

LOBBYING IN THE EUROPEAN UNION

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ABSTRACT

The legislation procedure within the European Union (EU) legal system is determined by the sources of EU law. Therefore, the legal acts adopted by the EU institutions are the instruments by which the application of its public policies is regulated. The process of adopting legal regulations is provided for by the creation of the public policies of the EU, which are at the same time influenced by the number of actors involved. Various political groups and the public administration of the EU play a significant role in creating the EU's public policies. However, informal actors such as interest groups and lobbies play an increasingly important role in this process. Due to the participation of interest groups and lobbyists in the process of creating the EU's public policies, and consequently their implementation, their influence on the EU policies has been transformed and increased in comparison with previous decades. Thus, interest groups and lobbies have become leading actors on the European scene, influencing the law and the economy of the EU through legitimate means, which has consequently also affected its member states and international relations. This paper aims to show how the interest groups and lobbies legally operate within the European legal system, illustrating at the same time the EU mechanisms of lobbying regulation, as well as showing the consequences of the EU's institutions' dependence on such influence – particularly on the specialized professional knowledge of experts, whose opinions can influence the adoption of certain EU public policies. In addition, the paper provides an overview of lobbying strategies and the legal regulation of lobbying within the EU. Lastly, the paper analyses the limits of the legal activity of interest groups and lobbies in relation to illegal forms of lobbying and corruption. Applying the method of analysis, the paper attempts to shed light on the impact of lobbying on the design and implementation of public policies in the EU.

Keywords: corruption, EU, lobbying regulation

1. INTRODUCTION

Although democratic societies in North America and Europe are well aware of the phenomenon of lobbying, with some countries in Europe legally regulating it,¹ it

¹ In the EU, there are several states which have legislation on lobbying activities (Ireland, France, Lithuania, Austria, Poland, Slovenia and, most recently, Croatia. In Croatia, the Lobbying Act entered into

is necessary to identify the reasons behind its existence. In addition, the question arises as to whether lobbying has been a tradition in Europe, how we recognize and define it, as well as whether it is a legal form of influence in the process of creating public policies and the process of decision-making by EU bodies. If so, it is important to identify how lobbying takes place, what its limits in relation to corruption are, and how unauthorized forms of lobbying can be sanctioned.

2. HISTORICAL DEVELOPMENT OF LOBBYING IN THE EU

Lobbying was recognized relatively late as a phenomenon present in political relations in the EU and its member states. Thus, in the 1970s, this term was not often used in academic writing that dealt with political issues in European countries. The concept of lobbying was originally associated with the political system of the United States of America (USA). The Constitution of the USA implicitly guarantees lobbying, but the scope and definition of the term have often been the subject of decisions of the Supreme Court.² In European countries, lobbying emerged later, both as a term and as a common form of political activity, while in Latin America, Africa, and Asia the term is still rarely used today.³

In the EU, lobbying was for the first time officially recognized in 1988 in a report by Paolo Cecchini (the so-called Cecchini Report) in the context of completing the creation of the single European market. The Report recommended more active participation of business actors in the creation of EU policies.⁴

However, the fact that lobbying was not recognized for a long time as a clearly defined and legally regulated phenomenon neither in the political nor in the international legal order does not mean that it did not take place in international

force on October 1, 2024) or soft regulation (Netherlands, Belgium, Germany, Romania, Italy), while some states do not have lobbying regulation, although in some of them there are self-imposed rules within the sector (Bulgaria, Czechia, Denmark, Estonia, Greece, Cyprus, Luxembourg, Hungary, Malta, Portugal, Slovakia, Spain, Finland, Lithuania). For the Croatian Lobbying Act see: Official Gazette No. 36/24, for the status of EU countries regarding lobbying regulation see:

[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.europarl.europa.eu/EPRS/Lobbying-transparency-comparative-analysis-rev-FINAL.pdf], Accessed 29 March 2025.

² Barić, S.; Acinger, A., *Pravna regulacija položaja lobista u Sjedinjenim Američkim Državama*, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 39, No. 2, 2018, p. 898.

³ Lobbying (eds.) in: Badie, B., Berg-Schlosser, D., Morlino, L., *International Encyclopedia of Political Science*, Vol. 1, SAGE Publications, Los Angeles, pp. 1459-1561.

⁴ Paolo Cecchini was previously the Deputy Director-General for Internal Market and Industrial Affairs in the European Economic Community (EEC). See: Transparency of lobbying at EU level, Briefing, December 2015, European available at:

[Parliament,chrome extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS_BRI(2015)572803_EN.pdf], Accessed 29 March 2025.

relations. In fact, when several people in a community try to secure economic, political, or other benefits for themselves or members of their group or community by influencing other people, we are usually faced with lobbying,⁵ regardless of whether these activities are visible and regulated in the legal system or just practiced in an unofficial and invisible way.⁶

The modalities of lobbying within the EU have changed over time. Although lobbying has not often been externally visible or a topic of interest for political science, it continued to exist. Thus, from the late 1950s, at the time of the creation of the European Communities, until the 1970s, lobbying was in its first, so-called “fusion phase”, focused on the central policies of the EEC; later, from 1971 to 1987, there was “diplomatic lobbying”, followed by “strategic lobbying”, from 1988 to 2005.⁷ The period toward the end of the 1980s is considered by some authors a key moment during which lobbying in Brussels increased significantly. Guéguen terms the period after 2005 the “transversal period”.⁸

Thus, the different phases of lobbying in the EU were conditioned by the development of the EU, the expansion of its powers, the creation of a common market, the increasing number of member states, as well as the allocation of powers to various institutions of the EU. Accordingly, lobbying appeared in different forms and using different techniques, and subsequently had to be regulated by law. Finally, in 1992 the Treaty on the EU signed in Maastricht established the legal foundations for lobbying in the EU. The same legal framework is retained in the Treaty on the EU (TEU) signed on December 13, 2007, in Lisbon.⁹

3. DEFINITION OF LOBBYING

Defining social phenomena such as lobbying requires knowing the causes of their occurrence, the reasons behind their existence, and the consequences they lead to. There are various definitions of lobbying and the characteristics attributed to it. The characteristics of lobbying depend on the degree to which political pluralism or totalitarianism is present, on the structure of government institutions in terms of centralization or fragmentation of the political process, or on political culture.¹⁰

⁵ Badie, *et. al.*, *op. cit.*, note 3, p. 1459.

⁶ Badie, *et. al.*, *loc. cit.*, note 3.

⁷ For more information about the lobbying phases see: Guéguen, D., *Europsko lobiranje*, Micropictures i Novum, Zagreb, 2007, pp. 15-17.

⁸ *Ibid.*

⁹ For the text of the Treaty on the EU see: [1992] OJ C 191, and for the TEU: [2012] OJ C 326/21.

¹⁰ Badie, *et. al.*, *op. cit.*, note 3, p. 1461

Even if a consensus is reached on the essential features of lobbying, many theoretical approaches to lobbying remain, such as decision theory, rational choice theory, cost-benefit analysis, game theory, change theory, and new institutionalism theory.¹¹

Despite the numerous factors that consequently lead to theoretically different variants of lobbying, several characteristics are common to all of its forms and variants. First of all, in analyzing the phenomenon of lobbying one has to assume that it is possible to access the decision-making person. This leads to a further assumption – the ability to influence the decision-makers.¹² Following these characteristics of lobbying, we can broadly define it as the interaction of individuals, groups, and organizations with the government of a country with the aim of influencing its current policies or participating in shaping future ones.¹³ Some authors describe lobbying in its simplest form as the art of persuasion.¹⁴

The problem of defining lobbying in the EU was resolved by the European Commission (EC) in its Green Paper of May 3, 2006. According to the EC, lobbying constitutes activities carried out with the aim of influencing the policy formulation and decision-making processes of European institutions.¹⁵

According to some authors, one difference between the American and European definitions of the influence of lobbying on the creation of public policies lies in the type of branches of government in relation to which lobbying is allowed. On this topic, Vlahović and Jelić point out that, unlike the European definition of lobbying, which links lobbying to the legislative and executive powers, the American definition broadly allows for the possibility of lobbying toward the legislative, executive, and judicial powers.¹⁶

However, it should be kept in mind that the EC has the power to initiate infringement proceedings before the Court of Justice of the EU (CJEU). Because of this, sometimes private interest groups develop so-called lobbying litigation strategies to push the EC

¹¹ *Ibid.*, note 3, p. 1459

¹² *Ibid.*, note 3, p. 1459

¹³ *Ibid.*, note 3, p. 1458; Similar: Chambers, A., *The Lobbying of the EU: How to achieve greater transparency*, in Civitas: Institute for the Study of Civil Society, 2016, p. 5, available at: [chrome-extension://efaidnbmninnibpcapjpcglclefindmkaj/https://www.civitas.org.uk/content/files/Anthony-Chambers-EU-lobbying.pdf], Accessed 15 March 2025.

¹⁴ Barić; Acinger, *op. cit.*, note 2, p. 899.

¹⁵ Green Paper “European Transparency Initiative”, Brussels, 3/5/2006 COM(2006) 194 final, p. 5, available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52006DC0194], Accessed 17 March 2025.

¹⁶ Vlahović, N.; Jelić, B., *Profesionalni lobist, priručnik o interesnom zagovaranju*, M.E.P., Zagreb, 2015, p. 17.

to bring certain issues before the CJEU¹⁷ if they are damaged by the actions of another party. In any case, there is no place for lobbying in court proceedings.

Likewise, when the issue of how to define an interest group trying to influence the government to create a certain policy is considered, there is no single approach either.

Any attempt to systematically arrange those individuals, groups, and organizations that through their actions towards the government try to influence its policy shows that they can be systematized according to various criteria. They can be analyzed according to the criteria of organizational level, structure, legal status, goals of activity, type of interest they represent (private or public), profit (non-profit or for-profit), etc.¹⁸

In the EU, for example, there is a tendency toward specialized, technological, and expert interest groups, stemming from the need to increase access to specialized types of information.¹⁹

Interest groups, on the other hand, seek to achieve their aims by influencing decision-makers, whether within a member state or the EU and its institutions. The influence of interest groups could most simply be described as a milder form of power.²⁰ In the Green Paper EC of May 3, 2006, lobbyists are defined as persons carrying out such activities, working in a variety of organizations such as public affairs consultancies, law firms, NGOs, think-tanks, corporate lobby units (in-house representatives), or trade associations.²¹

4. LEGAL REGULATION OF LOBBYING AT THE EU LEVEL

The legal basis for lobbying in EU law can be found in the provisions on participatory democracy although it is not mentioned by name. Art. 11(1) of the TEU²² determines that institutions will, by appropriate means, provide citizens and representative associations with the opportunity to make known and publicly exchange their views in all areas of EU action. In addition, Art. 11(2) provides that the insti-

¹⁷ Bouwen, P., *The European Commission* in: Coen, D.; Richardson, J. (eds.), *Lobbying the European Union: Institutions, Actors, and Issues*, Oxford University Press, New York, 2009, p. 21.

¹⁸ Vidačak, I., Interest groups and lobbying in the European Union, *Croatian International Relations Review*, Vol. 9, No. 33, 2003, p. 178.

¹⁹ *Ibid.*

²⁰ Michalowitz, I., What determines influence? Assessing conditions for decision-making influence of interest groups in EU, *Journal of European Public Policy*, Vol. 14, No. 1, 2007, p. 134.

²¹ *Supra*, note 15.

²² *Supra*, note 9.

tutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. Concerning the EC, it is expressly regulated in Art. 11(3) that the EC shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.

In accordance with Art. 11(1) of the TEU participatory democracy has been meant to, *inter alia*, furthering active citizenship in political life in the way where participatory democracy is an important instrument for democratic governance.

However, the multiple levels of governance within the EU institutions leads to the problem of reaching out of the citizens to the directly participation in the decision-making process. The citizens may participate in online consultations but they hardly ever do and their contribution is almost never taken.²³

Although these opening of the EU institutions to the EU citizens, civil society and representative associations through participation in decision-making process seems simple, this is a complicated process which success depends on the availability of information, the interpretation of unclear provisions of the EU law, as well as of the possibility of involvement in the EU bodies in which decisions are prepared.²⁴ It is much more likely that citizens will succeed in influencing this process by lobbying through their associations, as do business representative associations using lobbying.

Thereby, representative associations participate in participatory democracy, while the citizens are actually represented by “experts” from civil society. In this sense, it seems that Article 11(1) does not achieve its purpose of direct participation of citizens in the political life of the EU.

The existence and legality lobbying also derive from the case law of the CJEU.

The phenomenon of lobbying has been mentioned before the General Court in case EMC Development AB v EC in the context of the action Swedish company EMC Development AB for annulment of EC Decision SG-Greffe (2005) D/205249 of 28 September 2005 rejecting the complaint brought by the EMC Development AB against European Portland cement producers, the European Cement Association (Cembureau) and the European Committee for Standardization (CEN).²⁵

Swedish company EMC Development AB contended that the European Cement Association's activities went beyond the usual lobbying activity carried out by any

²³ Kohler-Koch, B.; Quittkat, Ch., *De-mystification of participatory democracy: EU-governance and civil society*, Oxford University Press, Oxford, 2013, p. 11.

²⁴ See *infra* ANALYTICAL FRAMEWORK FOR ASSESSING SUCCESS IN THE LOBBYING PROCESS.

²⁵ Case T-432/05 EMC Development AB v Commission [2010] ECR II-01629.

association that brings together companies in an industry to protect and promote the interests of its members.

EMC Development AB has also asserted that it is not known how it was constituted or why it was formed an *ad hoc* group of members of CEN/TC 51 met in July 1997, although the group played a central role in the preparation of the document which resulted in the mandate which CEN was granted by the EC, so EMC Development invoked the lack of transparency in the procedure.²⁶

But, the Court of Justice concluded that the applicant has not established that the contested decision was vitiated by a manifest error of assessment as regards the EC's finding that the procedure for adoption of the document was open, non-discriminatory and transparent,²⁷ so the applicant fails to demonstrate that the EC committed a manifest error of assessment by not finding that Cembureau influenced the procedure to the extent of controlling it and undermining it.²⁸

Therefore, the Court of Justice recognized legitimacy representative associations when such activity was limited to influencing and did not control or corrupt the decision-making process. But, this decision has also been significant in the context formation and operation of *ad hoc* groups and problem of distribution information.

Art. 11 TEU clearly delimited that, in addition to citizens, civil society and representative associations participate in creating EU policies. Moreover, open decision-making requires implicitly an opening up of European institutions, which in turn implies greater participation of citizens in decision-making, while at the same time reinforcing the democratic principle²⁹ and reducing the democratic deficit.³⁰

As a matter of fact, the institutions of the EU are obliged in the light of the principle of openness to distribute information and resources to participants in the policy-making process equally.³¹

²⁶ Case T-432/05 EMC Development AB v Commission [2010] ECR II-01629, par. 100.

²⁷ Case T-432/05 EMC Development AB v Commission [2010] ECR II-01629, par. 104.

²⁸ Case T-432/05 EMC Development AB v Commission [2010] ECR II-01629, par. 81.

²⁹ Macho, G., *Article 11 (Participatory Democracy)* in: Blanke, H-J.; Mangiameli, S. (eds.), *The Treaty on European Union (TEU) A Commentary*, Springer, Verlag Berlin Heidelberg, 2013, p. 452.

³⁰ For the problem of democratic deficit see: Mangiameli, S., *Article 2. (The Homogeneity Clause)* in: Blanke, H-J.; Mangiameli, S. (eds.), *The Treaty on European Union (TEU) A Commentary*, Springer, Verlag Berlin Heidelberg 2013, pp. 123-124; Also Ramirez, P., *Article 10 (Representative Democracy)* in: Blanke, H-J.; Mangiameli, S. (eds.), *The Treaty on European Union (TEU) A Commentary*, Springer, Verlag Berlin Heidelberg 2013, pp. 433-434.

³¹ Cuesta Lopez, V., *The Lisbon Treaty's provisions on democratic principles: A legal framework for participatory democracy*, *European Public Law*, Vol. 16, No. 1, 2010, pp. 130-132.; See also: Macho, *op. cit.*, note 29, p. 453.

However, the possibilities of challenging breaches of the EU law by the EU institutions or bodies still have being remained particularly limited because EU law still fails to provide its citizens with access to information.

This was precisely important in the decision of the CJEU in case *Stichting Natuur en Milieu and Pesticide Action Network Europe v Council of the EU and EC*.³² The Foundation *Stichting Natuur en Milieu*, whose object is protection of the environment, and the Foundation *Pesticide Action Network Europe*, which campaigns against the use of chemical pesticides requested EC to carry out an internal review of Regulation No 149/2008 claiming that Article 10(1) of Regulation No 1367/2006 is unlawful, in so far as it limits the concept of ‘acts’ in Article 9(3) of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies (Aarhus Convention)³³ to “administrative acts”, defined in Article 2(1)(g) of Regulation No 1367/2006 as “measures” of individual scope.

The General Court found that Article 9(3) of the Aarhus Convention cannot be construed as referring only to measures of individual scope³⁴ so, accordingly, Court rejected the Council’s argument that limiting “administrative acts” to measures of individual scope is justified in the light of the conditions laid down in Article 230 EC.³⁵

Consequently, the General Court annulled the decisions of the Commission of 1 July 2008 rejecting as inadmissible the requests made by *Stichting Natuur en Milieu* and *Pesticide Action Network Europe* for review by the Commission of Commission Regulation (EC) No 149/2008 of 29 January 2008 amending Regulation (EC) No 396/2005 of the European Parliament and of the Council.

But, Court of Justice sets aside the judgment of the General Court and dismisses the application for annulment lodged by *Stichting Natuur en Milieu* and *Pesticide Action Network Europe* before the General Court of the European Union³⁶ fined that Article 9(3) of the Aarhus Convention lacks the clarity and precision required for that provision to be properly relied on before the EU judicature for the purposes of assessing the legality of Article 10(1) of Regulation No 1367/2006. Court of

³² Joined Cases C-404/12 P i C-495/12 P *Stichting Natuur en Milieu and Pesticide Action Network Europe v Council of the EU and EC* [2012] ECJ II.

³³ Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies, [2005] OJ L 264.

³⁴ Case T-338/08 P *Stichting Natuur en Milieu and Pesticide Action Network Europe v European Commission* [2012] ECLI:EU:T:2012:300, par. 79.

³⁵ *Ibid*, note 34, par. 82.

³⁶ *Supra*, note 32.

Justice considered that Art. 9(3) of the Aarhus Convention “does not contain any unconditional and sufficiently precise obligation capable of directly regulating the legal position of individuals and therefore does not meet those conditions” so only members of the public who “meet the criteria, if any, laid down in ... national law” are entitled to exercise the rights provided for in Article 9(3).³⁷

Besides, there is skepticism about the content of the term representative associations, since the concept lends itself to a diverse range of interpretations.

Nevertheless, lobbying is a legitimized and accepted activity in European democracy, and the openness and transparency of the process established by the Art. 11(2) of the TEU is an important step towards controlling these associations and avoiding opacity.³⁸

Furthermore, this participation and influence on EU bodies needs to be appropriate. In order to clearly regulate relations and contacts with representatives of EU institutions who participate in decision-making, the EU institutions have their own Codes of Conduct.

In accordance with Art. 11 of the TEU, the Code of Conduct for Members of the European Parliament Regarding Integrity and Transparency, annexed to the 2024 Rules of Procedure of the European Parliament, includes the concept of lobbying and regulates some of its effects on the members of the European Parliament (Art. 2 and 9 Code of Conduct).³⁹ Thus, in exercising their duties, members of the European Parliament, according to Art. 2 of their Code of Conduct, should not engage in paid-lobbying activities directly linked to the EU decision-making process. In addition, former members of the European Parliament who engage in professional lobbying or representational activities directly linked to the EU decision-making process should inform the European Parliament thereof and may not, throughout the period in which they engage in those activities, benefit from the facilities granted to former members under the rules laid down by the Bureau to that effect.⁴⁰

³⁷ *Supra*, note 36.

³⁸ Macho, *op. cit.*, note 29, p. 457.

³⁹ Rules of Procedure of the European Parliament, available at: [https://www.europarl.europa.eu/doceo/document/RULES-10-2024-07-16-TOC_EN.html], Accessed 24 March 2025.

⁴⁰ Bureau Decision of 17 April 2023 on former Members of the European Parliament. For the decision, see: [https://www.europarl.europa.eu/portal/en/search?planet=_all&searchQuery=Bureau+Decision+of+17+April+2023+on+former+Members+of+the+European+Parliament], Accessed 18 March 2025.

It is important to point out that the EC first published the Green Paper of May 3, 2006,⁴¹ and then later the Communication from the Commission – Follow-up to the Green Paper „European Transparency Initiative” of March 21, 2007,⁴² which sought to establish a framework for professional ethics in the EU institutions and a structured framework for the activities of interest lobbyists.

The EC has clearly stated that lobbying is a legitimate part of the democratic system, but influence should not be exerted on the European institutions through improper lobbying.⁴³ Therefore, for lobbying to be proper, the EC expects lobbyists to act according to the General principles and minimum standards for the consultation of interested parties (General principles).⁴⁴ The General principles might be visible in the interests that lobbyists represent and in how inclusive that representation is.⁴⁵

Like the European Parliament, the EC adopted a Code of Conduct for EC officials.⁴⁶ Art. 6(4) of the Code of Conduct prohibits members of the EC from accepting any gift with a value of more than EUR 150, as well as hospitality, a decoration, prize, or honor awarded to them if it includes a sum of money or valuables. Pursuant to Art. 13(2) of the Code of Conduct the EC can, taking into account the opinion of the Independent Ethical Committee and on proposal of the President, express a reprimand and, where appropriate, make it public.⁴⁷

The EU Transparency Register provides visibility into who is lobbying the EC, the European Parliament, and the Council.⁴⁸

However, the question arises are these provisions of the Code of Conduct for EC officials and the General principles sufficient to prevent improper behavior by EC

⁴¹ *Supra*, note 15.

⁴² Communication from the Commission - Follow-up to the Green Paper „European Transparency Initiative” of the 21 March 2007, available at: [<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52007DC0127>], Accessed 17 March 2025.

⁴³ *Ibid.*, note 42.

⁴⁴ Communication from the Commission - Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission, available at: [<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52002DC0704>], Accessed 17 March 2025.

⁴⁵ Guéguen, *op. cit.*, note 7, p. 17.

⁴⁶ Commission Decision on a Code of Conduct for the Members of the European Commission [2018] OJ C65/06.

⁴⁷ *Ibid.*, note 46.

⁴⁸ For details on the Transparency Register, see *infra* 6. EUROPEAN LOBBYING SUPERVISION TOOLS.

officials. Actually, there are no serious sanctions for lobbyists and for EC officials for unappropriated behavior in process of lobbying.

Even before the Code of Conduct for EC officials Dalli's case has been shown weakness unclear provisions EU law in the context of lobbying. Although OLAF's investigation regarding the undue influence of tobacco industry in Dalli case concluded that Dalli "was aware of this bribery attempt and did nothing to block, stop or report these events",⁴⁹ there was no sanction EU law against EU Health Commissioner John Dalli. Also, the Maltese Police Commissioner in 2013 announced that "Malta does not have enough evidence to start criminal proceedings against former EU Health Commissioner John Dalli in a bribery case".⁵⁰ At the end, Dalli action for compensation for damage allegedly suffered by the applicant as a result of the illegal conduct of the Commission and the European Anti-Fraud Office (OLAF) has been dismissed.⁵¹

Dalli's appeal to CJEU has been dismissed because it was not established that unlawful conduct may be attributed to an institution of the EU.⁵²

Apart from Dalli's resignation, there are no clear determinations by the competent authority regarding the EC official's responsibility or sanctions. In fact, without clear evidence, the legality of Dalli's tenure was publicly questioned, but even he did not prove in the court proceedings that there was illegality in the work of the EU institutions. At the end, nothing was clearly established. All that remained was doubt. Since the Code of Conduct for EC officials and the General principles does not provide clear rules of conduct and seriously sanctions for violation, we doubt that it will result in the behavior of EC officials.

The fact that the EU institutions permit the participation of interest groups in the creation of EU policies, and then in the adoption of regulations through the accessibility of the EU institutions in the regulatory process shows that the regulatory process in the EU has been transformed significantly.

Now, alongside EU bodies, interest groups also have a place in the legislative process.

⁴⁹ For details see:

[<https://www.tobaccotactics.org/article/tpd-dalligate/>], Accessed 1 June 2025.

⁵⁰ For details see:

[<https://www.tobaccotactics.org/article/tpd-dalligate/>], Accessed 1 June 2025.

⁵¹ Case T-399/17 John Dalli v European Commission [2019] ECJ ECLI:EU:T:2019:384.

⁵² Case C-615/19-P John Dalli v European Commission [2021] ECJ ECLI:EU:C:2021:133, par. 240.

However, lobbying remains a phenomenon with an unclear scope. In this regard, Chambers interestingly summarizes the possible ways in which the EU could improve the existing legal regulation of lobbying. Above all, he emphasizes the need to ensure the transparency of lobbying.⁵³

5. METHODS OF LOBBYING IN THE EU

Lobbyists' access to the EU institutions and officials is regulated by law. In this process, lobbyists act on behalf of their organization, use the knowledge and political influence accrued in the organization, and develop organization-specific identifications and loyalties.⁵⁴ When they lobby, it must be clear to the general public what contribution they are making to the European institutions. It also must be clear whom they represent, what their mission is, and how they are financed.

Although the EU has taken a number of steps to prevent and detect undue influence, including in the case of lobbying, this system of protection seems insufficient. It should be noted that Brussels, as the place where EU power is concentrated, is also the place with the second highest concentration of lobbyists in the world after Washington DC.⁵⁵ The momentum of lobbying in the EU institutions is best shown by the data of the Registry of Transparency, where as many as 13,512 entities associated with lobbying activities in the EU were recorded.⁵⁶ Moreover, the fact that registration is not mandatory, although in that case, lobbyists would not be considered to have access to EU institutions and officials, opens up the possibility of a larger number of lobbyists. Such a substantial number of registered lobbyists shows that many interest groups have a stake in shaping EU policy.

5.1. LOBBYING STRATEGIES

Lobbying in the EU does not only involve the relationship of interest groups with the European institutions, but also with various groups from the same sector, but with different interests.⁵⁷ Therefore, in such a conflict-based and competitive atmosphere, lobbying strategies are of utmost importance.

⁵³ Chambers, *op. cit.*, note 13, p. 16.

⁵⁴ Lahusen, Ch., *European lobbying: An occupational field between professionalism and activism*, Routledge, London, 2023, p. 14.

⁵⁵ Chambers, *op. cit.*, note 13, p. 5.

⁵⁶ Data as of 18 February 2025. See: [https://transparency-register.europa.eu/find-out-more/statistics_eng, Accessed 17 March 2025].

⁵⁷ Vidačák, *op. cit.*, note 18, p. 179.

Lobbying strategies can be divided into four groups. It is possible to resort to a negative lobbying strategy, which entails direct opposition to EC proposals or the introduction of conflicting proposals. Furthermore, lobbying can be carried out using a reactive strategy, by taking a tactical approach without initiative. A proactive strategy that involves consistent and constructive interaction with the EC in the spirit of partnership is also possible. Some authors also emphasize a defensive strategy. In principle, this strategy requires opposition to any evolution of regulations and legal frameworks in order to maintain the required privileges. It leads to a negative outcome in the long run and is used in specific situations, most often when someone wants to buy extra time. The success of lobbying is influenced by a number of circumstances, such as the availability of information,⁵⁸ timing, personal contacts, the creation of alliances, and participation in the work of EC working groups.⁵⁹

5.2. LOBBYING TECHNIQUES

In essence, lobbying can be direct or indirect. In the case of direct lobbying, interest groups, represented by lobbyists, participate in the negotiation process with a decision-making person of significance for the interest group.⁶⁰ This lobbying technique is also acceptable to the EU institutions.

On the other hand, indirect lobbying, also called “grassroots”, uses intermediaries in the process of creating influence, whether they are citizens, voters, coalitions, opinion makers, media, or associations, for the purpose of activating a larger collective that can exert stronger pressure on decision-makers.⁶¹

According to Art. 3(2) of the Interinstitutional Agreements of 20 May 2021 between the European Parliament, the Council of the EU and the EC on a mandatory transparency register (Interinstitutional Agreements), lobbying includes particularly organizing or participating in meetings, conferences or events, as well as engaging in any similar contacts with EU institutions; contributing to or participating in consultations, hearings or other similar initiatives; organizing com-

⁵⁸ Laboutková, Šimral, Vymětal point out that lobbyists have access to information that others do not have, and that information is the basic commodity traded in the political markets and seems to be the cornerstone of many issues, including the issue of decision-making and “fair” lobbying. For more details see Laboutková, Sárka, Šimral, Vít, Vymětal, Petr, *Transparent lobbying and democracy*, Palgrave Macmillan, Cham, 2020, p. 131.

⁵⁹ Vidačák, *op. cit.*, note 18, p. 179.

⁶⁰ The Princeton Review, available at: [<https://www.princetonreview.com/careers/88/lobbyist>], Assessed 17 March 2025.

⁶¹ Vlahović, *et. al.*, *op. cit.*, note 16, p. 174.

munication campaigns, platforms, networks and grassroots initiatives; preparing or commissioning policy and position papers, amendments, opinion polls and surveys, open letters and other communication or information material, and commissioning and carrying out research.⁶²

5.3. ANALYTICAL FRAMEWORK FOR ASSESSING SUCCESS IN THE LOBBYING PROCESS

Three elements enable the creation of an analytical framework for assessing the success of an interest group in changing the position of decision-makers on an issue. The first element is the degree of conflict between private actors and decision-makers, i.e. how hard the interest group has to fight for its goal against opposing interests. The second element concerns the structural conditions of influence, while the final element covers the type of influence.⁶³

In the context of the degree of conflict between private actors and decision-makers, it can be concluded that whether or not an interest group is part of a strong coalition in the lobbying process will affect the likelihood of changing the position of the authorized decision-maker.

The EC has an important role in drawing up the agenda. Because of this, interest groups can lobby the EC already at this stage.

According to some interpretations, the success of interest groups in lobbying the EC depends on their ability to negotiate with it regarding policy-relevant information, their ability to secure the support of citizens as voters, and their ability to provide the EC with support as powerful economic actors in the form of business investments and job creation.⁶⁴

Since the EC does not have sufficient expertise to make decisions in all areas of the economic and technological sector, it employs experts, who in turn gain access to the decision-making process. Therefore, it is a mutually beneficial relationship in which the EC obtains resources like expert knowledge⁶⁵ and policy-relevant information that is crucial for its functioning. This also raises the question of the feasibility of the idea of participatory democracy from Art. 11 of the TEU.

⁶² Interinstitutional Agreements of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register, 2021OJ L 207/1.

⁶³ Michalowitz, *op. cit.*, note 20, p. 134.

⁶⁴ Klüver, H., *Lobbying as a collective enterprise: winners and losers of policy formulation in the European Union*, Journal of European Public Policy, 2013, p. 61.

⁶⁵ Bouwen, *op. cit.*, note 17, p. 22.

Citizens, whether as individuals or as part of civil society organizations, cannot without significant difficulty collect precise technical data of high quality. On the other hand, this data is much easier to collect for representative organizations.

External experts provide advice to the EC, which is not binding, but the EC can take it into account in creating its decision. The EC's reliance on this advice is practically unavoidable, bearing in mind that the EC employs a relatively small number of people.⁶⁶

Although the EC staff is supplemented by seconded national experts and temporary staff,⁶⁷ there is a need for specialized knowledge that the EC can only gather from experts. External experts participate in formulating the EC's decisions through expert groups or external consultants. These groups can be established by the EC through decisions (formal groups) or set up by a particular EC department that has obtained the agreement of the Commissioner and Vice-President responsible and of the Secretariat-General (informal groups), taking into account the anticipated political impact of the work of the group and the relevant specific circumstances. Either expert group may be set up for a fixed or unlimited duration.⁶⁸

In addition, the EC can also draw on the necessary expert information in the form of studies. The members of the expert groups can be individuals appointed in their personal capacity, acting independently and in the public interest (so-called type A members). They can also be individuals appointed to represent a policy orientation common to different stakeholder organizations (type B members) if they are registered in the Transparency Register, various organizations including companies, associations, non-governmental organizations, trade unions, universities, research institutes, law firms, and consultancies (type C members) if they are registered in the Transparency Register, but also different member States' authorities at the national, regional or local level (type D members). Furthermore, the members sometimes come from other public entities, such as third countries' authorities, including candidate countries' authorities, EU bodies, offices or agencies, and international organizations (type E members).⁶⁹ Experts can be engaged via public calls for applications, except for type D and type E members, and for representa-

⁶⁶ According to the Statistical Bulletin for Commission on 01/10/2024 there were 32758 employees of the EC. See [\[https://commission.europa.eu/about/organisation/commission-staff_en\]](https://commission.europa.eu/about/organisation/commission-staff_en), Accessed, 23 March 2025.

⁶⁷ Wallace, H., *et.al.*, *Policy-making in the European Union*, Oxford University Press, Oxford, 2020, p. 70.

⁶⁸ Art. 4 Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups Brussels, 2016 C(2016) 3301 final; ANNEXES to the Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert groups, Brussels, 2016 C(2016) 3301 final ANNEXES 1 to 8.

⁶⁹ *Ibid.*, note 68.

tive bodies established by EU legislation for advice in specific areas.⁷⁰ The selection of expert group members should ensure, as far as possible, a high level of expertise, a geographical balance, as well as a balanced representation of relevant know-how and areas of interest, taking into account the specific tasks of the expert group, the type of expertise required and accordingly the requirements expressed in the calls for applications.⁷¹ The EC strives to eliminate any potential conflict of interest requiring individual experts to submit a declaration of interests.⁷²

However, there is considerable skepticism concerning the quality of the experts and their expertise. Although challenging the work of the experts is not something new, their participation in EU policy-making seems to have provoked a strong public reaction. In this way, the quality of expertise has become a topic within the context of theoretical understanding of the concept of expertise⁷³, giving rise to questions about the composition of the EC expert groups, as well as the knowledge of their members and skepticism about what their contribution to and interest in shaping public policies really constitute.

Hence, some authors point out that challenging the expertise of members of expert groups leads to them no longer being perceived as top-rank specialists because their expert knowledge is neither a prerequisite nor a widely shared property.⁷⁴

Consequently, the social impact of EU decisions has in some situations provoked political debate and public doubt about the expert basis of these decisions. As a result, there are many different views on the experts in the expert groups, from the perception that they are strategic tools used by policy-makers to justify political choices,⁷⁵ to the impression that the experts are prone to “corporate capture” by powerful industry groups.⁷⁶

⁷⁰ *Ibid.*, note 68.

⁷¹ *Ibid.*, note 68.

⁷² *Ibid.*, note 68.

⁷³ Different interpretations of expertise stem from different approaches to the concept. According to one understanding, expertness is not a specific quality that only a few exceptional individuals possess, but something in the eyes of a beholding audience, while according to another point of view, experts do possess special qualities and characteristics, independent of their expertise being recognized by others. See for details: Blom, T., *Conceptualising the Role of Expertise in EU Policy-Making* in: Abazi, V.; Adriaensen, J.; Christiansen, T. (eds.), *The Contestation of Expertise in the European Union* Palgrave Macmillan, Cham, 2021, pp. 24-27.

⁷⁴ Robert, C., *Who Are the European Experts? Profiles, Trajectories and Expert ‘Careers’ of the European Commission*, French Politics, Vol. 8, No. 3, 2010, p. 253.

⁷⁵ Radulova, E., *et. al*, *The European Commission’s Expert Groups: Adapting to the Contestation of Expertise* in: Abazi, V.; Adriaensen, J.; Christiansen, T. (eds.), *The Contestation of Expertise in the European Union* Palgrave Macmillan, Cham, 2021, p. 92.

⁷⁶ Radulova, *et. al*, *op. cit*, note 75, p. 96.

Indeed, the composition of the expert groups is noteworthy. According to some researchers, expert groups organized by the EC are dominated by representatives of member state governments, followed by the private sector, and only a third are representatives of the academic community.⁷⁷

This problem was also noticed by the European Parliament and the European Ombudsman. They have expressed their concerns about major deficiencies in the advisory structures of the EU executive, such as an inconsistent categorization of expert group members, an overrepresentation of corporate interests, and, notably, frequent instances of conflict of interest among individual experts appointed in their personal capacity (type A experts).⁷⁸

In this sense, ALTER-EU has also expressed concern that expert groups of the EC continue to be dominated by big business interests, meaning corporate lobbyists and the vested interests they represent play a big role in shaping laws and regulations.⁷⁹ For example, according to the ALTER EU research for 2013, in the Directorates-General Taxation and Customs Union (TAXUD), almost 80% of all stakeholders appointed in 2013 who do not represent governments actually represent corporate interests, with only 3% representing small- and medium-sized enterprises and 1% representing trade unions.⁸⁰

Finally, in 2016 the EC adopted the Decision establishing horizontal rules on the creation and operation of Commission expert groups (Horizontal Rules), and then in 2017 it established a link between the Register of Expert Groups and the Transparency Register. In accordance with the Horizontal Rules, each expert group is required to submit their agenda and other relevant documents on the relevant expert group website.

However, even after the adoption of these regulations, research conducted by *Radulova et al.* shows that in 2018⁸¹ the number of type A members in expert groups of the EC decreased even more, while the number of type D and E members increased. It seems that the problem of underrepresentation of type A members has not been solved. There is still a significantly smaller number of experts who act independently and in the public interest.

⁷⁷ Gornitzka, A.; Sverdrup, U., Who Consults? The Configuration of Expert Groups in the European Union, *West European Politics*, Vol 31, No. 4, 2008, pp. 725–750.

⁷⁸ Radulova, *et. al.*, *op. cit.*, note 75, p. 100.

⁷⁹ See ALTER-EU, A Year of Broken Promises: Big business still put in charge of EU Expert Groups, despite commitment to reform, pp. 3, available at: [www.alter-eu.org/sites/default/files/documents/Broken_Promises_web.pdf], Accessed 24 March 2025.

⁸⁰ *Ibid.*, note 79.

⁸¹ Radulova, *et. al.*, *op. cit.*, note 75, p. 105.

In fact, as noted by Mezt, given their broad base of participants and despite their label as actors tasked with delivering (neutral) advice, from the perspective of the participating advisors, expert groups can be seen as lobbying forums with privileged access to decision-makers.⁸² On the other hand, the EC can monitor the represented lobby groups and influence the experts, helping to legitimize its own decision-making.⁸³

The structural conditions of influence depend on the political system. Thus, for example, the EC functions in a political system based on the principle of checks and balances, including in the decision-making process. However, it could be possible for another European institution to impede the effects of an interest group's actions before the EC in the decision-making process. This circumstance weakens the position of interest groups in this lobbying process.⁸⁴

Finally, it is also important to point out that the extent of the fundamental political interest of a European institution is affected by the actions of an interest group. Therefore, if an interest group intended to effect a change in an important issue regarding EU policies, this could potentially lead to a more pronounced conflict with the decision-maker.⁸⁵

However, it should be noted that the number of EU institutions that have been identified as potential centers of influence on decision-making has changed over time. Among them, three are significant for lobbyists: the EC, the Council of Ministers, and the European Parliament.

It is worth noting that the European Parliament, for example, has become interesting for lobbyists through its own transformation over the past decades, which shaped and increased the powers granted by the TEU of 1992 and the Amsterdam Treaty of 1997, and due to the introduction of co-decision with the Council of Ministers including its influence on EU policy-making.

When it comes to adopting regulations, the roles of the European institutions participating in the decision-making process are intertwined. The EC has the legislative initiative and proposes a draft law. In the next stage of the process, the issue is discussed by the European Parliament. Finally, the European Parliament, in cooperation with the Council of the EU, makes a decision on the issue. Therefore,

⁸² Mezt, J., *Expert groups in the European Union: A sui generis phenomenon?* Policy and Society, Vol. 32, No. 3, 2013, p. 269.

⁸³ Van Schendelen, R., *Machiavelli in Brussels: The Art of Lobbying the EU*, Amsterdam University Press, Amsterdam, 2002, p. 68.

⁸⁴ Michalowitz, *op. cit.*, note 20, pp. 135-136.

⁸⁵ Michalowitz, *op. cit.*, note 20, p. 136.

the role of the European Parliament and its representatives is significant when the decision is to be applied in the EU member states. In this phase, the role of lobbyists gains further importance.

According to some estimates, due to the increasing role of the European Parliament through its authority to participate in the law-making process, 70,000 individuals contact the European Parliament every year, and lobbyists spend around 20% of all allocated lobbying funds on lobbying in the European Parliament (around 25% is spent in the EC) in attempts to influence legislative committees and individual members of the European Parliament.⁸⁶

Moreover, lobbying costs in the European Parliament also include the funds necessary to ensure the improvement of the reputation, and the creation of an individual profile for a Member of the European Parliament, both in their country and within the EU, although such activities lead to tension between the legislative branch as an effective branch of government and as a “public arena for broader political debate.”⁸⁷

The Council of Ministers is the institution least directly accessible to lobbyists due to its complexity and the associated higher costs of lobbying. In essence, lobbyists try to carry out their activities in three ways: through national contacts in the government, through national representatives in working groups, and through the Standing Committee of Representatives (COREPER), which includes representatives of the governments of EU member states. COREPER plays an important role in shaping the final measures of the Council of Ministers through various working groups that deal with draft proposals for legislative acts. Information about these acts can be important to lobbyists.⁸⁸

The various ways in which lobbying takes place depend on specific political and cultural elements as well as the way the government is modeled.⁸⁹ In fact, the nature of lobbying derives from the nature of relations between people in a society. Logically, if two or more actors join together, especially if they constitute large groups or states, then they will want to influence others in order to secure economic, political, and other benefits for themselves, members of their group, or society as a whole.⁹⁰

⁸⁶ Coen., D.; Richardson, J., *Learning to Lobby the European Union: 20 Years of Change*, in: Coen., D.; Richardson, J. (eds.), *Lobbying the European Union: Institutions, Actors and Issues*, Oxford University Press, Oxford, 2009, p. 9.

⁸⁷ Coen, D.; Richardson, J., *loc. cit.*, note 86, p. 9.

⁸⁸ Vidačák, *op. cit.*, note 17, p. 183.

⁸⁹ Badie, *et. al.*, *op. cit.*, note 3, pp. 1459-1561.

⁹⁰ Badie, *et. al.*, *op. cit.*, note 3, p. 1459.

6. EUROPEAN LOBBYING SUPERVISION TOOLS

Although EU legislation seeks to clearly prescribe how permissible forms of meetings and discussions between EU bodies or officials on the one hand and lobbies on the other can take place, abuses are possible. Nevertheless, the EU has tools for monitoring whether lobbying complies with its laws. Legal regulation of lobbying supervision in the EU seeks to achieve a double effect. On the one hand, efforts are made to prevent abuses that may arise from permitted lobbying modalities, and on the other, if they do occur, legal norms have established a system of sanctioning unauthorized conduct.

The Transparency Register and the Anti-Corruption Report were established with the preventive purpose of monitoring lobbying.⁹¹

In this context, the Anti-Corruption Report⁹² was conceived as a tool of the EC dedicated to driving the fight against corruption. Although there were no further reports after the 2014 report, it was the first EU action to cover all EU member states simultaneously.

The current Transparency Register was established by the EC, the European Parliament, and the Council of the EU in 2021. Thereby, these institutions try to coordinate their approach through the adoption of a joint framework for their cooperation, in order to promote interest representation that is transparent and ethical. The legal basis for this cooperation is the Interinstitutional Agreement.⁹³

The Transparency Register prescribes the obligation to report certain data (head office, purpose, mission and interests, membership, clients, and an assessment of financial resources including EU funds received) and to abide by the Code of Conduct annexed to the Interinstitutional Agreements. According to Art. 3(1) of this Code of Conduct, after receipt of an admissible complaint, the Secretariat of the Transparency Register shall open an investigation and notify the complainant and the registrant concerned.⁹⁴ But, if the Secretariat concludes that a registrant is ineligible, it shall remove the registration concerned from the register, according to Art. 7(2) of the Code of Conduct.⁹⁵ Where the Secretariat removes a registration under point 7(2) of the Code of Conduct due to it having established that its

⁹¹ Chambers, *op. cit.*, note 13, pp. 7-8.

⁹² Anti-Corruption Report was established by EC Decision of 6 June 2011. See: Commission Decision of 6 June 2011 Establishing an EU Anti-corruption reporting mechanism for periodic assessment ("EU Anti-corruption Report") 2011 C(2011) 3673 final.

⁹³ *Supra*, note 92.

⁹⁴ *Supra*, note 92.

⁹⁵ *Supra*, note 92.

ineligibility relates to non-observance, it may also prohibit the interest representative concerned from registering again for a period of between 20 working days and two years and publish the measure taken on the website of the register.⁹⁶

However, while registration in the Transparency Register is necessary to access the European Parliament, it is not mandatory for lobbyists who operate outside the physical premises of the European Parliament. As a result, there are still unregulated opportunities for lobbying at conferences organized by political groups or the media.

Until recently, regulations mandated transparency in lobbyists' interactions with EU officials, but there was no indication of the content of their conversations.

Regarding the transparency of the EC approach, two recent decisions of the Commission on this matter are significant.

Decision (EU) 2024/3081 of 4 December 2024 provides for transparency measures regarding meetings held between EC officials and interest representatives; minutes are drawn up of these meetings, which, in addition to the names of EC officials and representative associations, also contain the subject of the meeting, the positions expressed and the conclusions (if applicable).⁹⁷

A similar solution regarding the transparency of meetings is contained in Decision (EU) 2024/3082 of 4 December 2024 on transparency measures concerning meetings held between EC staff holding management functions and interest representatives.⁹⁸

These decisions made it obligatory for all EC officials and staff holding management functions to publish the planned lobbying meetings and their arguments and conclusions in the form of minutes, so as to improve transparency. This obligation to transparently publish information about lobbying meetings has so far only applied to European commissioners, their cabinets, and directors-general, which is a significantly smaller group of people. These tools contribute to lobbying control, but there is still doubt about how completely is the undue influence of interest groups on EC institutions supervised.

⁹⁶ *Supra*, note 92.

⁹⁷ Commission Decision (EU) 2024/3081 of 4 December 2024 on transparency measures concerning meetings held between Members of the Commission and interest representatives, and repealing Decision 2014/839/EU, Euratom [2024] OJ L 2024/3081.

⁹⁸ Decision (EU) 2024/3082 of 4 December 2024 on transparency measures concerning meetings held between Commission staff holding management functions and interest representatives, and repealing Decision 2014/838/EU Euratom [2024] OJ L 2024/3082.

As a tool for preventing corruption in lobbying, the EU has included in its legal system a ban on employment in the lobbying sector for a prescribed period after the end of an official mandate. For example, Chambers points out the particularly significant introduction of the legal standard of the “revolving door”⁹⁹ into the EU legislation, with the aim of preventing the rapid transition of EU officials from certain important positions into the lobbying sector.

The so-called “revolving door” practice of employing former EU officials who have insider knowledge of how the EU institution works remains a problem regardless of the cooling off period.

In addition to well-known names such as *Jose Manuel Barroso* and *Neelie Kroes*, there are a number of lower-ranking officials who use the “revolving door”, as in the case of a former DG Competition official’s involvement in the Bayer-Monsanto merger and the BASF/Bayer divestment deal, his move to the position of Vice-President of this consultancy via a revolving door, and his return to DG Competition two years later.¹⁰⁰

According to the number of employees in the institutions of the EU who use “revolving door”,¹⁰¹ there is a cause for a concern in regards to conflicts of interest between protecting citizens’ interests and those of the companies. The information that former employees can provide to the new employers could be crucial for forming lobbying approach to the EU institutions in decision-making process regardless of whether of information about person who has a decisive role in the formation of a public policy or right moment for lobbying.

Chambers specifically points out that the availability of information via online databases could also have a positive effect on the regulation of lobbying. The same can be achieved through a clear definition of who exactly can be a lobbyist, and through an extension of the “cooling off” period after the termination of duties of officials at EU institutions.¹⁰²

⁹⁹ Chambers, *op. cit.*, note 13, pp. 8-9.

¹⁰⁰ For details see:
[<https://corporateeurope.org/en/2024/02/bayer-and-monsanto-merger-what-role-did-revolving-doors-play>], Accessed 1 June 2025.

¹⁰¹ For example, over 70% of Google and Meta’s lobbyists have formerly worked for EU institution or under state level. For details see:
[<https://corporateeurope.org/en/2022/09/revolving-door-public-officials-big-tech-lobbyists>], Accessed 1 June 2025.

¹⁰² *Supra*, note 13, pp. 17-19.

In addition to these preventive measures, there is a special body tasked with detecting undue influence related to lobbying. Although the intention at the time of its establishment was not only to protect against corruption as a result of lobbying, this segment of activity contributed to the establishment of another independent body of the EC – the European Anti-Fraud Office (OLAF).¹⁰³ OLAF conducts external investigations into cases of fraud, corruption, and other illegal activities affecting the EU budget, as well as internal investigations in the EU institutions, bodies, offices, and agencies in order to detect serious misconduct by EU officials which may lead to disciplinary or criminal proceedings.¹⁰⁴ Since the European Public Prosecutor's Office (EPPO) started operations on June 1, 2021, OLAF has been cooperating with the EPPO by providing information, analysis, expertise, and operational support. Although OLAF was established as an independent body of the EC, the financial resources for its work depend on the decisions of the EC.¹⁰⁵ For example, OLAF's budget for 2023 totaled 63.5 million euros¹⁰⁶. In essence, the budget depends on the scope of investigations that were concluded in that particular year. Additionally, OLAF has no powers to prosecute or discipline, only to make recommendations.

In addition to the EU institutions and the tools at their disposal, civil society also monitors corruption as a result of lobbying in the EU institutions and member states.

In the context of ensuring transparency, it should be noted that organizations such as Corporate Europe Observatory (CEO) and Transparency International operate in the EU to detect and act against inappropriate access and influence of corporations and their lobbyists in the EU institutions. Therefore, they also contribute to monitoring the activities and effects of lobbying in the EU institutions. The Alli-

¹⁰³ OLAF was established by Decision of the Commission of the European Communities of 28 April 1999 establishing the European Anti-Fraud Office (OLAF) notified under document number SEC (1999) 802, 1999 OJ L 136, p. 20. In December 2020 was adopted the revised Regulation 883/2013 (the so-called OLAF Regulation). Revised Regulation 883/2013 available at <http://data.europa.eu/eli/reg/2013/883/2021-01-17>, Accessed 31 March 2025.

¹⁰⁴ Regulation (EU, EURATOM) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999, 2013 OJ L 248/1.

¹⁰⁵ Thus, Art. 18 of Regulation No. 883/2013 determines that the total amount of budgetary resources for the work of OLAF, as well as the establishment plan, depend on the decision of the EC. For Regulation (EU, EURATOM) No 883/2013 see *supra*, note 85.

¹⁰⁶ Available at: [\[https://anti-fraud.ec.europa.eu/investigations/olaf-figures_en\]](https://anti-fraud.ec.europa.eu/investigations/olaf-figures_en), Accessed 21 March 2025.

ance for Transparency and Ethical Regulation of Lobbying (ALTER-EU) had also been working with the same purpose until recently.¹⁰⁷

Efforts to ensure lobbying transparency are aimed at preventing the negative effects of lobbying, which manifest themselves as undue influence or corruption. Independently of the EU, European countries rank favorably in terms of corruption compared to other countries in the world. For example, according to Transparency International, eight of the ten least corrupt countries in the world are from Europe (Denmark, Finland, Norway, Sweden, Switzerland, the Netherlands, Germany and Luxembourg). However, Croatia is only in 57th place.¹⁰⁸

7. CORRUPTION AS A CONSEQUENCE OF UNDUE INFLUENCE

In the General Anti-Corruption Report, the EC defined corruption as any “abuse of power for private gain”.¹⁰⁹ So, how does lobbying turn into corruption? Lobbying within the meaning of Art. 11 TEU is participatory democracy in practice. Contrary to this purpose of lobbying is the realization of private gain of stakeholders in the process of participatory democracy through the abuse of power.

In fact, according to the Eurobarometer, the perception of corruption in general, both at the European level and at the level of its member states, is extremely high even though there is no proof of widespread corruption. For example, data for 2023 shows that almost three-quarters of Europeans (70%) believe that corruption is very or quite widespread, and the perception of corruption has even increased compared to 2022 (by 2%), with 45% of Europeans assessing that corruption has increased even more compared to the previous three years, although the vast majority of Europeans do not personally know anyone who has given or received a bribe (88%). In the case of Croatia, Eurobarometer data for 2023 shows that the Croatian public perceives corruption in their country as even more widespread (96%), with an increase compared to 2022 (by 2%), and the perception of an increase in corruption compared to the previous three years (69%) is higher

¹⁰⁷ Information on the discontinuation of ALTER-EU available at: [<https://www.alter-eu.org/>] Accessed, 21 March 2024.

¹⁰⁸ Available at Transparency International, the Global Corruption Barometer, [https://www.transparency.org/en/cpi/2023?gad_source=1&gclid=EAIaIQobChMIpcGSovGFhQM-VDGtBAh0ctQQBEAAYASAAEgKFq_D_BwE], Accessed 21 March 2025.

¹⁰⁹ Peirone, F., *Another Brick in the Building of the EU Rule of Law: Anti-Corruption*, The Italian Review of International and Comparative Law, Vol. 3, No. 2, 2023, p. 521.

than the European average, although three-quarters of respondents do not personally know anyone who has given or received a bribe (74%).¹¹⁰

Although the perception of corruption at the European level and the Croatian level is exceptionally high according to Eurobarometer data, the results of the same 2023 survey show that very few people have been in a situation where they have been asked for additional money, service, or gift for the provision of a service to which they are entitled. For example, at the European level only 1%¹¹¹ of people have experienced situations of this kind. At the Croatian level, the percentage of people who have been exposed to such situations is also exceedingly low; it turns out, however, that Croats have had experiences related to corruption in almost all areas of social life – in the area of police and customs (2%), tax institutions (1%), courts (1%), the work of politicians at the national, regional or local level (1%), public procurement procedures (1%) or obtaining a building permit (2%).¹¹²

However, Eurobarometer data does not contain indicators that could be used to conclude how widespread corruption is as a result of the undue influence of interest groups on decision-makers in the EU. The majority of EU citizens (78%, and in Croatia 85%) believe that too close links between business and politics lead to corruption.¹¹³ Various affairs, such as Qatargate in 2022, and before it Dalligate in 2012¹¹⁴ or Cash for Amendments in 2011, contribute to this strong impression of the presence of corruption.

According to recent events, it seems that the Transparency Register Secretariat was not successful in conducting investigations. The European Ombudsman's Decision recommends that future investigations be conducted in a thorough and meaningful manner.¹¹⁵ The Court of Auditors also concluded that the EU Trans-

¹¹⁰ Special Eurobarometer 534 Citizens' attitudes towards corruption in the EU in 2023, Annexes, Fieldwork: April – May 2023, QA5, QA6, QA8: [https://europa.eu/eurobarometer/surveys/detail/2968], Accessed 16 March 2025.

¹¹¹ *Ibid.*, note 110.

¹¹² *Ibid.*, note 110.

¹¹³ Special Eurobarometer 534 Citizens' attitudes towards corruption in the EU in 2023, Annexes, Fieldwork: April – May 2023, QA15 available at: [https://europa.eu/eurobarometer/surveys/detail/2968], Accessed 26 March 2025.

¹¹⁴ See: Transparency of lobbying at EU level, Briefing, December 2015, European Parliament available at: [chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.europarl.europa.eu/RegData/etudes/BRIE/2015/572803/EPRS_BRI(2015)572803_EN.pdf], Accessed 29 March 2025.

¹¹⁵ Decision European Ombudsman on how the Secretariat of the EU Transparency Register acted on complaints related to information provided by two entities related to food industry lobbying, para. 25, available at: [https://www.ombudsman.europa.eu/en/decision/en/181765], Accessed 25 March 2025.

parency Register provides useful but limited information on lobbying activities.¹¹⁶ Therefore, it appears that the EU legal framework governing lobbying does not provide sufficient preventive supervision over lobbying, nor the efficient tools to sanction undue influence. For the time being, it seems that this situation can only encourage interest groups to circumvent established lobbying rules. Thus, it remains to be seen whether the recently adopted EC Decisions (EU) 2024/3081 and 2024/3082 will have any significant effect.¹¹⁷

8. CONCLUSION

Considering that lobbying is a human activity that boils down to the skill of convincing others, specifically the decision-makers, it is difficult to imagine that such a phenomenon would not have found its role and place in European societies and countries, and consequently in the EU, even before it was regulated through EU legislation. Public recognition and acknowledgment of this phenomenon in the EU political and legal system came quite recently, only in the late 1980s.

However, owing to the creation of the common market and the strengthening of the role of the EU institutions, lobbying found modalities for its adaptation and expansion within the most important EU institutions through an increasing number of interest groups and lobbyists. Ultimately, such developments caused legal regulation of lobbying to become a form of communication between interest groups and EU institutions, but also a form of ensuring oversight through the transparency of these activities.

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