

LOBBY ACTIVITIES AND THEIR EVOLUTION IN THE EUROPEAN UNION CONTEXT

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Abstract: *Beginning with the 20th century, lobby activities started to be developed and today the influence of the lobbying is used by nearly every group that has an important place at the international level. In this paper we describe the evolution of the concept of lobby at the international level and how this activity can influence European decision-makers. We consider that every citizen has the right to know how public decisions are designed, which interests are behind the allocation of resources, in which manner are expenses organized at central level and which are the techniques of influence. In this paper we explain how lobby activities help to analyse and design the decisions that affect the general interest.*

Keywords: lobby; influence; decisions; partnership; EU lobby.

JEL Classification: D72.

INTRODUCTION

Different interest groups have had a profound impact in public decisions process from the beginning of the 20th century until now. This impact can be observed on the parties that are involved, respectively lobby groups, political makers, but also at the public opinion level that can be involved and criticize the dialogue between those groups. Their influence level and the manner they exert it represents a subject that has to be discussed, analysing the democratic legitimacy of The European Union and understanding better, the policy-making process at EU level.

Is very important to admit that the transparency that has been shown by the EU institutions, is a fundamental requirement of the reliability of this political and economic construction. It is the right of every citizen to know how decisions are made, which are the principal interests behind them and how resources from the tax payers are efficiently allocated. Every step on the political scene is the effect of different external or internal influences. Thus we can say that every state has its history in the lobby activities.

The first use of the term *lobbying* comes from a phrase of General Ulysses S. Grant, President of the United States in the late nineteenth century (1869-1877). After the fire that destroyed the first White House, the President, who lived in a hotel, complained that the people waiting for him downstairs in the hotel lobby are trying to influence his decisions.

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Lobbying is the work which consists of interventions designed to directly or indirectly influence the conception, implementation or interpretation of legislative measures, rules, regulations and, more generally, of all speeches or decisions of political decidents.

Starting from the idea that many lobbying activities in the European area does not fall within the legal space and runs behind closed *doors*, we believe that to measure the influence of interest groups in the decision making process of the European Union, presents a real challenge and also an important step to have more transparency at the EU of 28 level.

A good example to understand how interest groups can influence the decisions of European policymaking can be seen in the manner in which interest groups appropriated to the steel and cement industries are seeking to establish their influence on the environmental policy of the European Union on emissions trading system for CO₂.

Based on these issues, in the first part of our research we analyze the concept of lobby and interest groups from a theoretical approach. In the second part of our paper we describe the lobbying regulations in the European Union.

1. LOBBY CONCEPT

To explain the concept of lobbying various theories have been advanced. Over time, however, the word *lobby* has acquired negative connotations, repeatedly claiming that lobbying gives an unfair advantage to those who practice it and it is in opposition to the notion of democracy (Warleight and Fairbrass, 2002).

From the historical point of view, the term *lobby* has its origins in the old German word that can be today translated as a *wide entrance, a hallway in an institution*. The verb *to lobby* was first certified in 1850 and the word *lobbyist* in 1863. The oldest reference to its the political sense as those attempting to influence legislation is attested in 1808 in the Oxford English Dictionary, referring to Willard Hotel lobby where interest groups approached legislators in order to advocate certain measures. In the past since the legislators did not have their own offices, the hallways and lobbies were the best places for quick discussions about the appropriateness of a law or of modifying another. In the Romanian language the word *lobby* is understood as a group of outsiders influencing the decisions of a parliament.

Lobbying is a legal and transparent set of activities that propose monitoring and analyzing, documenting, communicating directly and provide information about possible future effects of a decision.

According to the authors Liviu Mihaileanu and Aurelian Horja, the lobby is used to support the rights, interests or opinions made with the express intention to influence opinion or action of the President or a member of the legislature, the executive authority of the central government or local authority. (Mihaileanu and Horja, 2009, pp.1-5).

The term *lobby* has become more refined with the time. In 1960, L. Milbrath explains lobby, relating it to the process of communication. Milbrath explains that the *communication is the only means to change or influence the perception; the lobby is thus entirely, a communication process* (Milbrath, 1960, p.32).

After 30 years, Van Schendelen assigned new elements. In this context, lobbying is an informal exchange of information with the public, trying to influence public authorities (Van Schendelen, 1993).

One of the most complex definitions of lobbying activity is formulated by Koepl. The author affirms that the *lobbying procedure is to influence or attempt to influence legislative administrative decisions by public authorities through representatives interested. Influence is intentional, involves the use of communication and is directed by legislative or executive structures* (Koepl, 2001, p.71).

2. LOBBY GROUPS

The interest groups can be represented by national federations, European or international, which may include:

- economic or social sectors;
- companies;
- law firms;
- public affairs consultants;
- Representatives of local and regional authorities.

There is no consensus regarding the definition of the lobby groups. Many terms are used to describe this activity, from the name of *interest groups* to *pressure groups* or simply *lobbyists* (Lehmann, 2003, p. 2).

There are different lobby groups, such as business interest groups, professional groups, public, social or groups working on issues related to geopolitics interests.

Interest groups at the EU level are said to be of two types: business and non-business (Charrard, 2005, pp. 4-7). However, it should be noted that lobbies business are classified as dominant (Jordan, 1998, p.38) or at least that was the case until recently when, apparently, NGOs have become increasingly powerful and are starting to increase their power at international level (Pedler, 2002, p. 3).

There are several classifications assigned to lobbyists. In the general classification, they may be *public interest groups representing the interests of society as a whole, such as environmental protection, while private interest groups are seeking to achieve their own interests for the benefit of their own members* (Pedler, 2002). Through lobby activities, these interest groups with public or private interest intend to influence international decision-makers. Formed in 1970-1980 years, lobbying activity was surprisingly developed.

A group of British researchers from *Robert Gordon University* drafted in 2001-2002, a list of 693 groups working in the lobby (Saurugger, 2002, p. 9), but now their exact number is not known. However, it is estimated to be over 15,000 people working in this field. Thus, over 70% of these people working directly or indirectly for corporate interests, about 20% represents the interest of regions, while only 10% are non-governmental organizations, including trade unions, organizations of health or the environment protection (Corporate Europe Observatory, 2005, p.8).

Interest groups are based on a variety of channels. Among active lobbying in the EU decision-making *organizations representing private interests often outweigh the non-profit organizations with 100 to 1* (Fossum, Schlesinger, Kyaerk, 2007, p. 160).

To understand why lobbyists sometimes achieve their proposed goal and sometimes fails is necessary to know first the political system and institutional structure within which these groups operate, the characteristics of the lobby group and the relevance of the issues analyzed.

3. INFLUENCE TECHNIQUES

Regarding the techniques of influence that a lobby group can use to impose some ideas, they can vary depending on the environment in which an interest group acts. There are many lobby techniques that can be used by different interest groups.

According to Van Schendelen, an interest group that wishes to exercise influence within the EU may choose one of the four traditional techniques.

First of the four traditional techniques is *coercion*, about which Van Schendelen explains that if a ministry has the power to constrain the country by the law that is taken and which is maintained

through the police, the court of justice or prison system; will be also possible to control other decisions makers. In this context, private influence groups should play a game less formal. To fight against this problem, different NGOs can organize a blockade or a negative campaign; a multinational can move its production to another country. At EU level, a coercive influence from private or public actors can be developed.

The second influencing technique is named *encapsulation*: a company or NGO may use part of the budget in order to make others dependent on it. In this context, the resources of particular company or NGO play an important role.

The third technique suggested by Van Schendelen is *political support/advocacy*. This technique means, in its informal version, propaganda, through a notice or a media campaign. NGOs or commercial organizations use this technique when they foresee an opportunity or a threat.

The fourth technique stated by Van Schendelen is *argumentation*. In this case, self-interest lies behind the thinking of a rational, logical arguments based on credible empirical examples (Van Schendelen, 2002, pp. 13-14).

Another factor that can determine the success of lobbying, is choosing when it started lobbying and lobbying strategies.

In this context, Bender and Reulecke identified three types of lobbyists:

- Lobby as a preventive measure;
- Lobby response;
- Lobby for action (Bender and Reulecke apud Charrard, 2005, pp. 13-14).

According to those authors, the most difficult type is the lobby as a preventive measure that has as main goal to prevent or delay a law even before there is a legislative action. Regarding the second type *lobby response*, it implies that the legislative proposal already exist and the group lobbying to react following the initiation of the legislative process. *Lobbying for action* refers to the need to initiate a legislative process.

Chrissie Kimmons also proposes a classification of lobbying strategies (Kimmons, 2005):

- *Gunship* Technique - an aggressive form of lobbying that includes business relocation threats unless waiver of policy proposals;

- *Kofi Annan* Technique- also known as the technical *Trojan horse*- a constructive approach that provides decision makers with a compromise that is accepted by all parties involved in the process of decision. This technique is often used in Brussels;

- *Good –cop, bad -cop* Technique - a lobby group has adopted an inflexible position on a topic allowing another group to submit a draft project which is conciliatory;

- *The dentist* Technique - first phase is to adopt an aggressive attitude and then to return to a conciliatory attitude;

- *The third party* Technique - the lobby is at the NGOs level and federations of industries in order to reach a compromise on the issue in question;

- *The donkey* Technique - to win the goodwill of makers are provides various incentives.

It can be seen that Bender and Reulecke analyzed lobbying activities and their impact, while Kimmons focuses on techniques that can be used in the lobby. Each of these characteristics of lobbying are used depending on the interest groups who manages them.

4. QUANTIFYING THE INFLUENCE OF LOBBYISTS

There is a number of limitations in terms of quantifying the influence of interest groups on public policy.

It must be noted, at the outset, that there is not just a single factor that explains the influence of lobbyists (Dür, 2007, pp. 29-51). This context requires the answer at the following question: *what are the factors that determine the success of initiatives conducted by interest groups?* On this issue a large number of theories have been proposed to determine the elements responsible for the success of a particular lobbying campaign. In this analysis we present the studies of Austen-Smith and Wright (Austen-Smith and Wright, 1994, pp.25-44), Andreas Dür, Bernhagen and Bräuninger (Bernhagen and Bräuninger, 2005, pp.43-64), Christine Mahoney (Mahoney, 2007), George and Bennett (George and Bennett, 2005).

Austen-Smith and Wright claim the inclusion in the analysis of the level of influence of a variable measuring the countered lobby. The two authors believe that an interest group cannot be ranked as resilient if the position is not part of a text-law because it may have been confronted by another lobby group, which is the more influential. In this context, the first group might choose a route that would minimize losses.

Andreas Dür emphasizes that in order to identify the influence of a particular interest group, should be pursued the channels of influence, the occurrence of countered lobby and not at least the policy stages. The quantification of power held by interest groups is built around identifying the causes, the environment and the process that led to the adoption of a specific policy. According to this author, the analysis of semi-structured interviews play an important role to determine the ability of certain groups to influence the policy process in different stages of the process.

Bernhagen and Bräuninger consider that decision makers are influenced primarily by economic and social issues existing in the environment in which they operate. Thus, the interest groups exploit this, promoting within a certain community, the beneficial effects that such measures would have at both economic and social levels.

Christine Mahoney shows that the influence of different interest groups can be quantified by calculation of *preferences satisfied*. In this way, the result of the legislative process is analyzed in comparison with the positions of different actors during the legislative regulations, which can show also which views are expressed by a particular interest group and what is the final decision.

An important variable has to be mentioned: actors' preferences should be established separately in each study. Using this method, Mahoney chose a random selection process, while analysts such as Schneider and Baltz chose to study a large number of cases.

George Alexander and Andrew Bennett propose, in *Case Studies and Theory Development Study in the Social Sciences*, a method for quantifying the influence of interest groups, is a step by step policy analysis process, in order to establish the mechanism of causation between a variable independent and a dependent variables, and to show the result provided.

5. LOBBYING EVOLUTION IN THE EU

In the unprecedented expansion of the lobby-ing in Brussels and the complex nature of European public policy, as Europeans we find ourselves faced with the pressing problems of regulating lobbyists and of the need to increase transparency at the European level.

However, we must not omit that the lobby-ing is a familiar reality even if not always welcome in western politics. Most experts in political science and government recognize that the interests of both public and private have a legitimate and important role to play in policy-making process, as states Richardson in 2006 and Coen in 2007. In the beginning of XXI century, at the European level in the public policy, there where approximately 15,000 members of the Commission and European Parliament that are face to face with a total of nearly 2,000 lobbyists every day. The word *lobbyist* is defined here as an organization or an individual seeking to influence policy, but doesn't attempt to be elected.

At the European level, there is a significant resource dependency between government and lobbyists based on regulatory needs, expertise, information and reputation. For this reason, it is important that the process of formalization and improvement of lobbying codes in the EU do not deteriorate the exchange of information and credibility of the policy process.

EU lobbying groups' activity was multiplied in the 1990s, as a result of gradual transfer of regulatory functions between the EU institutions and Member States and as result of the introduction of qualified majority voting on *Single Market* issues. Institutional demand for the activity of interest groups in the EU has been facilitated by the opening of the European Commission and the European Parliament. The process of funding EU groups is organized by the European Commission. There was an easy access to the EU institutions in the period with an estimate of 1,450 formal interest groups operating at European level (Greenwood,2002), 350 firms with offices for European affairs and 267 law firms active in the field EU public policies (Lahusen and Jauss,2001).With these growing numbers and resources, the EU interest groups could exert influence in the adoption of European policies, from policy initiation and ratification by the members of the Council and setting agendas, to the formulation of policy and the strategic discussions at forums which are led by the European Commission.

An important role in organizing the influence of a lobby group plays the final interpretation, harmonization and implementation of different laws inside nation states.

In order to pursuit and access the all points in the policy, EU interest groups are an important source of information in developing and delivering EU policy and a potential source of legitimacy for the government.

6. LOBBYING PRACTICE

The EU institutional design gives to different interest groups both advantages and disadvantages. The real decision-making machine is full of links between different bodies and different variations in external relations with Member States, provides the access points that can lead to the lobby of the EU authorities. In such a differentiated institutional environment, lobbyists groups have an overabundance of potential routes.

The multiplicity of actors and the complexity of the decision-making process can create serious obstacles for private interest groups in the way to attend their objectives. It is almost impossible for the interest groups or individual national associations to ensure exclusive access to relevant politicians, and even less possible to exert exclusive influence.

6.1 Objectives, strategies and techniques

At the academic and practical level, the necessity for an appropriate framework for the actions of all decision-makers at the EU-level is clear. Van Schendlen developed *the model of the three P* in order to describe some facets of the attempt to obtain political influence in a quasi-monopoly. The purpose of the game is to make the playing field uneven as possible. Participants attempt to place the friendliest people in the best positions and in the most beneficial procedures.

When others begin to discuss the content matter of the game, the players have already arranged the *Triple P* field discussions and limited movements of other players by early setting procedures, positions and players. The game usually has a bad reputation in the eyes of those who are at the far end of the playing field.

Many interest groups learned quickly from this type of games to apply some new strategies in practice.

According to Berrz, at methodological level, the tactics or activities pursued by interest groups are classified into three categories:

1. Techniques characterized by direct communication between lobbyists and government officials. These include public or private representations.
2. Methods in which lobbyists are acting through their constituents. The influential individual members are asked to contact a key member of the government.
3. Groups that may try to change government policy choices influencing or changing public opinion. Techniques of this type are contributing to fund the election campaigns, publication of research results and public relations campaigns (McGrath, 2002).

Another classification of lobbying strategies has been developed by Guéguen (Daniel Guéguen 2007, p. 119):

1. Negative Strategies that consist of a frontal opposition to Commission proposals or counter-proposals that are unreasonable proposal. Farmers lobbies are illustrative for the strategies of the opposition.
2. Reactive Strategies in which the caution prevails over actions and initiatives: monitoring, meetings and few of public relations.
3. Pro-active Strategies, working directly and constructively with the Commission in the spirit of partnership and credibility.

Pro-active strategies are relatively rare, which is a loss for society because pro-active lobbyists provide to legislator a competent, licensed and reliable general opinion about factors that affect society as a whole.

Credibility also involves the ability of companies and industries to build European alliances with consumers and environmentalists.

We consider that the Success Lobby has to be based on four strategic pillars:

1. The ability to create clear objectives and goals
2. The ability to develop connections
3. The access at strategic information
4. The analyses of different politics and the ability to promote them to the public.

In the *table 1* we give a short description of the principal elements of a Success Lobby.

Table 1 - Success Lobby

Strategic pillars
The capacity to organize the goals and objectives.
The ability to create a network of cooperation in the lobby process
The necessary inputs to develop international access at the strategic information
The knowledge of different politics and the way to promote them to the public

Source: Own representations

6.2 Lobby tools

The Lobby-ing process can be divided into several practical steps: finding facts, analysis, influencing and post-facto maintenance.

The direct support of a case in front of the government is one part of a lobby campaign. Many consultants are not doing enough lobby. Customers will initially follow only to improve their profile in the eyes of decision makers in order to gain access or generate a favorable attitude to the group. So an important part of the interaction between groups of influence and the government, is not about immediate goals, but rather by creating an atmosphere of trust, credibility or even dependence that will lead to take favorable decisions for the interest group.

Monitoring is mentioned frequently by practitioners as a key element of their work, although its functions tend to be neglected in theoretical analyzes. The purpose of monitoring and detailed research is essentially to enable the employer or lobbyist's client to develop messages related to public policy issues and to identify the most appropriate and effective ways to communicate these messages to politicians and relevant official figures.

It can be seen that there are three primary routes available:

1. Addressing governance issues timely basis;
2. Promise makers with access to knowledge;
3. Detailed information about the legislative process.

According to McGrath, the majority of commercial lobbyists affirm that they are relatively uninvolved in advocacy. The lobbyist is that one that proposes a strategy and organizes a campaign, but the main actor who delivers the message directly to politicians and official figures is the customer. Even more common is the opinion that the commercial consultants have the role to advise the customers how to carry out their own lobby-ing to the government.

7. EUROPEAN INSTITUTIONS LOBBY

7.1 European Parliament

Respecting the principle according which the interests are moving in the direction where the power is, the European Council and Commission were the main targets of the Lobby to the adoption of the *Single European Act* from 1 July 1987.

After the European Parliament's position was further enhanced by the introduction of new legislative procedures - procedures for cooperation and co -decision –the pressure groups have increased considerably their actions besides European Parliament, considering this Institution a new channel of influence.

In particular, the less organized interest groups tried to form alliances with the European Parliament on matters concerning the general public. The Parliament is used as an instrument of lobby at European Council and Commission level. This had a significant impact on institutional balance and internal dynamics: both Commission and European Parliament are no longer representing just the interests of European allies, but they became rivals in the competition for legitimacy.

7.2 European Commission

The Commission is responsible for the EU's interests. It has the exclusive right to initiate EU legislation in a number of areas of regulation and it is responsible to ensure that members respect them (Chari and Kritzinger, 2006, p.58).The lobbyists consider the European Commission to be the

main institution that is the beginning of interest representation. The Commission encourages the lobby, considering that it is essential for policy formulation. The Commission also gives a great importance to the open dialogue with outside interests groups, which provide specialized and technical expertise (Greenwood, 1997).

It is now recognized that the Commission often focuses on a core of dominant interest, which leads directly to a mutual acceptance with the interest groups.

The existence of this secondary lobbying tactics is proof that there is an unequal access to the Commission.

The Commission has the power to approve, amend or reject legislation in a number of policy areas, and influence the appointment of Commissioners.

7.3 European Council

The European Council's aims is to represent the interests of Member States and it has the ability to reject or amend proposals presented by the Commission and to establish long-term goals for the EU. This is often considered to be the least accessible of the EU institutions, because its loyalty is to the Member States.

The Council does not keep any list of lobbyists and it holds the position, according to an informal response that all contacts that are between European Union and lobbyists or NGOs, are handled by the European Commission.

If a lobbyist is trying to persuade the Council, they have to use national channels.

We can highlight that it is more difficult to influence the European Council than to influence the other two European Institutions.

CONCLUSIONS

One of the most advanced forms of influencing public decisions is represented by business lobby groups. If lobbying was initially considered a simple process of communication, further to the term were assigned new features being considered an exchange of information that is designed not just to attract the interest of the other part, but also to influence its public choices.

We have noticed that interest groups may be represented by different federations organized at national, European or international level, focusing on various areas of economic and social sphere representing both private and public sectors.

Specialists in lobby examine various aspects of lobbying techniques. Austen Smith and Wright highlight method of countered lobby in which a stronger group can influence the direction of a group with a little influence. Andreas Dür analysis emphasizes the importance of channels of influence and policy stages. A different approach comes from the analyses of Bernhagen and Bräuninger. These authors consider that decision makers are influenced primarily by economic and social aspects of the environment in which they operate.

At EU level lobbying activities were developed at the end of XX century and are directly or indirectly present in the most important European institutions.

We conclude by stating that the development of the lobby at the beginning of the XXI century can influence international policies and can bring new challenges and new roles for The European Union.

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