica: il processo di influenza che porta ad un risultato preciso e richiesto dai membri stessi delle lobby. Seppur con metodi diversi, infatti, le lobby hanno come fine quello di influenzare il processo legislativo nel campo che le riguarda direttamente o in campi che possono riguardare i loro interessi. Nel primo capitolo viene anche analizzata una lobby dall'interno, ovvero come la struttura di una organizzazione può essere completamente opposta rispetto a quella di una lobby che opera nello stesso settore, con metodi differenti, ma con lo stesso scopo. Inoltre, sempre all'interno del primo capitolo viene analizzato come le lobby si siano addentrate sempre più nel sistema europeo. Senza entrare nei particolari legislativi, che vengono elencati ed analizzati nel secondo capitolo, questo ultimo sotto capitolo si pone il compito di raccontare come, lentamente ma inesorabilmente, le lobby sono entrate a far parte della vita odierna del Parlamento e della Commissione Europea. È infatti documentato come, dagli anni '80, sempre più uffici che praticano *lobbying* si sono installati a Bruxelles e come sono entrati in contatto con le istituzioni europee in modo diretto e non, usufruendo degli spazi lasciati aperti (i quali lo sono tutt'ora) dalle lacune in fatto di consiglieri esterni alle commissioni stesse.

Il secondo capitolo, cuore della tesi, si concentra sulla tematica della presenza, dei termini di influenza e più generalmente le modalità di ammissione delle lobby all'interno della Commissione Europea e del Parlamento Europeo. Il capitolo inizia con la descrizione della Commissione Europea e della presenza delle lobby al suo interno. Queste sono, di fatto, presenti a molti livelli del processo decisionale, in maggior parte nella posizione di “esperti speciali” nei comitati; questi comitati sono

creati dalla Commissione per dare dei giudizi e dei consigli di tipo tecnico riguardante una decisione che la Commissione può prendere in considerazione. Questo punto, chiamato *comitology*, è uno dei più oscuri in quanto si è a conoscenza della presenza delle lobby, ma non quale sia il loro apporto effettivo alla decisione finale della Commissione.

Il paragrafo continua poi spostandosi sul Parlamento Europeo, dove viene analizzato lo stesso tipo di relazione; qui le lobby sono presenti in modo non ufficiale, in quanto si manifestano tramite degli incontri informali tra rappresentanti e membri del parlamento. Anche in questo caso, come per la Commissione, vi sono dei gruppi dove le lobby sono più attive. Questi gruppi sono delle commissioni, le quali svolgono funzioni molto simili a quelle dei comitati visti precedentemente, e a cui fanno capo i cosiddetti *rapporteurs*, ovvero i volti delle suddette commissioni. Inevitabilmente, è con loro che le lobby organizzano i diversi incontri di stampo informale.

Dopo questa analisi, il capitolo si sposta sulla situazione attuale riguardante la relazione tra lobby e Istituzioni Europee, ovvero la divisione del potere decisionale. Questa situazione è un dato di fatto, dove il beneficio è reciproco in quanto la Commissione e il Parlamento hanno a loro disposizione una maggiore qualità e numero di informazioni provenienti dal settore tecnico (provvedute direttamente dalle lobby al loro interno), mentre le lobby possono essere presenti nel fulcro del processo legislativo, in modo da essere il più effettivo possibile nel procedimento di influenza. Conseguentemente, è analizzato tale procedimento, usando come chiave di volta i cosiddetti vettori di influenza; essi si muovono dal privato al pubblico e viceversa, partendo dal piano europeo o quello nazionale (e viceversa). Grazie a questa visione, è più chiaro capire come e quali siano i poteri residui dell'Unione Europea, quali quelli totalmente in mano alle lobby, e quali sono quelli dove le due parti si trovano, appunto, a dividerli.

L'ultima parte del capitolo è dedicata ad alcuni esempi concreti di discussioni a livello europeo tra lobby, dove possiamo vedere l'effetto della loro radicalizzazione all'interno delle Istituzioni Europee. In alcuni casi, tali confronti sono stati apertamente combattuti tra due fazioni di lobby, mentre in altri casi (come illustrato nel secondo capitolo), le dispute erano più simili a “combattimenti” a distanza, dove le istituzioni stesse agivano nei loro interessi. Questa parte è essenziale per avere un riscontro pratico della grande influenza che le lobby sono capaci di esercitare. Per

concludere, viene esposto un argomento a favore delle lobby, più specificatamente sulla demonizzazione di questo termine; troppo spesso, infatti, la parola “lobby” viene associata alle grandi multinazionali che perseguono, in modi talvolta fortemente criticabili, i propri interessi. Questa connotazione, altamente negativa, non è nient'altro che un utilizzo concentrato dell'opinione pubblica da una parte delle lobby stesse, che guadagna maggiore credibilità nell'estremizzare un concetto contro quelli che possono essere i propri avversari. È dunque necessario aver chiaro il corretto utilizzo di questo termine, fondamentale per vagliare al meglio le analisi avanzate nel terzo capitolo.

Il terzo ed ultimo capitolo, come preannunciato precedentemente, si concentra sulle regolamentazioni attuali in materia di lobbying all'interno delle Istituzioni Europee analizzate, rispondendo infine alla domanda se le lobby possono essere un aiuto valido per il processo democratico. Esaminando le attuali leggi in materia di lobbying, possiamo vedere come l'Unione Europea non tolga, in maniera efficiente, il velo di mistero che ricopre la relazione tra interessi esterni e quelli interni delle Istituzioni Europee. Un passo avanti è stato compiuto con la creazione di un Registro di Trasparenza, dove le lobby avrebbero potuto accreditarsi e rendere pubblici i propri affari. Purtroppo, non essendo stato reso obbligatorio, il Registro si è trasformato in un fallimento piuttosto eclatante; questo fino ai tempi recenti, in quanto una votazione del Parlamento Europeo dello scorso aprile ha portato alla creazione di un identico registro, il quale diventerà (in teoria) obbligatorio agli inizi dell'anno prossimo. Questa operazione di regolamentazione e chiarezza sulle lobby, insieme ad altre iniziative a livello dei comitati e delle commissioni parlamentari, è solamente una porzione rispetto a quelle che si potrebbero definire delle vere e proprie regole su questa oscura relazione. Nonostante ciò, è giusto e doveroso prendere in considerazione il fondamentale contributo delle lobby in materia decisionale. È infatti provato, ed apertamente ammesso dalle Istituzioni stesse, come l'apporto di consulenze e informazioni provenienti dall'esterno dei più consueti circoli decisionali, abbia aiutato a velocizzare e migliorare il risultato finale dei lavori di entrambe le istituzioni, pur avendo due processi e funzioni differenti.

Per meglio valutare l'utilità di questi contributi, vengono prese in considerazione due teorie sul ruolo delle lobby all'interno di una democrazia: la prima, a favore e nettamente di visione positiva, corrisponde alla teoria pluralista ideata da David

Truman mentre la seconda, di stampo negativo verso questa relazione, corrisponde alla teoria della transazione (all'interno della più espansiva teoria sull'azione collettiva) di Mancur Olson. Nonostante la prima rispecchi quello che più è vicino alla situazione odierna, la seconda teoria introduce dei fattori più moderni nella visione dei gruppi di influenza all'interno di un processo decisionale in una democrazia. Si può infatti notare che se, come previsto dalla prima teoria, certi gruppi si formano per il benessere comune che tutti i membri cercano di ottenere, la corruzione di alcuni di questi membri porta il benessere individuale a scavalcare quello collettivo, creando un precedente pericoloso per la decisione finale.

Con questa analisi si vuole sottolineare come le lobby siano essenziali oggi, ma come siano allo stesso tempo limitate da delle intenzioni che possono soprassedere il bene comune, una situazione che induce a richiedere delle misure di sicurezza più efficaci. Storicamente, il documento porta all'attenzione del lettore come la creazione di lobby siano un processo naturale e di come possa portare giovamento alla democrazia. Ma, in un contesto ampio e complesso come quello dell'Unione Europea, è tassativamente necessario un controllo più accurato di questi gruppi. La divisione del potere decisionale è cambiata già in modo veloce ed imprevedibile negli ultimi trent'anni e, conseguentemente a questo modello di crescita, è logico pensare come questo possa rappresentare un problema.

È altresì importante non cadere nella trappola della demagogia, rendendo le lobby il male assoluto e responsabile per i problemi dell'Unione stessa; indubbiamente, ad oggi, il sistema presenta delle falle e, purtroppo, sembra essere lontano il momento in cui queste falle possano essere riparate, ma ciò non vuol dire che le lobby stesse possano essere parte integrante della soluzione, continuando a fornire informazioni preziose e precise. Tutto ciò deve, categoricamente, essere realizzato sotto una più stretta sorveglianza e dando, allo stesso tempo, la possibilità ai cittadini europei di essere al corrente delle discussioni interne ai tavoli dove il processo legislativo si sviluppa, fornendo così una seconda misura di sicurezza, questa volta esterna.