Master of Arts Thesis
Euroculture

University of Uppsala, Sweden (Home)

University of Olomouc, Czech Republic (Host)

January 2012

Citizen Interest Representation, the Key to Solve the European Union's Democratic Legitimacy? Lobbying for citizen participation in the EU

Submitted by:

Béatrice Minh
Student number: 870215-P229 (Sweden), F100801 (Czech Republic)
bea.minh@gmail.com

Supervised by:

Mr Sverker Gustavsson (Sweden)
Mr Dan Marek (Czech Republic)

Mulhouse, 5 January 2012

Béatrice Minh

MA Programme Euroculture
Declaration

I, Béatrice Minh hereby declare that this thesis, entitled "Citizen Interest Representation, the Key to Solve the European Union's Democratic Legitimacy? Lobbying for citizen participation in the EU", submitted as partial requirement for the MA Programme Euroculture, is my own original work and expressed in my own words. Any use made within it of works of other authors in any form (e.g. ideas, figures, texts, tables, etc.) are properly acknowledged in the text as well as in the List of References.

I hereby also acknowledge that I was informed about the regulations pertaining to the assessment of the MA thesis Euroculture and about the general completion rules for the Master of Arts Programme Euroculture.

Signed   Béatrice Minh……………………………......

Date   5 January 2012

Table of Contents

Introduction

In 2010, it was estimated that 3 700 organizations formed the core of the lobbying activity in the European Union.[1] And yet, despite a profusion of academic research, lobbying as a practice is still largely unknown. However, based on historical sources, it appears that lobbying developed as early as Ancient Greek societies before it came to be adopted as a form of political participation in our modern societies.[2] The evolution of interest representation activities in the United States is an interesting example of how the phenomenon progressively became more structured. More recently, lobbying in the European Union has also developed quite visibly and found a place in the public debate. Lobbying therefore occupies a determining part in the daily process of interaction between the government and the people, due to its long presence at the heart of the decision-making machinery. It is precisely its growing importance as a key actor in the political processes that earned it a distinct place but also caused a mixed reception.

Nowadays, lobbying is mainly attached to two general sets of opinions that oppose each other in the role they attribute to lobbying. A significant part of the population considers lobbying as a good thing, in the sense that it benefits the legitimacy of the decision-making processes by rendering it more accessible, transparent and concerned with the citizens' interests. This view is particularly shared by the European institutions today, especially in the view of all the initiatives that have successively been implemented to engage with interest representatives. On the other side of the spectrum, however, a substantial number of critics have been repeatedly pointing to the dangers of lobbying putting forward arguments that are very much concerned with the negative impacts of interest representation for the legitimacy of the political systems that are responsible for decision-making. Those detractors of lobbying mainly see interest representation as a privatized phenomenon which instead of making political processes more transparent and accessible, on the contrary reinforce the general perception that those who govern are not accountable for their actions, and do not act for the benefit of the general population. This negative perception is today predominant

---

[1] Arndt Wonka et al., "Measuring the size and scope of the EU interest group population", *European Union Politics* (2010), 465.

[2] Lionel Zetter, *Lobbying, the Art of Political Persuasion* (Petersfield, Hampshire: Harriman House Ldt, 2008), 6.

in the mainstream discourse about lobbying, especially fueled by the media and relayed by public opinion.

Since the 1990s, the debate about lobbying seems to have made its way into another more over-encompassing subject of preoccupation: the state of democracy in the European Union. Some of the arguments that are regularly presented in opposition to lobbying find an interesting resonance in the debate about the democratic character of the European Union, leading to ponder about the actual connection between the two phenomena. To which extent does lobbying impact on the EU's democratic features? Is it for the better or the worst? Recent studies have examined in great detail the issue of democratic deficit as the European Union is said to experience it.

Many scholars have attempted to provide a clearer picture by analyzing the sources of that progressive erosion of democratic legitimacy and suggesting possible remedies. In parallel to that academic reflection, the European institutions have also launched various initiatives to ensure significant improvements in the areas that are perceived to be particularly critical: legitimacy, transparency and accountability. However, the question of democracy in the European Union is extremely complex, as manifested by the profusion of studies and scholarly research that have been published throughout the various stages of the EU's evolution.

Nowadays, it appears that the debate over the European Union's democratic legitimacy belongs to a formal field of investigation that is very much concerned with the role of the institutions vis-à-vis the citizens. However, in both fields of research that we are presenting in this paper, neither lobbying nor democracy theory seem to touch upon a central element that is common to both, by being perhaps too focused on technical aspects. Yet, the citizen is crucial in the way it should be at the center of the preoccupations but is rarely fully acknowledged as such. Therefore, the introduction of a third element, civil society, is useful to re-center the debate on the practical core that becomes obvious after analysis of both lobbying and democracy theory in the European Union: the need for participation. In a same spirit as lobbying, the concept of civil society, although present as early as the Antiquity, has only very recently been subject to academic research in its European context. As such, the state of research is still groping around main concepts and empirical reality to establish a well-accepted conceptualization. However, the study of civil society has so far allowed revealing some

main areas of concern which, like in the case of lobbying, appear to be directly linked with democracy theories in one central aspect: participation.

An important step towards achieving more citizen participation in the European Union was introduced in the form of the European Citizens' Initiative (ECI), which is the latest project launched by the European Union in co-operation with civil society to enable the European citizens to take part more actively in the decision-making processes of the EU. This project is of great importance, since it represents a pragmatic answer to all the theoretical interrogations that have been presented above, following a path of reflection that moves from general debates to practical considerations.

Therefore, the examination of the state of the research in three areas that at first sight can seem unrelated allow the uncovering of the possibility to establish fruitful connections for new areas of investigation. This paper will explore one of them by trying to link interest representation, democracy theory and civil society into a general debate over the legitimacy of the European Union by looking at the implications of having civil society participate in the exercise of democracy, mainly through citizen interest representation, of which the ECI is a central element. This paper will re-examine in detail the intricacies of the three debates introduced above and analyze the common elements that form a new theoretical approach to lobbying in the European Union.

The main angle of approach followed by this paper, as mentioned in the title, is the following: in the light of the growing importance of lobbying, can citizen interest groups act as the key to solve the EU's legitimacy as a democratic polity? In other words, since lobbying is more and more recognized as part of the political processes of decision-making, can citizen representation have a positive impact in order to alleviate the issues of democratic deficit the EU suffers from? If so, by what means? Is civil society participation a suitable and realistic solution? What would be the type of civil society engagement necessary to achieve such objectives? Can it be achieved with the ECI? The research questions that are exposed here do not exhaustively cover the field(s) of research that will be touched upon in this paper. The main element being this new project launched under the name of ECI, an important place will be devoted to it in order to assess this tool as a way to improve democracy through interest representation and participation. As we will guide the reader through the complexity of the different notions and stakes involved for the various actors that come into play, many more

questions will arise, and answering them will prove tedious at the least, if not impossible to solve considering the current theoretical framework at our disposal.

That is why a new perspective is presented here, and consists of analyzing lobbying, democracy and civil society in one single debate. This approach will allow for a rediscovery of those recurrent issues by providing some tentative answers to the research questions that we have just posed. The hypothesis formulated here at the start of the investigation states that the main research question concerning citizen interest groups can find a positive answer and realistic applications based on the model that is applied to the European Union. To be more precise, there is a strong possibility that citizen representation and participation are at the core of the EU's democratic legitimacy, and that the involvement of civil society is crucial in that respect. The ECI is posited as being one of those solutions, and an extensive analysis of the project will help uncover to what extent it does provide for more democratic legitimacy. However, the analysis of the ECI needs a theoretical background that ties the logic of the reflection. This is the reason why this project will be looked at towards the end of the paper, after all the theoretical considerations have been presented to place the reflection within its proper framework of questioning. Those hypotheses will of course be tested throughout the core of the paper and the outcomes of the investigation will allow the confirming or infirming of the theories that have just been presented, calling for revision, adjustment or dismissing of some arguments.

The goal of this study is to propose new alternatives in the examination of debates that have already been subject to a considerable amount of reflection and research. By offering new insights into interdisciplinary approaches, this paper will show that academic debates are not fixed into single areas of research and that a combination of different methods can be useful to shed light on fruitful overlapping areas of investigation. Therefore, the paper presents a double objective; on the one hand, it examines an important theoretical debate that is very much concerned with the contemporary issue of the EU's democratic legitimacy in relation to lobbying and civil society, and on the other hand, it presents a new methodology of analysis that encourages the resort to interdisciplinary perspectives by suggesting connections between political and social sciences. Based on those observations, the study presented here acquires a particular relevance both for present and future research on the European Union.

The methodology used for this paper is in overall a critical examination of the current state of research that exists so far in regard to the main topics that are covered in the core text, keeping in mind that the final objective would be to establish a link with the ECI and assess its potential as a tool to improve democracy in the European Union. Indeed, the first two parts of the text present historical and theoretical perspectives that are essential to get a general understanding of the issues as stake in terms of lobbying and democracy. Since both notions are not restricted to the European Union context, a particular approach has been chosen, which moves from general observations to a gradual restriction to the EU situation. That way, the particularities of the EU can be detached more easily, and comparative analyses are possible to be performed. For both parts, therefore, the process of defining the main concepts follows the mainstream acceptation and is later restricted to the European Union. The part about democracy theory is sensibly more focused on the EU in general, though over-encompassing characteristics are also discussed in an attempt to question the validity of the normative concepts that are used. The third part of the text follows a different approach, since it is devoted to a case-study describing one of the practical realizations of civil society participation. In that part, the European Citizens' Initiative is examined in detail through different angles, in order to detach the historical component of the project and link it to the previous two parts. The case-study is therefore slightly more technical and less theoretical than the first two parts, since it focuses on a concrete project. However, despite a different methodology, all three parts follow the same ultimate objective driven by the research questions and hypotheses. In that way, both theory and practice are combined in the reflection about the challenges of citizen interest representation and civil society participation for the democratic legitimacy in the European Union as exemplified with the ECI.

The core text of this paper will present the following structure. The main dividing lines of the paper cut the text into three parts, which correspond to the three central topics that form the theoretical node of the reflection.

Part I is devoted to the introduction of the concept of lobbying. The first chapter presents lobbying in its general understanding, and offers some historical perspectives as to the evolution of lobbying practices until today. Two main aspects in particular will be examined, the first being the difficulty to reach a consensus on a suitable definition for all parties, and the second being the indispensability of a regulation system to

establish a proper framework in which lobbying can operate. In order to illustrate those points, examples are provided at the end of the first chapter, and focus on the description of the Anglo-Saxon models as two opposed systems in terms of lobbying. The second chapter follows the same structure, and presents a historical overview of the evolution of lobbying in the EU, by pointing at landmarks in the history of interest representation. Since the EU context is the focus of the paper, much attention will be paid to the analysis of specific definitions of EU lobbying, as well and the particularities that the EU displays in terms of methods and regulation, allowing for a sensitive description of the lobbying landscape in the EU. This general overview of lobbying will then eventually lead to a gradual restriction of lobbying, which will be limited to the examination of citizen interests. Part I concludes the critical presentation of lobbying by re-stating the potential areas of conflict that exist between interest representation and the perception of democracy in the European Union, which is the focus of Part II.

Part II is then devoted to the examination of lobbying in the light of democracy. The central preoccupation of this part is to assess whether lobbying is beneficial or detrimental to the democratic character of the EU. In order to do so, theoretical considerations are presented and critically reviewed. Those considerations are mainly concerned with the trends of interest intermediation that have been conceptualized so far, and their relation to notions such as transparency. It will provide the reader with the necessary tools to understand the ongoing debate about the so-called democratic deficit, which we will present and analyze. The conclusions drawn after the critical examination of the democratic deficit and its most frequent arguments will open the reflection to a more general questioning about the democratic features of the European Union, which will be the object of the second chapter. This chapter will present common definitions of democracy, both in a general understanding and in the specific case of the EU, in order to highlight the normative grip which currently drives the concept of democracy in the EU. Normative views will then be assessed in contrast to other alternatives such as comparative models. Those theoretical perspectives are useful in the way they call for practical responses, and those answers will be presented in the last chapter of Part II. The third chapter presents a synthesis of the previous two chapters by analyzing the impact of lobbying on democracy and the implications of a shift in the theoretical approach for the EU. The issues of legitimacy, accountability and transparency that were presented under the concept of democratic deficit will therefore be reexamined

under the new notion of governance, and in particular multi-level governance. Like the concept of democracy, governance also encompasses various alternatives, and the one that will be presented here concerns participatory governance. Through that paradigm, civil society acquires a particular significance, and sees its potential for action reach greater dimensions. Civil society's contributions and limitations to participation in European governance will be analyzed and reflected upon as new theoretical models will appear suitable to solve the EU's legitimacy issues. The emphasis is then deliberately put on the positive aspects of interest representation in relation to democracy, and those positive aspects will be retained for a later application to the European Citizens' Initiative, which is analyzed in greater detail in the last part of the thesis.

The last part of the text, Part III, is then be devoted to the analysis of practical ways to mobilize civil society in the European Union and introduce the European Citizens' Initiative as a potentially successful tool to improve the democratic character of the EU by lessening its legitimacy issues. More participation on the part of the citizens is viewed as desirable and will be presented as one of the solutions to foster civil society mobilization in the EU. After a close examination of the project, some tentative answers to the research questions will be provided, and will lead to the concluding part, which will summarize the core text and provide further reflections on the hypothesis that was presented at the beginning.

Part I: Lobbying

Chapter 1: General introduction on lobbying

The large majority of studies that have been written about lobbying holds its genesis on the American continent, where the historical developments of lobbying are to be found in the United States and its practices later adopted in Europe. While several sources claim that lobbying originated in the United States in the 1860s, a lobbying tradition present in Ancient Greece and Ancient Rome is historically documented as well. Indeed, according to Lionel Zetter, it seems that in ancient times lobbyists frequented the forums and tried to influence senators concerning the daily matters that were dealt with.[3]

However, the most frequently told story places the origins of lobbying during Ulysses S. Grant's presidency from 1869 to 1877. The actual terms of "lobbying" and "lobbyist" come from that time, when stakeholders gathered in the lobby of the Willard Hotel, in Washington DC, to try to influence policy outcomes.[4] Lobbying activity developed rapidly in the United States at that time especially around the railroad industry which was experiencing an economic boom due to the Reconstruction era following the Civil War. Some other sources mention that the term was even coined earlier, and claim it appeared in print as early as the 1820s in the United States to describe the activities of the members of the Senate vis-à-vis the House of Representatives.[5] Deanna Gelak mentions the New Hampshire Sentinel of April 1, 1820, where the following is said: "Other letters from Washington affirm, that members of the Senate, when the compromise question was to be taken in the House, were not only "lobbying about the Representatives' chamber," but were also active in endeavoring to intimidate certain weak representatives by insulting threats to dissolve the Union."[6] In this particular case, however, lobbying refers to Senators influencing their Representative peers and not members belonging to a particular interest group.

Besides this American genesis of lobbying, European sources also hold claims as to the origins of lobbying. Lionel Zetter offers us a version in which lobbyists possibly allowed for the Magna Carta to exist by putting pressure on King John to sign

---

[3] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 6.
[4] Ibid.
[5] Deanna Gelak, *Lobbying and Advocacy* (Alexandria, Virginia: TheCapitol.net, 2008), 8.
[6] Ibid.

it in 1215.[7] This Middle-Age story is of course very difficult to verify, and even though some characteristics of lobbying could have been identified, it remains quite far from the modern version that inspired the present definitions of lobbying. As a counterpart to the American story, there is naturally a European interpretation; the BBC has been quite eager to place the origins of lobbying in Westminster, where Members of Parliament gathered in the halls – the lobbies – of the Parliament before and after the debates in the two Houses.[8] There is however no clear date, but we can infer that the British origins can also be traced back to the 19th century.

From what appears from the various stories of origins concerning lobbying, two general trends have succeeded each other, one emphasizing the concept of lobbying as a natural and even inevitable process of people trying to exercise influence on their social surrounding, and one more modern conception of lobbying as a structured process, almost an organized industry. This is the latter interpretation that we will consider in this work.

In the 19th century lobbying in the United States began to look more similar to what we understand it to be today, with its high level of organization in a quasi-industrial fashion. Lobbyists were to be found around the important centers of decision-making in order to entertain legislative and executive officials with frequent contacts in the hope that they could influence the outcome of future legislation. It was important for lobbyists to be present to expose their point of view and be given a chance to defend the interests they represented. Senators and Representatives therefore benefited from a massive amount of information that lobbyists provided, allowing for a tradition of co-operation to emerge – although not devoid of criticism of abuse and corruption.

In the early 20th century, as a response to the further development of lobbying activities and the subsequent attacks of corruption, the American Senate made a first attempt at regulating lobbying by enacting a bill requiring lobbyists to register with both the Senate and the House of Representatives, but it was rejected by the House.[9] Regulation only became effective after World War II with the Federal Regulation of

---

[7] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 6.
[8] BBC News, "Lobbying", BBC, 1 October 2008, http://news.bbc.co.uk/2/hi/uk_news/politics/82529.stm (accessed 17 September 2011).
[9] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p.7.

Lobbying Act,[10] the first step to regulate the modern American lobbying industry that thanks to the development of technology and mass-media was beginning to acquire unprecedented levels of organization. It concerned anyone "who by himself, or through an agent, or employee or other persons in any manner […] solicits, collects, or receives money or anything of value to be used principally to aid […] the passage or defeat of any legislation by the Congress."[11] If some doubt remains whether lobbying originated rather on the American continent or in Europe, it is quite evident, as we will see later while examining Anglo-Saxon examples, that lobbying really took its dimension of professionalization and business-like orientation in the United States.

I.1.1. Current definitions of lobbying

Before moving forward towards more in-depth analysis of lobbying practices and what it entails in our contemporary societies, there is a need to come up with a suitable definition of the term. Of course, the numerous studies of lobbying, whether from an American or a European perspective, have all demonstrated the difficulty to give a comprehensive and clear-cut definition of lobbying, principally because as a societal phenomenon, lobbying is very much associated to its surrounding environment, and therefore depends on the characteristics of the political system providing for its existence.

The study of lobbying is a recent field compared to existing long-lasting research in politics or social studies. The oldest definition dates back from 1960 with Milbrath, who considers lobbying as a communication process, saying that "communication is the only means of influencing or changing a perception; the lobbying process, therefore, is totally a communication process."[12] This early definition captures an essential element of lobbying, but falls short in explaining the relations between the lobbyist and the lobbied, as more recent definitions do. Thanks to his thorough analysis of lobbying practices at the European Commission with an important field research carried out among European Commission's civil servants, Koeppl is probably the one with the most practical definition of lobbying. He defines it as an "attempted or successful influence of legislative-administrative decision by public

---

[10] Paul Flannery, "Lobbying regulation in the EU: A comparison with the USA and Canada", *Social and Political Review,* Volume 20 (Dublin: Trinity College Dublin, 2010), 73-74.
[11] Ibid.
[12] Lester W. Milbrath, "Lobbying as a communication process", *The Public Opinion Quarterly*, Volume 14.1 (1960), 35.

authorities through interested representatives. The influence is intended, implies the use of communication and is targeted on legislative and executive bodies."[13] He therefore uses the theories of communication that were traditionally applied to lobbying during the second half of the 20th century and combines them with a more comprehensive outlook on the different parties involved in the process.

At the turn of the century, various other scholars took up the task of coming up with a suitable definition of lobbying in an attempt to grasp the intricate mechanism that it involved. Van Schendelen holds that lobbying consists of an "informal exchange of information with public authorities, as a minimal conception on the one hand, and as trying to influence public authorities, as a maximal description on the other hand."[14] His definition demonstrates the dual aspect of lobbying, with the importance of communication in the trading of information and the implications of that exchange in the relations with the decision-making authorities. In later studies, Van Schendelen defined lobbying as a technique of influence with an added agenda: monitoring and researching other players, as well as building coalitions and alliances with others;[15] his later definition therefore goes beyond the simple communication aspect to include another significant facet, research, on which authors such as Zetter and Greenwood agree. Since Greenwood's work is specifically targeted on the European Union, his definition of lobbying will be dealt with in the appropriate section, which will come later on.

Another interpretation that is worth mentioning is Karr's, who proposes a general understanding of lobbying as groups that focus their effort on influencing government officials and institutions in their interests without aiming at taking over direct government responsibilities through participation in elections.[16] According to her definition, lobbyists are not just non-governmental groups, but any group that sets up lobby offices, sends representatives to lobby government institutions or government officials, or employs lobbying capacities.[17] This is therefore much wider than

---

[13] Peter Koeppl, "The acceptance, relevance and dominance of lobbying the EU Commission – a first-time survey of EU Commission's civil servants", *Journal of Public Affairs*, Volume 1.1 (2000), 71.

[14] Rinus van Schendelen, *National Public and Private EC Lobbying* (Dartmouth: Aldershot, 1993), 3.

[15] Rinus van Schendelen, *Machiavelli in Brussels: the Art of Lobbying the EU*, 2nd edition (Amsterdam: Amsterdam University Press, 2005), 42-43.

[16] Karolina Karr, *Democracy and Lobbying in the European Union* (Frankfurt, Germany: Campus Verlag; Chicago, Illinois: The Unversity of Chicago Press, 2007), 57.

[17] Karr's definition is inspired from the works of Samuel E. Finer and Wolfgang Rudzio, dating from the 1960s and 1970s.

Greenwood's acceptance of the term when he mentions "organized civil society,"[18] as we will later see.

The most recent definition that should be mentioned here comes from the collective work by Beyers, Eising and Maloney, in which the authors emphasize three key features of lobbying activities, namely organization, political interest and informality, and lack of bureaucracy.[19] These characteristics are of importance, since later on in this chapter, and in the rest of this work, they will reappear as central criteria.

Based on those illustrations, it appears that most of the attempts at a definition date from the turn of the century. However, as suggested earlier, those definitions are sometimes lacking in one aspect or the other, preventing the formulation of an entirely comprehensive definition. Some recent research papers do not even provide a definition and simply imply the presence of a general consensus on what lobbying should be. This is of course another piece of evidence for the lack of a precise understanding of lobbying.

The shortcomings in a proper terminology and definition for the lobbying activities coincide with a general dislike of the term "lobby", which is noticeable in various pieces of literature; definitions are then either directly antagonistic or reflecting this negative sentiment of mistrust and deprecation. An interesting example is given by Warleigh and Fairbrass, who state that "lobbying confers an unfair advantage on those that can afford to carry out and therefore runs counter to the notion of democracy."[20] Out of the many reasons for bad press, we can surely cite numerous scandals that from the beginning undermined the actions of the lobbyists, but also a negative stand from the press itself which in a certain way sees its role as main information provider and therefore privileged interlocutor diminished with the presence of lobbyists. Among the common recurrent but sometimes unjustified criticism against lobbying are the following points: the legislator is dominated by the lobbyists; lobbying is all about

---

[18] Justin Greenwood, *Interest Representation in the European Union*, 2nd edition (New York: Palgrave Macmillan, 2007), 1.

[19] Jan Beyers, Rainer Eising and William L. Maloney (eds.), *Interest groups politics in Europe: lessons from EU studies and comparative politics* (London: Routledge, 2010), 4-5.

[20] Alex Warleigh and Jenny Fairbrass (eds.), *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy* (London: Europa Publications Limited, 2002), 2.

money; industry destroys the impact of Non-Governmental Organizations (NGOs) for a better society; corruption increases because of lobbying.[21]

Donald Ritchie, a media columnist for the Oxford University Press Blog and author of *Reporting from Washington*, established a list of the ten most scandals involving lobbying in the United States.[22] The oldest scandal dates from 1857, when the New York Times published an article exposing the activities of lobbyists for the Pacific Railroad Bill, and accusing them of drafting a bill in order to steal federal land. After investigation, four members of the House of Representatives resigned. Over a century later, the Washington Post exposed the scandal of the "Koreagate", involving a Justice Department investigation of a South Korean agent trying to bribe members of Congress by offering illegal gifts. This resulted again in resignations and indictments. The most recent scandal occurred in 2005 and is known as the Jack Abramoff lobbying scandal. Jack Abramoff, a Washington lobbyist, faced charges of fraud and bribery in a large scale congressional corruption scheme involving Indian casino gambling interests. All those incidents were relayed by the mass media and contributed to spread the bad reputation of lobbying as coterminous with corruption.

Sometimes, the media's aversion to lobbying practices goes as far as to get involved in dreadful plots like what happened in Great Britain in 2010. Cabinet ministers of the Labor party were filmed accepting money in exchange for using their government connections. They were exposed by a journalist who pretended to work for an American company recruiting Members of Parliament for lobbying.[23] As for bigger organizations, the European Union as well is not exempt of lobbying scandals, the most recent one exposing a similar story with Members of the European Parliament being filmed accepting bribes from journalists posing as lobbyists.[24] Those cases have been the delight of the press and have lifted serious doubts as to the ambiguous relationship that exists between lobbyists and government officials, which we will see in greater

---

[21] Miruna Andreea Balosin. "Analyzing EU's Lobbying", Studia Universitatis (Petru Maior University, 2010), 1181,
http://www.upm.ro/facultati_departamente/stiinte_litere/conferinte/situl_integrare_europeana/Lucrari3/ist orie/121_Miruna%20Balosin%20articol.pdf (retrieved 17 December 2010).
[22] Oxford University Blog, "Congressional Lobbying Scandals: a top ten list", OUP Blog, 14 March 2006, http://blog.oup.com/2006/03/congressional_l/ (accessed 2 February 2011).
[23] Nigel Morris, "Ministers furious at new lobbying 'scandal'", *The Independent*, 22 March 2010, http://www.independent.co.uk/news/uk/politics/ministers-furious-at-new-lobbying-scandal-1925106.html (accessed 2 February 2011).
[24] Constant Brand, "Inquiries into scandal of 'Influence-for-Cash'", *European Voice*, 24 March 2011, http://www.independent.co.uk/news/uk/politics/ministers-furious-at-new-lobbying-scandal-1925106.html (accessed 20 July 2011).

detail by examining the so-called ethics of lobbying and the progressive measures of regulation that have been taken by some governments.

I.1.2. Ethics and regulation

The various examples and cases of scandals relayed by the media show that lobby groups are often accused of lacking good ethics when they seek to influence policy outcomes. Is it really the case? What we find in the press about successive scandals and negative portrayals is surely quite alarming, but still some caution is necessary. As Zetter rightfully points out, if scandals exist, it means that there is someone on the other hand of the bargain that actually agrees to be bribed.[25] Unfortunately, this reasoning does not seem to belong to the mainstream arguments in favor of lobbying, and the claims of lobbying being motioned by common sense rather than rules is still a little bit too optimistic.

In the wake of all those accusations of corruption, Campos and Giovannoni wonder about lobbying being a form of corruption taking place in richer countries.[26] Is lobbying in rich countries what corruption is in poorer countries as a means to influence politics? The authors' main assumption is that lobbying does act as a substitute for corruption since it is a more effective way to exert political influence. One major difference is the level of expertise that is needed in lobbying activities, especially in political systems where there are a lot of players involved in the decision-making process. The result of their study is particularly interesting to demystify a lot of conjectures that were common about the relations between lobbying, corruption and political stability for instance. Indeed, highly unstable political systems are likely to change rapidly, making the process of lobbying a circle to start over again every time a new government comes to power. By looking at transition countries Campos and Giovannoni find out that the political stability factor is conducive for both lobbying and corruption since as substitutes, what works for lobbying also applies to corruption. The authors also analyze the reasons to lobby in relation to the expectations about a lobby group's ability to exert a strong influence. It might be suggested that in transition countries, corruption is still the dominant way to use influence in terms of effectiveness,

---

[25] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 18.
[26] Nauro F. Campos and Francesco Giovannoni, "Lobbying, corruption and political influence", Centre for Economic Policy Research Discussion Paper (2006).

since it is more direct. The results of Campos and Giovannoni's study show that interest groups are an important and effective tool to influence politics vis-à-vis corruption.[27]

On a more optimistic tone, lobbying also has its advocates and the view that lobbying is helpful in the decision-making process is supported by many scholars. Karolina Karr uses the theory of the common good to justify lobbying practices as the basic focal point in the evaluation of interest group's involvement.[28] In that case, if lobbying is motivated by the common good, it is not only legitimate but also highly desirable. However, there is again no widely accepted interpretation of what the common good should be, except for Rawls', for whom the common good should be understood as "certain general conditions that are in an appropriate sense equally to everyone's advantage."[29]

Rawls' definition leads to more questions as to the genesis of the common good, such as how it actually comes to be established. There are opposing views about its existence in the timeline of a society. While some theorists argue that the common good is a condition for the existence of society, others claim that it is once society is formed that groups act and play a decisive role in shaping the will of the people, making the common good a result and not a precondition of society.[30] This argument is widely popular among pluralist theorists who defend the presence of the common good as resulting from a democratic process. Does that mean that only democratic systems can claim to have a rightful lobbying acting for everyone's benefit? The second part of the thesis will analyze the implications of lobbying for the democratic character of the political systems in which it evolves.

In the end, it seems that when it comes down to weighing the pros and cons in terms of lobbying, a lot of negative or at least ambiguous aspects come up, making the following questions all the more crucial: is lobbying really worth it? Empirical studies repeatedly emphasize either the limited effect of lobby groups in influencing coming legislation or the damaging scandals surrounding those groups that have too much influence and therefore constitute a threat to the democratic principles of decision

---

[27] Nauro F. Campos and Francesco Giovannoni, "Lobbying, corruption and political influence", p. 3.
[28] Karolina Karr, *Democracy and Lobbying in the European Union*, p. 47-52.
[29] John Rawl, *A theory of justice* (Cambridge: Harvard University Press, 1971), 246, quoted in Roberto Alejandro, "What is Political about Rawl's Political Liberalism?", *The Journal of Politics*, Volume 58.1 (Cambridge University Press, 1996), 8.
[30] Karolina Karr, *Democracy and Lobbying in the European Union*, p. 48-49. For more information about theories of the common good, see Rousseau, *Du contrat social.*

making. Why then do interest groups engage in lobbying? Is it a given fact that lobbying is the most appropriate way of exerting any kind of influence? How should we understand influence? How can it be measured? Koeppl, whom we already mentioned when trying to grasp a comprehensive definition of lobbying, defines influence as a way to "impact on a recipient's behavior with a focus on modifying it."[31] According to him, techniques of influence are formal when referring to the methods used by government officials or members of parliament for instance; influence is informal when it is situated outside of government, which applies to lobbies, since the methods used to influence are different.[32] One of the main difficulties has been to design empirical studies in order to quantify the influence but unfortunately a real estimation of the chances of success of lobby groups is undermined by the related academic debate about a lack of empirical evidence. It might be time to review the tools at our disposal to devise new mechanisms of analysis that would lead to a more comprehensive data set of lobby influence. The task is far from being easily tackled, since the core of the problem lies in the lack of a one precise database on lobby groups, due to the difficulty of agreeing to a common definition.

I.1.3. General examples

This section will be devoted to the examination of lobbying practices in both precursor countries, the United States and Great Britain in a comparative perspective, to highlight two different models in terms of regulation. Indeed, what we can consider as "the Anglo-Saxon model" evolved quite differently from one continent to another, and today it appears that the various paths that both countries took led them to opposite sides of the spectrum, the United States being extremely regulated and Great Britain rather self-regulated. The historical developments we will look at, combined with general observations as to the lobbyists' work ethic and reputation, will hopefully help us understand the extent to which those two countries opened the way to the modern professionalized version of lobbying we know today.

The development of lobbying in the United States and in Great Britain are two vibrant examples of how lobbying came to be included in the realm of political activities and how the integration of those interest groups into the political system

---

[31] Peter Koeppl, "The acceptance, relevance and dominance of lobbying the EU Commission – a first-time survey of EU Commission's civil servants", p.71.
[32] Ibid.

became the norm. The United States is probably the most experienced country in terms of lobbying, since the right to petition is guaranteed by the First Amendment to the American Constitution adopted in 1789.[33]

Since its independence, the United States witnessed various cases of petition, first against the practices of slavery in the country, and later as direct forms of lobbying. As a result, the federal government experienced over a century of direct challenges coming from both the incentive to guarantee the American constitutional rights and to protect its federal institutions by providing a regulated framework of interaction. However, as it was mentioned earlier in the chapter, the first attempts to establish a regulating framework only date from the early 20th century. After the failed attempt from the Senate to impose some levels of accountability on the part of interest groups in the 1930's, the American Congress finally agreed on the Federal Regulation of Lobby act in 1946, which required a certain degree of disclosure from "[a]ny person who shall engage himself for pay or for any consideration for the purpose of attempting to influence the passage or defeat of any legislation by the Congress of the United States," under section 308 a.[34] The Act unfortunately proved inapplicable on many occasions and the flaws present in the draft made it ineffective to fulfill its purposes.[35]

It took nearly fifty years for Congress to eventually repeal the Act and replace it with the Lobby Disclosure Act in 1995 that aimed at further regulating the lobbying activity in the United States.[36] According to Flannery, the 1995 Act was designed to encompass a larger portion of the lobbying sector by applying a wider definition of lobbyists. The latter were required to register with both institutions of the Congress and provide detailed reports of activity.[37] The last amendments were made effective in 2006 and 2007 with the Lobbying Transparency and Accountability Act and the Honest Leadership and Open Government Act to further strengthen the requirements in terms of disclosure by adding an ethics component.[38] Therefore, despite some flaws in the current acts, calling for subsequent reforms, the United States has shown a long-lasting

---

[33] Craig Holman, "Origins, Evolution and Structure of the Lobbying Disclosure Act", Public Citizen, 11 May 2006, http://www.citizen.org/documents/LDAorigins.pdf (retrieved 27 March 2011).
[34] Belle Zeller, "American Government and Politics: The Federal Regulation of Lobbying Act", *The American Political Science Review*, Volume 42.2 (1948), 243-247.
[35] Ibid, 250-255.
[36] Paul Flannery, "Lobbying regulation in the EU: A comparison with the USA and Canada", p.74.
[37] US House of Representatives, "Lobbying Disclosure Act", Office of the Clerk, Public Law 104-65, 19 December 1995, http://lobbyingdisclosure.house.gov/lda.html (accessed 6 April 2011).
[38] Paul Flannery, "Lobbying regulation in the EU: A comparison with the USA and Canada", p.74.

commitment to act towards a consistent limitation of lobbying practices, making it a hyper-regulatory state.

In Great Britain, the development of lobbying as an industry took on much later, and despite its self-regulatory features, remained quite unassuming until Thatcher in the late 1970s.[39] Large firms began to appear, some openly claiming tight relations with the Conservative party, until scandals tarnished their reputation and the need for regulatory bodies emerged.[40] Two of the four official regulatory agencies were created quite early in the second half of the 20th century, the Chartered Institute of Public Relations (CIPR) and its sectorial branch the Government Affairs Group (GAG), each having its own code of conduct.[41] The Royal Charter, granted to the CIPR in 2006, adds another ethical component to the code of conduct with a special emphasis on the public good.[42] The Public Relations Consultant's Association, founded in 1969, is specifically aimed at public relations but also includes a section on lobbying, but its actions towards lobbying are not much different from the CIPR and the GAG.[43]

The last organization, the Association of Professional Political Consultants[44] was created as a direct consequence of the major political scandal surrounding the lobbying firm Ian Greer Associates and Conservative Members of Parliament who were bribed into asking parliamentary questions during the sessions.[45] As a result, the association now follows a strict code of conduct and requires full disclosure in terms of clients and funding, issues which led to some disagreement with other lobbying organizations about confidentiality.

The main differences with the three groups that were previously mentioned concern the employment of politicians, which the organization banned,[46] and the access passes delivered by Members of Parliament to specific categories of lobbyists on

---

[39] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 8.
[40] Ibid.
[41] For more information on the Chartered Institute of Public Relations, see their website: http://www.cipr.co.uk/, and the section presenting their code of conduct: http://www.cipr.co.uk/content/code-conduct
[42] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 10.
[43] For more information on the Public Relations Consultant's Association, see their website: http://www.prca.org.uk/, and the section presenting their code of conduct : http://www.prca.org.uk/About/professional_standards
[44] For more information on the Association of Professional Political Consultants, see their website: http://www.appc.org.uk/, and the section presenting their code of conduct : http://www.appc.org.uk/en/membership_code_etc/Code_of_Conduct.cfm
[45] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 10.
[46] This is not really an issue among lobby groups, except for the House of Lords, where members are often constrained to resort to lobbying work to complement their meager living allowance

discretionary grounds.[47] The structure of the British system allows for lobby groups to gain access through the two Houses of Parliament, which led to some government measures in order to ensure a strict regulation of the lobbied, since independent bodies were created for the lobbyists.

The government response took the form of the Committee on Standards in Public Life, established by Prime Minister John Major in 1994.[48] Its main objective is to ensure high standards of behavior in public life, and revolves around seven principles set out in the Nolan Committee: selflessness, integrity, objectivity, accountability, openness, honesty, leadership. The Nolan Committee inquired on different aspects of public life, from Members of Parliament to the National Health Service, and published a first report in the late 1990s strongly recommending the establishment of a code of conduct of Members of Parliament.[49] It did not encourage the creation of a register for lobbyists since the Committee gives more emphasis on the expected attitude of Members of Parliament towards lobbyists than the opposite, hence the code of conduct and the accompanying guidebook to help parliamentarians apply the code.[50] [51] Here is some insight in the interpretation of the Nolan Committee in relation to lobbyists:

> "Mention has been made in evidence to us of a proposal for a Register of Lobbyists. We are not attracted by this idea … Our approach to the problem of lobbying is therefore based on the better regulation of what happens in Parliament. To establish a public register of lobbyists would create the danger of giving the impression, which would no doubt be fostered by lobbyists themselves, that the only way to approach successfully Members or Ministers was by making use of a registered lobbyist. This would set up an undesirable hurdle, real or imagined, in the way of access. We commend the efforts of lobbyists to develop their own codes of practice, but we reject the concept of giving them formal status through a statutory register."[52]

---

[47] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 11.
[48] Margaret Mary Malone, "Regulation of Lobbyists in Developed Countries: current rules and practices", Institute of Public Administration (2004), 18-19.
[49] Summary of the Nolan Committee's First Report on Standards in Public Life, Official Documents, 1 October 1996, http://www.archive.official-documents.co.uk/document/parlment/nolan/nolan.htm (accessed 7 April 2011).
[50] Margaret Mary Malone, "Regulation of Lobbyists in Developed Countries: current rules and practices", p.19.
[51] The House of Commons, The Code of Conduct, together with The Guide to the Rules related to the conduct of Members, 9 February 2009, http://www.publications.parliament.uk/pa/cm200809/cmcode/735/735.pdf (retrieved 7 April 2011).
[52] Grant Jordan, "Towards regulation in the UK: from 'General good sense' to 'Formalised rules'", in *Parliamentary Affairs,* Volume 51 (1998), 536.

Therefore, and as opposed to their American counterparts, British lobby groups are self-regulated, and in that sense depend on independent regulating bodies rather than government legislation. As we will see in greater detail in the next section, the European Union is to be found half-way in between the American and the British model.

This first chapter has presented a general introduction on lobbying and retraced its main historical developments from its genesis until its modern practices. From a natural activity, lobbying evolved into a more structured and organized industry in both the United States and Europe, thanks to favorable political contexts. It is precisely the difference in political environments that made lobbying so difficult to define, and even today the debate seems to be locked due to terminology issues. The chapter also offered a few illustrations based on current definitions of the term to show that different interpretations still coexist depending on whether the emphasis is placed on the actors, the means or the techniques used. The lack of consensus on a general definition of lobbying is also directly linked to a clear division between the advocates of lobbying practices and those who condemn lobbying activities. Despite the development of lobbying regulation, as seen in the case of the United States, the United Kingdom and France, it seems that interest representation is still largely negatively connoted. The close examination of the United States and the United Kingdom has revealed the existence of two opposed models of regulation, the American one being considered as ultra-regulatory whereas the British system allows for more self-regulation. The third example introduced an alternative, and presented a contemporary debate about the political implications in terms of regulation. The second chapter, which follows, is entirely dedicated to the examination of the European Union situation, and will provide an overview of lobbying in this restricted context.

Chapter 2: Lobbying in the European Union

The previous chapter has given an overview of lobbying as a political activity and therefore subject to regulations. The different examples provided at the end offered some historical perspectives as to the variety of regulation models that could be applied to lobbying in relation to the main centers of national decision-making. It is now time to turn to the real focus of this paper, namely the examination of the European Union context. As we will see throughout this chapter, lobbying in the European Union developed in a particular fashion, and will not necessarily belong to either of the Anglo-Saxon "models" represented by the United States and Great Britain. Therefore, there is a need to examine in detail the specificities of EU lobbying in terms of definition, evolution, functioning and regulation.

I.2.1. Definitions of EU lobbying and integration theories:

A significant number of authors focused on the mechanisms of lobbying the European Union by analyzing the lobbying strategies used in a framework of theoretical approaches. Therefore, lobbying holds an important academic value in the debate surrounding the integration theories, since the way the EU is perceived as a polity directly influences the role of lobbying in the decision-making process. Whether the EU is considered from the traditional approaches of international relations or in the light of the new theories of integration, the place of lobbying and interest representation in general will differ.

The early theories of integration applied to the EU belong to a school of thought that tended to consider the European Union as an international organization. The main preoccupation was to find appropriate solutions to the question "how to avoid war?" Federalism, developed by Spinelli, states a clear transfer of political authority to a new level of federal polity in order to avoid competing Member States.[53] The federalists' main objective was to "form a small nucleus of nonconformists seeking to point out that the national states have lost their proper rights since they cannot guarantee the political and economic safety of their citizens."[54] This position was shared by many political

---

[53] Stephen George and Ian Bache, *Politics in the European Union* (Oxford: Oxford University Press, 2001), 7-8.
[54] Altiero Spinelli, "The Growth of the European Movement since the Second World War", in Michael Hodges (ed.), *European Integration* (Harmondsworth: Penguin, 1972), 68.

actors engaged in the process of European integration after World War II due to its connections to the resistance movements.

The second school of thought, functionalism, led by Mitrani, also focused on the best way to avoid war but with a functional approach consisting of the progressive surrendering of the nation states' sovereignty to various separate international bodies, each having authority in one non-critical area.[55] This aspect of high technicality has been the source of many criticisms of a technocratic conception and falls short in explaining the drive behind the ongoing European integration. The lack of prediction capability from those two early theories led to the development of EU-centered theories of integration, which considered the European construction as a unique phenomenon in the nature and extent of its development.

One of the most influential theories of integration has been developed by Haas and Lindberg, and challenged the traditional views of international relations' theory by considering the state as a non-unitary actor and placing more emphasis on non-state actors, therefore transforming the basic conception of the state as the sole center of world politics. This theory of neo-functionalism will prove useful in our analysis of lobbying and interest groups since the spill-over effect allows for supranational interests to gain more weight in government decisions, thus leading to a wider international agenda. The spill-over factor is, according to neofunctionalists, the main driving force of European integration and is defined by Ben Rosamond as a process which first integrates modestly in non-critical but strategic areas while creating a high authority to promote the integration process.[56] Targeting economic sectors will generate functional pressures to integrate related areas, leading to a progressive and inevitable need for further European institutionalization. The main focus on economic integration then naturally expands to a political one due to the pressure for more institutionalization and the development of a political elite seeking further integration.[57]

Haas' theory has been challenged by Hoffmann's intergovernmentalism which states the importance of the state in a pragmatic conception of world politics where issues of high politics have the upper hand and political decisions result from domestic concerns. This state centered approach therefore leaves no room for supranational authority but rather sees integration as an intergovernmental process. Although the

---

[55] Stephen George and Ian Bache, *Politics in the European Union*, p. 6-7.
[56] Ben Rosamond, *Theories of European Integration* (Houndsmills: Macmillan, 2000), 51-52.
[57] Ibid.

intergovernmentalist theory was very popular in the 1960s as it provided a realist explanation for some European crises such as the "empty chair" crisis,[58] it failed to explain major breakthroughs in the European integration process such as the Single European Act and the Maastricht Treaty, two important milestones for the recognition of interest groups in Europe, as we will see later on.

Those theories raise the important question of the nature of the European Union and the subsequent debate around the European integration process, which is still difficult to grasp despite the variety of theories that are at our disposal. Since the 1980s, as none of the integration theories provided a satisfying explanation as to why the European integration process was taking place, a second wave of thought shifted towards the analysis of the EU polity, enlarging the field of comparative politics to new theories of European governance, which will be examined in greater detail in the second part of this paper.

In this context of academic effervescence around the role and nature of the EU, the debate surrounding lobbying takes a particular dimension, which also suffers from unclear interpretations. It appears that the same difficulty arises when it comes to defining European lobbying: the variety of definitions that blossom are the direct consequence of a fundamental disagreement on both the terminological use of lobbying and other expressions such as "interest representation", "intermediation" or even "mobilization", and the presence of several unclear presentations of the lobbying landscape in the European Union.

Before establishing a suitable definition of EU lobbying for the rest of the paper and delimit its range of action, let us first turn to some of the common interpretations of EU lobbying and terminology issues. As we have already pointed out in the first chapter, the term of "lobbying" is still widely negatively connoted and often suffers from unfortunate associations with obscure activities of over-representation of business interests or even purely illegal activities, as some of the traditional reproaches to lobbying presented by Balosin suggest.[59] Despite the attempts to generate neutral definitions, such as the one presented by Van Schendelen, who views lobbying as

---

[58] The empty chair crisis occurred in 1965 when France, then president of the Council, decided to boycott the meetings and demanded a political agreement regarding the role of the Commission and majority voting. The crisis was resolved with the Luxemburg Compromise one year later.

[59] Miruna Andreea Balosin. "Analyzing EU's Lobbying", http://www.upm.ro/facultati_departamente/stiinte_litere/conferinte/situl_integrare_europeana/Lucrari3/istorie/121_Miruna%20Balosin%20articol.pdf (retrieved 17 December 2010).

"public or private pressure groups importing their own interests into the EU system of decision-making,"[60] or the one used in the 2006 report by Kallas, defining lobbying as "all activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions,"[61] alternatives are still preferred. The term "mobilization" similarly suffers from limitations, as Charrad and Warleigh and Fairbrass noted in their respective works since it already holds a restricted focus on social protest movements. Indeed, "mobilization" has a double connotation of both being an American movement and gathering leftist tendencies.[62] According to Warleigh and Fairbrass, "[t]his approach tended to focus on the internal features (e.g. resource levels in terms of staff and funding) of protest groups, an approach which omits the external political and social environment in which they operate,"[63] thus considerably limiting the range of analysis as well as the type of organizations that could be included in the meaning of the term. "Interest representation" has often been suggested as a neutral alternative to "lobbying" and "mobilization" and numerous scholars use either both "lobbying" and "interest representation" as coterminous notions. As suggested by Warleigh and Fairbrass, interest representation

> "[r]efers to those activities, tactics and strategies utilized by state and non-state actors when they attempt to influence European public policy. It ranges across lobbying, the exchange of information, alliance building, formal and informal contact, planned and unplanned relationships: in other words, all forms of interaction that are designed to advocate particular ideas, persuade the decision-takers to adopt different positions or perspectives, and ultimately to influence policy"[64]

Greenwood also chooses "interest representation" to avoid the dichotomy between "lobby" groups which tend to be rather business-oriented, and "NGOs", which are considered to be interest organizations of any kind.[65] Therefore, "interest representation" allows for a definition which seems to be devoid of negative connotations and obvious limitations. Moreover, the term conveniently contains

---

[60] Rinus van Schendelen, *Machiavelli in Brussels: the Art of Lobbying the EU*, p.47.
[61] Siim Kallas, A more transparent and accountable Commission – And what about the Think Tanks?", European Policy Center, Press release, Brussels, 17 April 2009, http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/181 (accessed 9 June 2011).
[62] Alex Warleigh and Jenny Fairbrass (eds.), *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy* (London: Europa Publications Limited, 2002), 2.
[63] Ibid.
[64] Ibid, 2-3.
[65] Justin Greenwood, *Interest Representation in the European Union*, p.8.

"representation", which is at the heart of the current debate on European governance and legitimacy, also a central aspect of this paper.[66]

I.2.2. Historical developments of EU lobbying

European lobbying has been present in the European Union since the very beginnings of the European construction in the 1950s. Throughout the various stages of Europe's evolution, lobbying has played a useful role to defend the interests of the citizens. Lobbying activities were later encouraged with the signature of the Single European Act (SEA) in 1986 which marked another step forward for a closer and more significant integration through the extension of the EU's areas of competence. Jacques Delors, then president of the European Commission, stated the objectives of the SEA:

> "The Single Act means, in a few words, the commitment of implementing simultaneously the great market without frontiers, more economic and social cohesion, a European research and technology policy, the strengthening of the European Monetary System, the beginning of a European social area and significant actions in environment."[67]

Within a short period of time large European organizations, also known as European Federations, developed thanks to the favorable conditions that the SEA created for interest groups. Commerce and industry were the first sectors to be represented due to the economic and business-oriented character of the European project; later on, with the development of initiatives to promote social rights, trade unions emerged as well. The Cecchini Report, published in 1988 by the European Community, linked the estimated gains of the single market to the "Costs of non-Europe", and implied that the EU would realize economic gains resulting from the Single European Market, leading to a change in the business strategies of European enterprises, hence the need for a better quality lobbying.[68]

---

[66] Rebecca Goerhing, "Interest Representation and Legitimacy in the European Union: the new Quest for Civil Society Formation", in Alex Warleigh and Jenny Fairbrass (eds.), *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy* (London: Europa Publications Limited, 2002), 122-124.

[67] Jacques Delors on the Single European Act, in Europa, "EMU: A Historical Documentation", European Commission, http://ec.europa.eu/economy_finance/emu_history/history/part_a_1_b.htm (accessed 14 June 2011).

[68] Archive of European Integration, "Europe 1992: The Overall Challenge (Summary of the Cecchini Report)", European Commission, SEC (88) 524 final, 13 April 1988, http://aei.pitt.edu/3813/1/000209_1.pdf (retrieved 14 October 2011).

Two years later, in 1990, the first edition of the European Public Affairs Directory was published, which has become an indispensable tool for any professional seeking to contact the EU. Lobby groups soon made their entrance into the directory, and now appear listed along EU institutions, embassies, trade associations and many more offices working closely with Brussels. The following crucial step was achieved with the Maastricht Treaty in 1992, which provided for the Committee of the Regions and the principle of subsidiarity, leading to the subsequent establishment of many local and regional offices in Brussels. It has been said that the increasing number of such offices getting involved in EU policy reflected the growing importance of the EU.[69]

As lobbying developed and the number of representative offices grew both in Brussels and in the other European capitals, so did the attempts to quantify the lobbying presence at the European level. The most cited work is possibly the 1992 Commission report, which estimated that they were around 3 000 lobby groups in both Brussels and Strasbourg, including 500 European federations.[70] This report is obviously now largely outdated, and several other official documents emanating from the European institutions have tried to provide a comprehensive quantitative landscape of lobbying since then. In 2001, Peter Koeppl carried out an interesting survey of how lobbying was perceived in the Commission by its civil servants, and the results of the analysis point to the importance of the relevance of the information provided for the actual acceptance of lobbyists within the institution, which is mainly based on competence.[71]

Still, of all the empirical studies that have focused on a quantitative approach to lobbying, the distribution of interest representation in Brussels follows the division summarized by the European Parliament in its 2003 working paper.[72] The Parliament makes a distinction between civic and producer interest, while the Commission has a specific categorizing system that follows the main policy areas. The main line of division still follows the difference between public and private interests, which of course is sometimes over-simplifying since it does not take into account the diversity of

---

[69] Peter Koeppl, "The Acceptance, relevance and dominance of lobbying the EU Commission; A first-time survey of the EU Commission's civil servants", p. 74.
[70] Commission of the European Communities, "An Open and Structured Dialogue between the Commission and Special Interest Groups", European Commission, SEC (92) 2272 final, 2 December 1992, http://ec.europa.eu/civil_society/interest_groups/docs/v_en.pdf (retrieved 14 October 2011).
[71] Peter Koeppl, "The Acceptance, relevance and dominance of lobbying the EU Commission; A first-time survey of the EU Commission's civil servants", p.79.
[72] European Parliament, "Lobbying in the European Union: current rules and practices", Directorate-General for Research Working Paper, Constitutional Affairs Series, AFCO 104 EN (Luxembourg: European Parliament, 2003).

public and private interests present within their respective groupings. Karr is one of those authors who decided to go along with the dual distribution of interest groups, and mentions that in 2004, roughly two thirds of the Brussels based representative offices of the interest groups were representing business interests. It led to the classification presented in Table A.[73]

Therefore, it seems that interest groups can be classified using several methods according to the aim of the analysis. As the scope of the paper will be further restricted, the classification offered by the Parliament will prove useful as it separates civic interests from the more business- and trade-oriented groups. That is also the distinction followed by Greenwood when he introduces the concept of "organized civil society".

I.2.3. The interest group population today

The progressive evolution of the European Union as a political system with specific decision-making competences as institutionalized in the treaties directly influenced the way lobbying adapted. We can mention for example the gradual empowerment of the European Parliament, which after the reform of its electoral system in 1973, making it a directly elected body, and the procedures of co-decision introduced with the Maastricht Treaty, became an attractive venue for lobbying.

Two important papers, published in the late 2000s, offer us a contemporary perspective on the scope of the interest group population in the EU that is up to date. The first paper is the product of a collective work by Wonka, Baumgartner, Mahoney and Berkhout and presents a new data set based on the existing three sources: the CONECCS database, the Landmarks directory and the European Parliament registry. One of their main findings is that those sources do not cover the same populations since they do not take into account the same type of organization. "Landmarks is much broader; CONECCS is focused on EU-level associations (as opposed to, say, corporations that might have a significant lobbying presence in Brussels); and the EP registry includes simply any organization that has a door pass to enter the Parliament building."[74] By combining the three sources without any chance of data overlap, the authors come to a final number of 3700 lobbying organizations considered important actors who regularly participate in EU lobbying. However, they do point out that the number given in their analysis is far from being exact, since a lot of lobbying groups did

---

[73] See the Annex part.
[74] Arndt Wonka et al., "Measuring the size and scope of the EU interest group population", p. 465.

not figure in any of the three source databases, and were consequently not included in the study. The distribution of the 3700 groups is presented in Table B.[75]

Another interesting table presents the national origin of the groups that are to be found in Table B. Without any surprise, the larger Member States are on top of the list with the stronger presence among the organizations. Moreover, the presence of the countries which accessed the EU in the 2000s is still timid, and seems to reinforce the assumption that there is a significant discrepancy within the EU as regard to the lobbying activity. One notable remark, though, is the presence of non-European organizations in Brussels, which is not entirely surprising if we analyze this in the light of American lobbying, which is as involved at the domestic level as it is in its external dealings. The United States is therefore quite visible in Brussels, with a presence that can compete with the largest Member States. The other most prominent non-EU country is Switzerland; although its size places it closer to Austria or Finland, the country is represented by far more organizations than those Member States. Table C lists the organizations according to their country of origin.[76]

The other paper by Berkhout and Lowery also deplore the lack of cohesive resources in order to proceed with more temporal analyses, which they nevertheless tried to accomplish in examining the evolution of the interest group population since 1990.[77] Despite the difficulty to combine the data presented by the different directories, as already mentioned in Wonka's study, Berkhout and Lowery still managed to determine that the growth of the EU interest population occurred more significantly in the early 1990s than in the late 1990s.[78]

Therefore, it seems that there is still much to do in terms of methodology and tools of analysis before we can expect to have a clear picture of lobbying in the European Union in terms of quantitative data.

I.2.4. The particular dual way of EU lobbying

The lack of encompassing data about EU interest group populations has not prevented the thorough analysis of the methods used to influence the centers of decision-making. Consequently, numerous "how-to" guides have been published for

---

[75] See the Annex part.
[76] See the Annex part.
[77] Joost Berkhout and David Lowery, "The changing demography of the EU interest system since 1990", *European Union Politics*, Volume 11 (2007), 448.
[78] Ibid, 448; 458.

better public affairs management, reinforcing the place of lobbying within the realm of politics, although criticism of non-legitimacy is still present.

Empirical research literature often point out to various systemic reasons to explain the attractiveness of lobbying the European Union over the national level. Indeed, the organization of the EU and its dynamic development as a polity makes it an interesting venue for different types of lobbying. Bender and Reulecke distinguish between three different kinds of lobbying:[79] there is first lobbying as prevention, which is the most difficult one since it consists in preventing or postponing a specific piece of legislation before the actual need for the said legislation. It requires an extremely high degree of upstream analysis and expertise. The second form of lobbying is more a reaction to an already existing legislative process; in that case, expertise may also be an asset to influence the outcome according to the needs of the interest groups involved. The last type of lobbying involves action, and consists of initiating legislation on the part of the lobbyist who sees the need for it.

The type of lobbying also determines the route of influence that is most appropriate for the lobbyist to obtain a satisfying result. Traditionally, there are two main routes of influence, as Greenwood suggested. The national route is preferred in matters of high politics, when intergovernmental politics is more influential. It is mostly related to subjects such as treaties, and less concerned with citizens' interests. Greenwood mentions that the progressive democratization of national lobbying led to the creation of cross-national social partners which can operate on both the national and European level. Until the late 1980s the national route was dominant, as suggested by Mazey and Richardson, and many authors still doubt the real effectiveness of the European route.[80] Grant is considered the most vibrant skeptic about the claims that Brussels is the most effective target for lobbying.[81] Similarly, Greenwood describes the national route as the most frequently used by lobbyists since it is the "tried and tested ground for many organized interests."[82] He also mentions that the national level is "where established policy networks operate which can equally well be used for the

---

[79] Gunnar Bender and Lutz Reulecke, *Handbuch des deutsches Lobbyisten, wie ein modernes und transparentes Politikmanagement funktioniert*, (Frankfurt: F.A.Z Institut, 2003), 117.

[80] See Sonia Mazey and Jeremy Richardson, "Interest groups and EU policy making: organizational logic and venue shopping", in Jeremy Richardson, *European Union: Power and Policy-Making* (London: Routledge, 2001), 217-238.

[81] Wyn Grant, *Pressure Groups and British Politics*, (Basingstoke: Palgrave Macmillan, 2000), 106-115.

[82] Justin Greenwood, *Representing interests in the European Union* (Basingstoke: Palgrave Macmillan, 1997), 32.

purposes of EU representation as they can for the governance of domestic affairs."[83] The national route is therefore a strong component of EU lobbying and despite the incentive to create social partners it can also reduce the need to develop a Brussels route.

The second alternative is to go directly to Brussels, which is more appealing for already well-organized and structured groups. At this level, citizens' interests are better taken into account thanks to the presence of several venues. It is therefore easier for organized groups to develop strategies according to the "target", the actor to approach. Again, there is an extensive part of the literature on lobbying which is dedicated to the description of how to lobby, leading to extremely precise step-by-step approaches in the art of lobbying. Therefore, lobbying has become a real example of public affairs management, with high levels of professionalization and considerable amounts of preparatory work, which in turn requires great cohesion and consistency.

I.2.5. The different venues of EU lobbying

As we already mentioned, the European Union possesses a particular structure creating unique opportunities for interest groups to choose between various possible arenas according to the interests they want to put forward. The two main institutions are the European Commission and the Parliament, but other actors are also highly influential and therefore attractive to lobbyists. Van Schendelen describes the Commission as a normal bureaucracy, with the particular characteristic of being extensively multinational, thus reflecting the European diversity.[84] The Commission being largely understaffed compared to similar national governments, Commission officials are likely to look for information and support from outside, in order to make up for their lack of resources. Moreover, their main legislative functions put them at a decisive place during the decision-making process, which is why the majority of the lobbying activity is focused on the Commission. The deep organizational intricacies of the Commission's comitology system and its functioning make it both appealing for lobbying but also highly controversial due to its obscure structure. Indeed, the majority of criticism surrounding the undemocratic aspects of lobbying results from a lack of transparency in the way the committees within the Commission make their decisions about policy and the actual degree of influence that the lobbyists do exert in the process.

---

[83] Justin Greenwood, *Representing interests in the European Union*, p.32.
[84] Rinus van Schendelen, *Machiavelli in Brussels: the Art of Lobbying the EU*, p.62-69.

The European Parliament is the second main institutional venue for lobbyists. Despite being based in three different European cities, the majority of the work related to the Parliament is also in Brussels, making the Belgian capital the center for lobbying activities. As suggested by Zetter, the Parliament is unique in the sense that it is the only international body to be directly elected since 1973 and is likely to gain more powers in the light of the accusations of "democratic deficit."[85] Indeed, due to the lack of accountability which is felt from other European institutions such as the Commission, or the general lack of enthusiasm of the general public for the European project as manifested in the Eurobarometer surveys, the Parliament, as the only directly elected body, is the sole institution which can claim for more powers as the true representative of the European citizens. As a result, it is also highly dependent on lobbying for information and expertise, hence the Parliament's open-door policy regarding lobbyists. The structure of the Parliament guarantees lobbyists various access points to the institution, by targeting either the Parliament Commissions or the numerous intergroups.[86] Those groups are not formally binding on the Parliament but are very influential in seeking to push some interests onto the EU's agenda by influencing the Parliament since the latter is the major creator of EU issues and an important player in the EU's agenda setting.

The Council of Ministers is the institution that can claim to be the chief decision-maker of the EU according to the treaties but it does not really take decisions; rather, it merely formalizes EU legislative proposals. Therefore, its power resulting from having the last word but not the decisive one makes it a less salient venue for lobbyists, all the more that most of its decision-making process takes place behind closed doors. The Council of Ministers is however supported by a series of committees and working groups which greatly benefit from some information input and expertise. Within the Council, as Van Schendelen argues, the real work floor is not performed at the COREPER level but within the several hundreds of working groups that function like the Commission's committees, although they are not as specialized.[87] At this level, both private and regional interests are represented, guaranteeing the presence of national preferences as official representatives.

---

[85] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 322.
[86] Rinus van Schendelen, *Machiavelli in Brussels: the Art of Lobbying the EU*, p.69-71.
[87] Ibid, 75.

Other decision-makers involve the European Court of Justice, the Court of Auditors and various actors acting as working groups within the various institutions mentioned above. The two main venues are undoubtedly the European Commission and the European Parliament, therefore, for the rest of this paper, only those two bodies will be taken into account, both for the final concept of lobbying that will be used and for the examination of the case-studies that will follow the analytical part on lobbying and democracy. Before presenting the notion of lobbying that will be retained for the purpose of this paper, let us first turn to the process of EU lobbying regulation and see to which extent the EU has developed its own regulation system than can be interpreted as a compromise between the British self-regulated version and the highly regulated lobbying in the United States.

I.2.6. EU lobbying regulation

The initial attempts for lobbying regulation in the European Union date back from the 1990s, when the Parliament proposed the first drafts, although the recommendations were never adopted.[88] Zetter suggests that the proposal to make MEP's external sources of income inscribed into a registry was one of the main causes for the rejection of the Parliament's draft recommendations.[89] Since then, however, a number of self-regulated lobbying associations have been created: the European Public Affairs Consultancies Association (EPACA), the Society of European Affairs Professionals (SEAP) and the European Association of Public Consultants (EAPC). The EPACA was founded in Brussels in 2005 and is therefore one of the youngest European associations dealing with lobbying. It promotes transparency and professional behavior in the public affairs relations with the European Union under core principles that are expressed in their code of conduct. The EPACA has a special focus on lobbying, and is deeply concerned with the establishment and maintaining of a sound environment for public affairs professionals to participate in the European democratic process.[90] The Brussels-based SEAP organization is particularly active in promoting a better understanding of lobbying and follows closely the latest developments in terms of transparency policies. Like the British associations, the SEAP encourages professional

---

[88] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p.16.
[89] Ibid.
[90] For more information on the European Public Affairs Consultancies Association, see their website: http://epaca.org/, and the sections presenting their code of conduct and their position on lobbying: http://epaca.org/en/code-of-conduct/text-of-code/, http://epaca.org/en/about-lobbying/definitions-practice/.

behavior in dealing with European affairs and is strictly regulated by a code of conduct.[91] The EAPC was founded in Vienna, Austria, and is tied to more general activities of communication in both the political and the public fields. As such, they do not specifically target lobbying as one of their main activities, but are bound to a certain code of conduct through their constitution.[92]

Those associations proved useful to establish a tradition of dialogue with the European institutions, especially in the wake of the 1992 Parliament's hearing on lobbying, which exposed concerns about transparency and democracy in the European Union. As a result, in 1996 the European Parliament adopted the Ford report establishing a register for lobbyists who wished to access the Parliament's building, and proposing a code of conduct.[93] A few years later, the Parliament stated issuing security passes to lobbyists on special occasions.[94] Inspired by the United States' model of regulation[95] and pressed by the repeated calls from various organizations in the European Union for more transparency and lobbying regulation, European Commissioner Siim Kallas launched the idea of a transparency initiative for the EU by focusing on three key aspects: increasing accountability in terms of finance, especially EU funding; strengthening the integrity and independence of EU institutions; and imposing stricter controls on lobbying.[96] [97] Kallas opted for a tighter system of self-regulation by suggesting a voluntary registration system accompanied by a common

---

[91] For more information on the Society of European Affairs Professionals, see their website: http://www.seap.be/index.php, and the section presenting their code of conduct: http://www.seap.be/index.php/home/page/2. The importance the association gives to lobbying is clearly noticeable under the heading "ETI and Lobbying" accessible with the following link: http://www.seap.be/index.php/home/page/19.

[92] For more information on the European Association of Public Consultants, see their website: http://www.eapc.eu/.

[93] Cornelia Woll, "Lobbying in the European Union: from sui generis to a comparative perspective", *Journal of European Public Policy,* Volume 13.3. (2006), 3.

[94] Lionel Zetter, *Lobbying, the Art of Political Persuasion*, p. 17.

[95] Siim Kallas, "Lobbying: what Europe can learn from the US", speech given at the American Chamber of Commerce EU plenary meeting, 18 September 2007, http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/07/544&format=HTML&aged=1&language=EN&guiLanguage=en (accessed 10 October 2011).

[96] Euractiv, "Transparency Initiative", *Euractiv*, 1 October 2009, http://www.euractiv.com/fr/node/188351 (accessed 20 October 2011).

[97] Siim Kallas, "Communication to the Commission from the President, Ms Wallström, Mr Kallas, Ms Hübner and Ms Fischer Boel proposing the launch of a European Transparency Initiative", European Commission Archives, November 2005, http://ec.europa.eu/archives/commission_2004-2009/kallas/doc/etik-communication_en.pdf (retrieved 20 October 2011).

code of conduct, all of which being monitored by a controlling entity authorized to apply sanctions when necessary.[98]

The European Transparency Initiative as endorsed by the European Commission realized its major achievements in 2008 with the successive creation of a voluntary lobbyists' register and the start of the discussions over the establishment of a common register for all EU institutions.[99] What came to be known as the "Kallas initiative" triggered a lot of responses both from EU officials and NGO members about traditional points of disagreement such as the definition to apply to lobbying and the extent to which the European Transparency Initiative would cover groups such as think-tanks, NGOs, trade union and other types of organizations. NGOs firmly rejected being categorized as lobbies although some of them expressed their readiness to comply with the voluntary register. Another subject of disagreement concerned those who criticized the direction taken towards self-regulation, arguing that without a strong mandatory register, issues of democracy and transparency would not be properly tackled. One of the fiercest advocates of a mandatory register is Erik Wesselius, member of Corporate Europe Observatory – a branch of the ALTER-EU group.[100]

Today, as we have already mentioned, there are several registries and databases that make an inventory of the interest group population active in Brussels. The three traditional main databases were until very recently CONECCS, the Landmarks' European Public Affairs Directory and the institutions registers. CONECCS stands for "Consultation, the European Commission and Civil Society"; it was established as a voluntary-basis registration system in the early 1990s[101] and was recently dismantled after the launch of the European Transparency Initiative and the voluntary register of interest representatives. The CONECCS database is therefore no longer accessible, as

---

[98] Euractiv, "Commission trusts EU-lobbyists to self-regulate", *Euractiv*, 5 May 2006, http://www.euractiv.com/pa/commission-trusts-eu-lobbyists-self-regulate/article-154962 (20 October 2011).

[99] European Parliament, "Report on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions (2007/2115(INI))", 2 April 2008, http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0105+0+DOC+PDF+V0//EN (retrieved 9 June 2011).

[100] Europolitique, "Commission Européenne : Siim Kallas commente la nouvelle initiative en faveur de la transparence", *Europolitique*, 10 November 2005, http://www.europolitique.info/commission-europ-enne-siim-kallas-commente-la-nouvelle-initiative-en-faveur-de-la-transparence-artr82609-29.html (accessed 9 June 2011).

[101] Joost Berkhout and David Lowery, "Counting organized interests in the European Union: a comparison of data sources", *Journal of European Public Policy,* Volume 15.4. (2008), 491.

visible online.[102] Landmarks' database in one of the most comprehensive databases on interest representation in the European Union and is annually updated, but its access is unfortunately not free of charge and acquiring the phonebook may prove quite onerous for some. The other alternative would be the registries maintained by the institutions. Until the inter-institutional agreement of June 2011,[103] there were still two different databases, one for the European Parliament and the other held by the European Commission. Since June 2011, a joint secretariat ensures that all interest representatives wishing to get access to the European institutions can register online.[104] Since the changes were very recent, the website has a few pages under construction, but most of its functions are already accessible, and the code of conduct is open for consultation as well. The code of conduct mirrors the ones we already mentioned in its focus on professional behavior and transparency, while including specific requirements for the lobbyists' relations with Members of the European Parliament.[105]

I.2.7. Lobbying in the European Union – introducing the debate

Chapter 2 has so far attempted to present EU lobbying irrespective of the fact that lobbying encompasses various types according to the sectors concerned – business, trade, health, social, etc. As we have noticed when dealing with the interest group population today, the classification of lobby groups is not a given fact, and the issues of definition are such that each party can easily propose a definition and a subsequent classification that is justifiable. This is precisely the situation today, since academic scholars, EU institutions and organizations base their analysis of EU lobbying on different criteria. In that respect, the study performed by Wonka et al. can serve as a good example of how to generate an adequate description of the lobby group distribution in the European Union.

At the core of the problem lies, as the first two chapters suggest, the question of defining lobbying. Some scholars opted for a broad definition, which in turn proves

---

[102] http://ec.europa.eu/civil_society/coneccs/
[103] Official Journal of the European Union, "Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organizations and self-employed individuals engaged in EU policy-making and policy-implementation" Inter-institutional Agreements L 191/29, 22 July 2011, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:191:0029:0038:EN:PDF (retrieved 20 October 2011).
[104] See the Europa portal for the Transparency Registry: http://europa.eu/transparency-register/index_en.htm.
[105] For more information, see: http://europa.eu/transparency-register/about-register/code-of-conduct/index_en.htm.

difficult to sustain when it comes to identifying patterns of analysis;[106] similarly, a definition that is too narrow will result in proceeding in an individual analysis of each separate case, therefore making the establishment of an analytical framework all the more complicated. The definitions of lobbying presented so far in this paper were selected to exemplify the dilemma which arises when attempting to define the concept of lobbying, both in general and in the European Union context. Although none of them will prove useful for the purpose of this paper unless they are further restricted, they do introduce what is at the core of the research presented here, namely the relation between lobbying and the democratic deficit by touching upon the relation between the institutions and civil society.

Usually, lobbying, democratic deficit and civil society form part of separated debates and are therefore analyzed in two different fora. On the one hand, lobbying and democratic deficit are sometimes analyzed together in an attempt to show that not only lobbying is still largely perceived as a threat, but that it participates in the further obscuring of the decision-making process at the EU level, especially when it comes to the work of the Commission. That trend has been presented throughout the first part of this paper, and will be further analyzed in relation to the democratic deficit in the following part. However, a new trend has emerged and tries to reconcile lobbying with the EU institutions; various theories support the fact that either transparency is not necessary for the EU to be democratic, in which case lobbying can play an active positive role, or that lobbying can on the contrary bring a new form of control by making the power structures more visible. Those views will also be subject to a more detailed analysis in the second part of the paper. Indeed, it appears that the issue of democratic deficit encompasses a lot of other factors, and has often been considered together with the existence of civil society. Based on the assumption that democratic deficit is an issue to be tackled, the emphasis is regularly put on the ways to foster more citizen participation by creating the means for a powerful organized civil society.

The ultimate intention of the paper, as presented in the introduction, is then to link those two main debates into one, and complete the circle by trying to link lobbying and civil society by focusing on citizen interest representation. For this purpose, lobbying will from now on be considered exclusively as what Greenwood qualifies as

---

[106] The definition offered by Warleigh and Fairbrass is a relatively broad one, to cite only one example.

"citizen interest representation,"[107] in which civil society interests have become an essential part of the EU political system by providing a safeguard for legitimacy and creating a strong interdependence between EU institutions and interest groups. The distinction that is frequently made between private and public interests is the main dichotomy that will be used for a definition of lobbying in this paper. Indeed, in the light of the various possible definitions of lobbying that have been provided in Part I, there is a need to formulate a suitable definition of lobbying that will be consistent for the rest of the paper, although it will not be devoid of certain limitations. Therefore, lobbying will be considered as the set of activities performed by interest groups, which aim at influencing the decision-making process of the European institutions by making their interests visible on the public sphere. Interest groups classification will follow the traditional dichotomy of business-oriented interests and citizen-oriented representation which will allow for a focus on the latter according to Greenwood's classification.

Citizen interest groups have become the focus among the interest group population since the social outlook given to the European Union by the Maastricht Treaty and the raising concerns about legitimacy. Therefore, the debate surrounding the types of legitimacy, whether input legitimacy and output legitimacy, and the gradual emphasis on the former, have placed the phenomenon of participatory democracy at the heart of the interest representation system by allowing citizen groups to organize and mobilize civil society. It is in this context that the discourse on the democratic legitimacy of the European Union takes all its significance.

The historical development of citizen representation in the European Union is intricately linked to the European integration process and successive waves of enlargement; as such, it belongs to the neo-functionalist theories of integration elaborated on at the beginning of the chapter. According to Greenwood, the first citizen groups to appear were consumer groups, which formed as a consequence of the focus given by the Treaty of Rome and the creation of the European Economic Community.[108] Groups concerned about human rights and world development soon followed and were met by an institutional framework initiated by the European Commission to incorporate interest groups into the European Union mechanism. Later treaties provided for the emergence of other, more specialized groups such as CONCORD, Amnesty

---

[107] Justin Greenwood, *Interest Representation in the European Union*, p.2-7.
[108] Ibid, 125.

International, animal rights or the environment between the mid-1970s until the Maastricht Treaty. Organizations dedicated to issues such as health, poverty, disability and other social aspects emerged after the Amsterdam Treaty, which allowed for the development of a social policy. As a consequence, large umbrella groups like the Social Platform were created. The Social Platform realized major achievements in favor of the inclusion of citizen interests and holds a leading role in coordinating with European civil society. Many initiatives to foster a "civil dialogue" were proposed as early as the 1990s to establish a tradition of regular contact between the institutions and civil society.

European institutions reacted by affirming the importance of such organizations in the promotion of Europe and stated that "voluntary organizations and foundations foster a sense of solidarity and citizenship, and provide the essential underpinnings of our democracy. In the light of the challenges now facing the European Community, these functions have never been more vital."[109] A few years later, the Commission reiterated its position by including NGOs more specifically, and claiming that they can "make a contribution to fostering a more participatory democracy both within the EU and beyond."[110] In this context of positive encouragement on the part of the EU institutions, the White Paper on Governance and the institutions' initiatives to tackle the issues of democratic deficit and legitimacy are to be understood as part of a wider general concern as we will see in the next part.

Nowadays, citizen interests are more than ever at the center of the EU policy-making due to the chosen focus of the institutions on input legitimacy, especially since the recent changes brought by the "Lisbon agenda" in terms of opportunities and engagement with the European Union. Citizen interests represent a large part of the interest representation population in the EU, and possibly account for one third of the total, therefore being the second largest category of interest groups after business representation.[111] They encompass various types of citizen interests, and are generally divided into three main branches, environmental, consumer and social. Citizen interest

---

[109] European Commission, "Communication on Promoting the role of voluntary organizations and foundations in Europe", COM (97) 241 final, 6 June 1997, http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:1997:0241:FIN:EN:PDF (retrieved 20 October 2011).

[110] European Commission, "The Commission and Non-Governmental Organization: Building a Stronger Partnership", Commission Discussion Paper presented by President Prodi and Vice-President Kinnock, COM (2000) 11 final, 18 January 2000, http://ec.europa.eu/civil_society/ngo/docs/communication_en.pdf (retrieved 20 October 2011).

[111] Justin Greenwood, *Interest Representation in the European Union*, p.117.

groups are mainly funded by the Commission, which often led to concerns about the links between funding and dependence, with a change in perception in the outlook of the European Union. However, there is still a large presence of anti-globalization movements organizing around NGOs which do possess a broader degree of independence. Those movements are characteristic in their progressive organization through institutionalization, which guarantees their involvement in politics and their inclusion in civil society mainly for two main reasons: the development of EU competences and democratic legitimacy. The different groups are presented Table D, compiled after Greenwood.[112]

Other groups do not belong to the Social Platform and are not members of the European Union Civil Society contact group, whose members are presented Table D. Among them, the European Citizen Action Service, also known as ECAS, which was created in 1990 and gathers members from various fields of civil life including culture, development, social welfare and health. ECAS is particularly active on matters related to civil society, free movement of citizens and European governance.

This second chapter has presented lobbying in the European Union context by examining its specificities in terms of historical development, organization and regulation. The analysis has also pointed to the complexity of defining the term, especially since the EU is not as clearly definable as any other political system. However, some interpretations were preferred for their neutral characteristics, and a general consensus has been reached in considering "lobbying" and "interest representation" as coterminous. This is the position that will be adopted for the rest of the paper. The examination of lobbying activities in the EU has allowed us to identify several types of lobbying, whose traditional division stands between business-oriented groups and citizen-oriented groups. The latter is the one that will be more extensively dealt with in the rest of the paper, since its focus is on citizen participation through civil society.

From a general perspective on lobbying, this first part has moved to limit its scope on the European Union and a particular type of lobbying that primarily concerns

---

[112] See the Annex part.

the citizen. Throughout the reflection that ultimately led to center the debate on citizen interest representation, several crucial issues have been mentioned and largely account for the ambiguous position of the lobbyists vis-à-vis the institutions they seek to influence. Both the academic questioning about a suitable definition for lobbying and the political decisions to regulate lobbying activities express a deep concern about the impact of lobbying on democracy. More precisely, it is perceived that lobbying aggravates the so-called democratic deficit of the EU instead of alleviating it. The second part of this paper will then be devoted to the examination of democracy in relation to lobbying, in an attempt to assess the real impact of interest representation on the EU's democracy and see whether the accusations of democratic deficit are justified. The second half of the chapter will be devoted to analyzing how lobbying can be beneficial to democracy by suggesting a change in perspective which would include lobbying as a tool used by civil society to promote more participation.

Part II: Lobbying and Democracy

Chapter 1: Lobbying and the democratic deficit

The first part of this thesis presented the notion of lobbying and suggested that numerous controversial aspects were associated to lobbying practices, whether considered in broad terms or in the European Union context. The peculiarity of the EU system in terms of lobbying is reflected by the various debates surrounding interest representation activities, and the subsequent institutionalization of those debates as the expression of a general concern. It is in this context that the analysis of lobbying in terms of democracy is to be perceived and will therefore be analyzed as a constant dialogue between the reflections of the European society and the responses given by the institutions. The issues of democracy that have been regularly raised in relation to lobbying will be exposed here under the main concept of democratic deficit, which will be extensively dealt with in this part as the theoretical core of the paper. The central notion of democracy as introduced in Part II will be the common element which links all the approaches presented in this paper in an attempt to connect lobbying and civil society.

II.1.1. Lobbying, good or bad for democracy?

The various definitions of lobbying that have been presented in the previous chapters all indicate that the overall perception of lobbying in the academics and among the institutions is encouraging, if not clearly positive provided that certain factors are taken into consideration such as the importance of codes of conduct and regulations. However, the persistence of negative connotations to describe lobbying activities is largely spread within the European Union, making the positions on lobbying influence the way decision-making is seen. Two major trends are indeed distinguishable, and revolve around considering EU decision-making as a privatized phenomenon,[113] or rather as a democratic one. As Karr mentions in one of her works, the presence and participation of interest groups is a sign of a functioning democracy, but the actual impact of lobbying is twofold on both the institutions and the citizens especially due to its role and regulation system.[114] For synthetic purposes, the positive and negative impacts of lobbying in a system such as the European Union can be summarized as follows.

---

[113] Justin Greenwood, *Interest Representation in the European Union*, p.7-8.
[114] Karolina Karr, *Democracy and Lobbying in the European Union*, p.73-79.

Positive impacts are perceived throughout the decision-making process since the quality of interest representation - expertise and degree of information - provides the basis for a sustainable policy process that is directly involved at the institutional level and at the citizen level by encouraging the expression of public opinion in matters of policy shaping.[115] Therefore, for the European citizen, lobbying allows them to have a broader impact in terms of participation with an important degree of respect for democratic principles such as transparency and accountability. On the other hand, the institutions experience stronger legitimacy provided for by the output system and consolidate their positive perception by the public opinion.

Negative impacts are mostly perceived in terms of abuse of power from certain groups, which leads to an unfair over-representation of some interests over others. As already mentioned in the previous part, the imbalance in interest representation is often due to the inequality of resources that the various groups possess, affecting the organization and the effectiveness of the interest representation system. If policy making is hinged on effectiveness, it will most likely suffer from competing interests, leading to issues of efficiency in turn influencing its own process.[116] The threats of over-representation of some interests are reflected in the position of the citizens, who are likely to feel disconnected from the policy making activities, especially when group leaders are in charge of the agenda. Interest representation, in this case, leads to imbalance both within and between groups, making competition the most salient example of lobbying as a "privatized". As for the institutions, the negative impacts are mostly felt through the lack of legitimacy and sometimes competence, following a perceived over-dependence on non-institutional expertise.

In the light of this general overview of the positive and negative aspects of lobbing in the European Union, a clear emphasis appears on transparency, which is what the institutions and in particular the European Parliament tried to achieve since the late 1980s. In 1991, the European Parliament commissioned MEP Marc Galle to realize a study on lobbying, with a special focus on lobbying regulation; a public hearing organized by the Committee on Rules of Procedures was also held in Brussels at the beginning of 1991 to discuss the effects of growing lobbying activities in relation to the

---

[115] Karolina Karr, *Democracy and Lobbying in the European Union*, p.73-79.
[116] Ibid, p. 75-77.

Parliament's work.[117] Out of those initiatives, and besides the first official recommendations to establish a system of regulation and registration of lobbyists, Galle's report and the public hearings also targeted the MEPs and not only the lobbyists, as it has been done in Britain for example, in order to "ensure that Members of Parliament meet the same standards of transparency that Parliament requires of lobbyists."[118] The notion of transparency is particularly relevant at the European Union level, since the various trends in interest intermediation have led to several models in which transparency is advocated.

II.1.2. The trends of interest intermediation

When dealing with methods of interest intermediation, several models have been used; the most common ones are pluralism and corporatism, but in the case of the European Union, other alternatives are sometimes preferred, such as clientelism or a more consociational pattern for interest representation. As we will now see, not all those models are ideal when it comes to the current issues of democratic deficit in which lobbying is involved. It was the study of interest representation at the national level which gave birth to theories of pluralism and those were later adapted to the EU polity.[119]

Nowadays, one of the traditional models of interest intermediation that dominates in the EU discourse still describes the relations between interest groups and institutions as pluralist. A pluralist system is generally characterized by a plurality of competing, voluntary and non-hierarchical interest groups which interact with the state without a formal framework. Indeed, as Ayberk and Schenker claim, in a corporatist model the process by which groups formulate their interests and engage the European Union through political parties and institutions is detached from any form of political power, hence their focus on parliament and political parties.[120] The pluralist model

---

[117] Didier Chabanet, "From Opacity to Transparency? The Place of Organized Interests within the European Institutions", EUGOV Working Paper 27 (Bellaterra, Barcelona: Institut Universitari d'Estudis Europeus, 2011), 1.

[118] European Parliament, "Proposals for the Enlarged Bureau with a View to Laying Down Rules Governing the Representation of Special Interest Groups at the European Parliament", Committee on the Rules of Procedure, the Verification of Credentials and Immunities, PE 200.405 (Brussels : European Parliament, 1999), 6.

[119] Irina Michalowitz, "Beyond Corporatism and Pluralism: Towards a New Theoretical Framework", in Alex Warleigh and Jenny Faibrass (eds.), *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy*, London: Europa Publications / Taylor & Francis Group (2002), 37.

[120] Ural Ayberk and François-Pierre Schenker, "Des lobbies européens entre pluralisme et clientélisme", *Revue française de science politique*, Volume 48.6 (1998), 725.

therefore separates the formulation of interests by the various groups from the way those interests are mediated by the different institutions. Since the relations are informal, close relations between interest groups and institutions constitute the most efficient way to put forward interests and demands, which is challenged by the competition situation that exists among the various groups.[121] The positive aspects of the pluralist model lie in the inclusion of the citizen in the political life while guaranteeing the absence of a single dominant interest. However, the competitive system in interest representation can also prove to be a major drawback, since it can lead to a mutual blocking of interests and the overlooking of interest groups that are not as well-organized due to the pressure of the mainly informal relations.

The corporatist model, on the contrary, is characterized by a strong institutionalization of the relations between interest groups and the institutions, granting lobbyists a wide degree of access to the decision making process. It gradually came to replace the pluralist theories of interest intermediation in the EU, although both concepts have remained in use. It involves a hierarchic co-ordination and articulation of interests through a small number of interest associations, leading to a wider range of responsibilities on the part of interest groups that have been recognized as legitimate in their relations with the institutions.[122] Informal influence is still important for corporatism, but the main point lies in the internal organization of the different Member States rather than in the European Parliament. Austria and the Scandinavian countries are good illustrating examples of the corporatist model.[123] In this case, the corporatist model guarantees a balanced and equal representation of interests through their institutionalization, while making sure that common interests predominate as opposed to individual interests. However, corporatism has often been criticized for being a form of privatized interest representation by allowing for large groups to dominate the scene, leading to power asymmetries in relation to other weakly organized interests. This is why the "privatized" conception of interest representation is said to be unsustainable and might not be the model to apply to the European Union in the long term.[124]

---

[121] Ural Ayberk and François-Pierre Schenker, "Des lobbies européens entre pluralisme et clientélisme", *Revue française de science politique*, p.727-728.
[122] Ibid, 728-729.
[123] Sabine Saurugger, "Analyser les modes de représentation des intérêts dans l'Union européenne: construction d'une problématique", *Questions de Recherche / Research in Question*, Volume 6, Centre d'études et de recherches internationales, Science Po (2002), 15.
[124] Karolina Karr, *Democracy and Lobbying in the European Union*, p. 53.

Many other scholars argue in favor of a third model as inherited from the clientelist relations that exist mostly among the Mediterranean countries and the developing countries. However, clientelism is rather analyzed as a political strategy for the acquisition, maintenance and expansion of political power. In that respect, it is often put in opposition to civil society, since the relations to power are different in terms of decision-making capabilities. The approach is nevertheless useful since it offers an interesting perspective on the vertical relation established between interest groups and the institutions, which appears as a form of patronage, with a clear dependence between the group at the bottom and the institution at the top.[125] This mode of relation is therefore relatively weak, and is mainly based on resources; as opposed to corporatist politics, the clientelist model is also non-institutionalized and keeps the interest groups out of the decision-making process.

According to Michalowitz, a lot of controversy emerges when it comes to characterizing the forms of interest intermediation as either pluralist or corporatist, due to the peculiar political system of the EU.[126] Indeed, both models were created in relation to national systems, whose functioning is not applicable to the EU. Therefore, over the last decade, new theories attempted to go beyond the limitations of the earlier trends; the last model, and the one which will be retained for the rest of the paper as the ideal form of interest intermediation has been called "consociational" for it focuses on consensus in decision-making. The consociational model is characterized by its democratic features which provide for the existence of a stable non-majoritarian system, as opposed to other forms of majority rule democracy.[127] It has been believed for a long time that the system of majority rule was the only form of legitimate democratic governance, as illustrated by the Anglo-Saxon models in the United States and Britain, but it seems that consensus democracy has become quite commonplace, especially in Europe if we look at Austria, Switzerland or the Netherlands. Authors such as Karr highlighted the fact that the European Union possesses all the characteristics of a typical consociational democracy in terms of political stability and conflict resolution capabilities through consensus.[128] Moreover, the EU also displays shared decision-

---

[125] Ural Ayberk and François-Pierre Schenker, "Des lobbies européens entre pluralisme et clientélisme", p.730.
[126] Irina Michalowitz, "Beyond Corporatism and Pluralism: Towards a New Theoretical Framework", p. 37.
[127] Karolina Karr, *Democracy and Lobbying in the European Union*, p.25-26.
[128] Ibid, 26-30; 122-126.

making features in community matters and a proportional political representation which guarantees the presence of smaller countries and minority rights. All this is supported by a strong elite tradition of consensus which accounts for a great stability, but also encourages negative tendencies such as immobilism, issues of political equality due to an elite-dominated system and issues of political accountability due to the lack of transparency surrounding the decision-making processes and the integration of special interests. It is according to those consociational features that the democratic deficit of the European Union will be further examined, especially in relation to transparency.

II.1.3. Transparency

Naurin discussed the successive calls for transparency that emerged from both the citizens and the institutions as a means to address the issues of democratic legitimacy in the European Union.[129] He questions the access to information through public institutions as a fundamental right: should transparency always be prioritized over other factors such as efficiency? The issues of transparency have been put forward with such vigor that it has become an accepted fact that for the EU to be fully legitimate, it had to enhance its transparency mechanism in terms of functioning and decision making in particular. However, we need to reflect on the consequences of transparency in relation to democracy for the European Union, since transparency impacts on various aspects such as how the elite behaves, how the citizens react and what is expected of democratic control. Indeed, when dealing with democratic control for instance, it appears that transparency is necessary for accountability, but it is not necessarily enough for democratic accountability.

As an example, the cases of the Commission and the Council of Ministers are often mentioned as the two institutions that are not subject to democratic political accountability. Naurin precises that they are only answerable to judicial control in cases of malpractice.[130] The opacity of the Commission's work and system of decision-making has already been briefly mentioned in the previous part, especially in relation to the influence of interest groups in the making of decisions, therefore we will not dwell any further on the subject. Suffice to say that in the European Union, two extremes can be found on the transparency scale: on the one hand the European Commission with its

---

[129] Daniel Naurin, *Deliberation Behind Closed Doors: Transparency and Lobbying in the European Union* (Colchester: ECPR Press, 2007), 1-9.
[130] Ibid, 3.

very intricate mode of functioning, and on the other hand some national governments such as the Swedish one, where the principle of publicity is institutionalized.[131]

At the European Union level, the common claim argues that transparency is the key to ensure high-quality decision making in respect of the public interest. Two approaches are therefore crucial in doing so: the output-oriented effect guarantees that decisions are made for the people, while the input-oriented effect makes sure that decisions are made by the people. The need for both output and input factors as determining conditions for transparency is the only way to address democratic legitimacy in the EU.[132] Achieving transparency is then facilitated by the promotion of publicity, as it is the case in Sweden, but some proponents of deliberative theories pointed to some ambiguities about the effects of transparency on the behavior of the political elites, saying that publicity is not a strong enough incentive for political actors to behave in the best interest of the public. Cases are regularly exposed by the media to prove their point, making transparency a recommended but not indispensable requisite for democratic legitimacy.

II.1.4. The democratic deficit

Over the past decades, the debate about democratic deficit has progressively been applied to the European Union as a growing concern for the EU's legitimacy. It is important to note that the phenomenon of democratic deficit is not restricted to the EU, and a lot of studies have been conducted in other countries such as the United States. As we will see in this chapter, the importance of the arguments pointing to a democratic deficit in the European Union is mostly based on the assumption that the EU is a sui generis system whose functioning is not comparable to any other existing system. Therefore, the main preoccupation is to define what democratic deficit really entails in Europe, and ascertain the specific European features in comparison to other models. It is only by determining the existence of similarities or differences in terms of the causes of democratic deficit, the systemic drawbacks that allow for its existence and the institutional brakes that need to be fixed that the extent of the EU's democratic deficit will be properly assessed and solutions be found if necessary.

---

[131] The principle of publicity refers here to the fact of having one's actions exposed to the public audience.
[132] Daniel Naurin, *Deliberation Behind Closed Doors: Transparency and Lobbying in the European Union*, p. 8.

Zweifel defines democratic deficit as the "progressive erosion of democratic control,"[133] based on Dahl's observation that the boundaries of any nation-states are "now much smaller than the boundaries of the decisions that significantly affect the interests of its citizens."[134] This discrepancy between the theoretical powers of the state and the actual reality within its area of control was questioned during the talks preceding the establishment of the Maastricht Treaty and the European Monetary Union. Issues of democratic deficit became a European preoccupation within the formal legal debate when many Member States rejected the treaty, with the German constitutional court stating that no further integration could take place unless the European institutions were made "more democratic."[135]

Like the concept of lobbying, much of the debate surrounding democratic deficit suffers from an apparent problem of definition. In order to assert the existence of democratic deficit in the European Union, there needs to be some basis on which to support such claims; therefore, the question "what is the European Union?" should find a consistent answer. Zweifel rejects the common acceptation that the EU is a singular and unique system, but rather claims that it is no different from current political systems. The debate around the nature of the European Union has been a long-lasting one, and there seems to be no definite answer as to what it should be comparable to. This ongoing deliberation has led to a divide between proponents of the existence of a democratic deficit and those who claim that such deficit is exaggerated if considered from a legal point of view. Zweifel argues that the EU possesses obvious characteristics of a federal state, and that as such it is not significantly different from the United States or Switzerland.[136] He therefore supports Hix' statement that "politics in the EC [currently the European Union] is not inherently different from the practice of government in any democratic state."[137] However, whether the EU should be perceived as a federal state, an international organization or any other type of genuine political system, it is a fact that democratic deficit has been repeatedly claimed to jeopardize the

---

[133] Thomas D. Zweifel, *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in Comparative Perspective* (Lanham (Md): Lexington Books, 2002), 2.

[134] Robert Dahl, *Democracy and its critics* (1989), quoted in Thomas D. Zweifel, *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in Comparative Perspective* (Lanham (Md): Lexington Books, 2002), 2.

[135] Thomas D. Zweifel, *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in Comparative Perspective*, p. 2.

[136] Ibid, 4-5.

[137] Simon Hix, "The Study of the European Community: The Challenge to Comparative Politics", *West European Politics*, Volume 17.1 (1994), 1.

legitimacy of the EU, especially through a series of arguments. Zweifel and other authors have listed the common claims that make up for the attacks of democratic deficit.[138] Among them are five main arguments of formal nature, which are listed and presented below:

- Lack of legitimacy: the most significant example of the EU's lack of legitimacy is revealed in the low turnout at the European Parliament elections and the various Eurobarometer surveys about public opinion. It indicates an insufficient amount of trust in the institutions since the political discourse is still too oriented towards the national level. As a consequence, the heterogeneity of the European citizens is maintained, and no common feeling of belonging can emerge. It is precisely the absence of a European demos that prevents the formation of a collective conception of democracy and legitimacy, hence the EU's weak position towards its people(s). As Weiler argues, "if there is no demos, there can be no democracy."[139] The national basis of the European people is still too strong to allow for a single demos, but instead, several demoi need to coexist. Each of them has its own perception of democracy, making the recognition of EU institutions, even though democratic in theory, still too impregnated with national components for a Europe-wide legitimate system based on consent to be achieved. It is all the more elusive that the integration process further complicates the formation of a single demos by diversifying even more the EU's heterogeneity in terms of memory and experience. In that respect, it is understandable that the issues of legitimacy are among the most complex to tackle.

- Lack of transparency: this argument refers to lines of attack that have already been mentioned with Naurin. Transparency is already difficult to achieve at a national level, where the government is usually constitutionally responsible for some degree of publicity by allowing the public's access to deliberations. At the European level, the task is even more tedious, and many of the institutions follow procedures that are not entirely made public. Moreover, another possible reason for the lack of transparency lies in the very procedures of decision making, which combine the participation of more than one institution in the final

---

[138] Thomas D. Zweifel, *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in Comparative Perspective*, p.12-23.

[139] Joseph Weiler, *The Constitution of Europe, "Do the New Clothes Have an Emperor?" and Other Essays on European Integration* (Cambridge: Cambridge University Press, 1999), 337.

say, leading to some confusion about a clear separation of powers. In that context, transparency is restrained by not knowing what is decided and where, and how to determine accountability. Similarly, in terms of transparency, the previous part has also shown the ambiguous influence of interest groups, which equally participate to reinforcing the possibility of criticism by maintaining a rather obscure pattern of dealings with the decision-makers.

- Lack of consensus: consociational politics are of course more difficult to manage in a polity such as the EU which grows increasingly heterogeneous after each enlargement round. As we have also pointed out, the absence of a demos jeopardizes the strength of the EU's legitimacy therefore leading to a challenging process of consensus reaching. This has been clearly illustrated by the progressive decline of the unanimity voting system in favor of the principle of qualified majority voting.

- Lack of accountability: among all the EU institutions, the European Parliament is the only one to be directly elected, making it too weak to compensate for the democratic deficit of the other bodies, manifested through the lack of legitimacy, transparency and consensus that are described above. Its weakness is particularly visible in relation to the European citizens' reaction to the Parliament elections, for which the low turnout is a sign that the European Parliament is not believed to matter. In one of his translations of Kielmannsegg, Zweifel states the following: "concerning the elections to the European Parliament, one will certainly not be able to interpret the low participation level as a vote against Europe – it is above all expression of the widespread conviction that the elections to the European Parliament are insignificant because they are inconsequential."[140] Moreover, as the only directly elected institution the Parliament falls short in holding the Commission accountable and strong criticism of excessive powers in the hands of the Commission is reflected in public opinion surveys such as the Eurobarometer. The debate over whether the Commission should be staffed by elected Commissioners and not chosen by appointment is linked to its current low popular credibility.

---

[140] Peter Graf Kielmannsegg, quoted and translated in Thomas D. Zweifel, *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in Comparative Perspective*, p. 17.

o Lack of protection: protection refers to all those social aspects that have seen a change due to the European integration process; at which level can the interests of citizens be best guaranteed? Is it at the national level, which is progressively transferring its areas of competences to the European Union, or at the EU level, where the presence of a social policy is still weak compared to the economic arrangements? Many scholars argued that when moving from the national to the EU level, some loss in terms of regulation capacity is felt, leading to a gap between Member States that progressively lose parts of their sovereignty and the EU where democratic legitimacy is not yet fully established.[141]

II.1.5. The EU response

The recurrent attacks of democratic deficit as blamed on the EU polity have not gone unnoticed from the EU institutions, which designed several responses to the public in terms of regulation and transparency initiatives. As we have seen, the debate surrounding lobbying practices in the European Union has led to a mobilization of the institutions in order to find the appropriate means to answer the general feeling of mistrust. The successive attempts at regulation described in Part I that were launched by the Commission or the Parliament demonstrate the EU's willingness to ensure a suitable response to the development of lobbying in a political system that still possesses weak democratic features. Therefore, an adequate system of lobbying regulation can be seen as the first step in tackling the democratic deficit accusations.

The EU opted for a clear stance towards transparency through a series of initiatives, the most significant move being the project launched by Siim Kallas, which was mentioned earlier in this work. A Green Paper on the European Transparency Initiative, adopted in 2006, supports the Commission's belief that

> "high standards of transparency are part of the legitimacy of any modern administration. The European public is entitled to expect efficient, accountable and service-minded public institutions and that the power and resources entrusted to political and public bodies are handled with care and never abused for personal gain."[142]

---

[141] Fritz W. Scharpf, mentioned in Thomas D. Zweifel, *Democratic Deficit? Institutions and Regulation in the European Union, Switzerland and the United States in Comparative Perspective*, p.22.
[142] European Commission, "Green Paper, European Transparency Initiative", COM (2006) 194 final, Brussels (May 2006), http://ec.europa.eu/transparency/eti/docs/gp_en.pdf (retrieved 10 November 2011), 2.

This Green Paper is to be understood as the continuity of a previous series of steps that were started with the reforms following the White Paper on European Governance in 1999. At the time, transparency issues were already taken into consideration and already contained specific dispositions to improve the relations between the institutions and the presence of interest groups in terms of decision-making. The new European Transparency Initiative reinforces the EU's commitment to achieve transparency and also focuses on the framework in which interest groups and civil society are operating. Therefore, one of the key areas of this initiative is directed towards the establishment of a more structured framework for the activities of lobbyists. The first section of the Green Paper is particularly interesting in that respect, since it develops possible measures to be taken in order to tackle problem areas in terms of openness and illegal practices.[143] The two main aspects that were privileged concerned the presence of an external system of control and the establishment of a strict code of conduct, which other countries already opted for. The system the Commission adopted is now fully operational, and consists of the registration system that it shares with the Parliament, a code of conduct and a series of measures to be taken in case of non-respect of that code. Therefore, it seems that the EU institutions are taking very seriously the reactions emanating from its citizens about the democratic deficit and the dangers related to interest representation.

However, despite a strong trend arguing for the existence of democratic deficit in the European Union, some scholars refute those arguments and stand against the criticism of a democratic deficit in the EU. One of the fiercest defendants of this view is Moravcsik, who claims that there is no such thing as democratic deficit in Europe. Moravcsik does not recuse the criticism of the institutions being too remote from their citizens, or that a lack of common history and culture is at the root of Europe's legitimacy problems; however, he does affirm that those arguments are not enough to justify the absence of democratic legitimacy.[144] According to him,

> "concern about the EU's democratic deficit is misplaced. Judged against existing advanced industrial democracies, rather than an ideal plebiscitary or parliamentary democracy, the EU is legitimate. Its institutions are tightly constrained by constitutional checks and balances: narrow mandates, fiscal limits, super-majoritarian and concurrent voting requirements

---

[143] European Commission, "Green Paper, European Transparency Initiative", 5-10.
[144] Andrew Moravcsik, "In Defence of the Democratic Deficit: Reassessing Legitimacy in the European Union", *JCMS*, Volume 40.4 (2002), 605.

and separation of powers. […] On balance, the EU redresses rather than creates biases in political representation, deliberation and output."[145]

From the point of view of the democratic deficit's detractors, the advocates of such a deficit tend to focus on two main aspects: the mode of political representation and the nature of the policy outputs. Those arguments are characterized as unreasonable by Moravcsik, who supports the fact that the EU does provide the minimum requirements for a democratic system to be functional and following the needs of its citizens, such as checks and balances, indirect democratic control and a stronger parliament.[146] Therefore, democratic deficit could only be justified if it were to be applied to an ideal system, which is not the case for the EU. This idea has been backed by a lot of scholars who point out the discrepancy between old ideas, such as the ones which consist in considering democracy as a national concept, and new practices, such as the polity the EU stands for.

However, if the EU does not suffer from any democratic deficit, this is not the case for the national governments that compose it. The real locus of the democratic deficit is therefore to be found among national politics, accentuated by the absence of EU-level politics. Moravcsik concludes by saying that as long as the Member States' governments remain democratic in essence and in practice, there is little reason to doubt that the EU will not stay so as well.[147] Indeed, as a means to answer to the criticism against the EU as being unaccountable, Moravcsik and others point to two types of accountability at the European Union level; the first one is direct, and is established through the Parliament, while the second one is indirect and goes through national parliaments. The presence of the two systems of control makes the EU highly accountable given its multi-level organization, and as such is comparable to any other modern democracy.

The main counter-arguments to Moravscik and his followers are that they seem to focus on a different level of analysis that sometimes mixes formal legal aspects and societal considerations. Therefore, in the light of this new remark, Moravscik's quote about the democratic deficit that we have presented above can be rightfully questioned if examined in purely legal terms. His statement that the EU ensures that there can be no

---

[145] Andrew Moravcsik, "In Defence of the Democratic Deficit: Reassessing Legitimacy in the European Union", p.603.
[146] Ibid, 605.
[147] Ibid, 619.

democratic deficit instead of creating it is then not entirely convincing, since he bases his reflection on a conception of the EU that is different from the formal aspects considered by other authors.

The debate around the democratic deficit of the European Union has been the object of numerous research activities, and still impacts on a significant part of the discourse about the EU's legitimacy, especially in the wake of the growing presence and influence of interest groups in various aspects of the decision making process. As we have seen so far in this chapter, lobbying is still ambiguously perceived as either harmful or beneficial for the EU, despite successive attempts from the institutions to include those new modes of interest representation within a democratic system. Transparency is the central element for both lobbying and democracy, which is why the response given by the Commission in particular in terms of transparency-enhancing reforms have been received positively in order to tackle the main criticism of democratic deficit. A closer look at the arguments recognizing the existence of democratic deficit in the EU has shown that the traditional claims put forward by some theorists are not necessarily founded, depending on the criteria selected. We have seen that the understanding of the EU as a political system is determining in the perception of related aspects such as the effects of interest intermediation, the impact of transparency and the extent of democratic deficit. As we will now turn to the analysis of democracy in the European Union, we will see that the nature of the EU will also impact on the way democracy as a concept is to be understood.

Chapter 2: Lobbying and democracy

This second chapter will dwell more extensively on the notion of democracy. The previous sections having already demonstrated the difficulty to come up with extensive definitions of the main terms, it is expected that democracy will also prove tedious to explain. This concept is however crucial in many aspects, and the overall lack of agreement upon one single definition is consequently what will maintain the state of the debate ongoing over several features of the EU. The numerous attempts to grasp the contents of democracy have led to a profusion of theories, each quite valid in the aspect they focus on. Making them all agree under an umbrella concept is simply impossible due to all the issues attached to the concept of democracy. Indeed, democracy encompasses notions such as individual freedom, majority rule and self-determination as its core concepts, and has been later on expanded to include features such as participation versus representation, balance and legitimacy. Democracy is therefore too vast a notion to be determined by one single definition.[148]

Moreover, it appears that besides displaying high levels of complexity, democracy is also historically a fragile concept. Throughout the evolution of the various systems of government, democracy has been challenged all over the world on many occasions, especially over the past two centuries. Authoritarian rule in Europe was present long after the end of World War II, and to a certain extent, the European Union acted as a safeguard of democracy when it came to the accession of some countries like Spain, Portugal and Greece. Therefore, despite being acclaimed today as the ideal model of government, democracy only recently proved itself as a stable system, though some already fear extreme waves of change in the coming years, aggravated by the economic and the geopolitical situation.

II.2.1. Early definitions of democracy

Democracy has been subject to numerous theoretical and empirical pieces of research over the centuries. It is now accepted that it is one of the greatest achievements of mankind along with the market economy.[149] Since the concept of democracy is too complex to give a full overview of its developments, only some significant theoretical

---

[148] Lane and Ersson mention that one of the first attempts to compile an extensive overview of the concept of democracy date from the 1950s under the aegis of Norwegian philosopher Arne Naess; his work is several hundred pages' long.

[149] Jan-Erik Lane and Svante O. Ersson, *Democracy: a comparative approach* (New York: Routledge, 2003), 23.

landmarks have been retained, in order to give a comprehensive analysis of democracy in the aspects that are of interest for this paper. Therefore, issues of representation and participation will be mainly considered, as well as the central role of the citizen. In 1942, right in the middle of the dramatic turmoil caused by the Second World War, Schumpeter, one of the most prominent scholars of democracy theory proposed his definition of democracy, which he characterized as an "institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."[150] This definition contrasts with a more classical definition of democracy, which says the following: "the democratic method is that institutional arrangement for arriving at political decisions which realizes the common good by making people itself decide issues through the elections of individuals who are to assemble in order to carry out its will."[151]

In the later more modern definitions, it appears that political representation is an essential feature, since it encourages the campaigning of political parties for the people's vote as a legitimating power to make decisions. The procedural features of democracy were also stressed by Dahl, making the core of democracy the "processes by which ordinary citizens exert a relatively high degree of control over their leader."[152] In that sense, democracy entails two major concepts, citizen participation and political liberties. This conception of democracy has become quite popular, and several scholars have since then taken on those basic concepts to establish a modern definition of democracy. One example is Huntington, who in 1991 described the 20th century democratic political system as one in which "its most powerful collective decision makers are selected through fair, honest and periodic elections in which candidates freely compete for votes in which virtually all the adult population is eligible to vote."[153] This view of democracy as a procedure was also supported by Lipset, who already in 1960 defined democracy as a "political system which provides regular constitutional opportunities for changing government officials and permits the largest possible part of the population to influence decisions through their ability to choose

[150] Joseph A. Schumpeter, quoted in Jan-Erik Lane and Svante O. Ersson, *Democracy: a comparative approach*, p. 28.
[151] Ibid.
[152] Robert A Dahl, quoted in Jan-Erik Lane and Svante O. Ersson, *Democracy: a comparative approach*, p. 28.
[153] Samuel P. Huntington, quoted in Jan-Erik Lane and Svante O. Ersson, *Democracy: a comparative approach*, p. 28.

among alternatives contenders for political office."[154] Later on, Lipset specified his understanding of the core features of a democratic system, by emphasizing the following:

> "First, competition exists for government positions, and fair elections for public office occur at regular intervals without the use of force and without excluding any social group. Second, citizens participate in selecting their leaders and forming policies. And, third, civil and political liberties exist to ensure the integrity of political competition and participation."[155]

Those definitions are therefore rather distant from the more historical theories about democracy that were developed either on the American continent during the beginnings of the United States, or even before by European philosophers such as Rousseau, Machiavelli or Locke. The definitions that were selected above all revolve around one common element, the expression of popular will. Another clear definition was presented in 1991 by Steiner, for whom democracy is a "regime in which citizens elect their leaders in regular and competitive elections and in which basic rights are protected."[156]

Over the years, the understanding of democracy has evolved to become more assertive on central aspects involving the citizen, and moved from the representation of a political ideal to a political reality. However, not all definitions center on the practical set of procedures that has been developed below, or at least do so only vaguely, since other aspects such as the economic features of democracy are also significant to some extent. Since it is not of relevance for this paper, this point of view will not be analyzed. As a last illustration of our point, we can nevertheless mention Dunn's contribution, who provides us with a definition of democracy that does not explicitly involve the expression of the people's voice through voting, although the idea is still present: "democracy is a system in which the demos can expect to play at least some causal role, sooner or later, in the activity by which changes in their leaders are engineered."[157]

---

[154] Seymour M. Lipset, "Some social requisites of democracy", *American Political Science Review*, Volume 53 (1959), 71.

[155] Seymour M. Lipset, quoted in Jan-Erik Lane and Svante O. Ersson, *Democracy: a comparative approach*, p. 29.

[156] Henry J. Steiner, quoted in Svein S. Andersen and Kjell A. Eliassen (eds.), *The European Union: How Democratic is It?* (London: SAGE Publications, 1996), 4.

[157] John Dunn, quoted in Thomas D. Zweifel, "Democratic Deficits in Comparison: Best (and Worst) Practices in European, US and Swiss Merger Regulation", *JCMS* Volume 43.1 (2003), 543.

Those definitions of democracy, though incomplete for synthetic purposes, are nonetheless essential to qualify and measure democracy, allowing us to gauge the presence of democratic features through various models. The traditional models of democracy are direct and representative. Various others do exist, and reflect the current situation of some types of democratic governments in the world. As Schumpeter said in 1943, "[b]eyond 'direct' democracy lies an infinite wealth of possible forms in which the 'people' may partake in the business of ruling or influence or control those who actually do the ruling."[158] We will briefly introduce some of them before suggesting which can be best applied to the EU in relation to interest representation and civil society participation.

Direct democracy and representative democracy have often been put in opposition when describing a political system. In general terms, representative democracy is a regime in which the adult citizens elect their representatives who then form a legislative assembly with the function of controlling the government, and deciding on specific laws and policies.[159] The decision making activity is therefore delegated to elected representatives, which guarantees legitimacy on the input side, and accountability on the output side. This model is the most widespread form of democracy today, but over the years, it came to appropriate some of the features of direct democracy.

Direct democracy is a system in which important policies as well as constitutional decisions are made by the use of the citizen's initiative and the referendum. This model is directly inherited from the Antiquity when people made decisions collectively for themselves. In terms of input legitimacy, the direct participation of citizens is guaranteed, as well of political equality, but it also is its main weakness since it requires massive mobilization of the citizens.[160]

Similarly, deliberative democracy stands for a form of democracy that provides institutions for the resolution of problems of collective choice through free public

---

[158] Joseph Schumpeter, *Capitalism, Socialism and Democracy* (New York: Routledge, 1943), 247.

[159] For a more extensive analysis of representative democracy, see Svein S. Andersen and Kjell A. Eliassen (eds.), *The European Union: How Democratic is It?* (1996), and Paul Hirst, "Representative Democracy and its Limits", *The Political Quarterly*, Volume 5.2 (1988).

[160] Luciano Canfora, "The Beginning: Democracy in Ancient Greece", in *Democracy in Europe: a History* (Oxford: Blackwell Publishing, 2006), 21-34.

deliberation, in a fashion that resembles a government by discussion.[161] This concept is rather contemporary, and was intended to reinforce aspects of direct democracy in opposition to representative democracy and majoritarian rule.

As the models of interest intermediation generated specific categories, so did the models of democracy. Interestingly, the same qualifiers are to be found for both interest intermediation and democracy, linking those two concepts together in the way they interact during the decision-making process. A pluralist system of interest intermediation therefore refers to pluralist democracy, in which the making of political decisions involves a conscious inclusion of numerous groups representing different interests.[162] Since pluralist theories rapidly became dominant in the EU discourse, this form of democracy was highly regarded as a viable model for the European Union. Pluralist and corporatist views are also represented in what came to be known as associative democracy, a democratic regime in which important decisions are taken unanimously. Territorial and political interests of both public and private actors are taken into account for the decision making processes, also ensuring a degree of minority protection in case of majority decisions. It is also close to a consensus-based regime, which will be examined later on.

All in all, various features described above have been redesigned into the recent concept of participatory democracy, which includes characteristics of direct democracy and consensus-based decision-making. Indeed, participatory democracy implies that a large number of citizens become involved in the taking of all important decisions. The trend emerged in the 1960s and 1970s on both sides of the Atlantic to demand more democracy and social equality. According to Zittel and Fuchs, participatory theory concerns "citizens who engage into political decision-making in great numbers and who share a sense of collective responsibility."[163] To a greater extent, participatory democracy is a 20th century adaptation of the ancient Greek idea of a government by the people, with the support of technological progress to allow for new modes of participation like the latest form of e-democracy. The concept of participatory democracy will prove useful for the paper, since it is based on a particular conception of

---

[161] Alex Warleigh, *Democracy and the European Union, Theory, Practice and Reform* (London: SAGE Publications, 2003), 31-32; 50-55.

[162] Claude J. Burthenshaw, "The Political Theory of Pluralist Democracy", *The Western Political Quarterly*, Volume 21.4 (1968), 578-580.

[163] Thomas Zittel and Dieter Fuchs, *Participatory democracy and political participation: can participatory engineering bring citizens back in?* (New York: Routledge, 2007), 9.

civil society at the basis of political engagement with the institutions. In that respect, it is expected to find the notion of participation in the discourse coming from the institutions.

In the case of the EU, participatory democracy holds at its core the concept of accountability through large scale public participation. The most significant step was taken during the talks for the Treaty Establishing a Constitution for Europe in 2004. The draft treaty included some provisions under Article 1-46 for an "open decision-taking as close as possible to the citizens"[164] as well as a Principle of Participatory Democracy under Article 1-47, which reads the following:

> "(1) The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicity exchange their views in all areas of Union action.
> (2) The institution shall maintain an open, transparent and regular dialogue with representative associations and civil society.
> (3) The Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.
> (4) Not less than one million citizens who are nationals of a significant number of member states may take initiative of inviting the Commission, within the framework of its power, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. European laws shall determine the provisions for the procedures and conditions required for such a citizens' initiative, including the minimum number of Member States from which such citizens must come."[165]

This article marked a turn in the EU institutions' conception of decision-making as an elitist project in order to opt for a participatory model as a means to answer the growing dissatisfaction of the EU citizens with their representatives. The treaty, although never adopted, is to be considered as part of a series of steps taken by the institutions in favor of a more open dialogue with its citizens, be it the Green Paper on Governance, the European Transparency Initiative or the creation of a civil dialogue.

---

[164] Official Journal of the European Union, "Treaty Establishing a Constitution for Europe", 2004/C 310/01, Part I, Article 46 "Principle of Representative Democracy", http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML (accessed 15 November 2011).
[165] Official Journal of the European Union, "Treaty Establishing a Constitution for Europe", 2004/C 310/01, Part I, Article 47 "Principle of Participatory Democracy", http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML (accessed 15 November 2011).

The role of civil society organizations is therefore crucial for more participation in democracy building.

II.2.2. What kind of democracy? A possible normative concept of democracy

A large portion of the existing literature about democracy focuses on establishing a normative definition of the term based on fixed criteria. As a result, democracy theory came to be based on two main features: the individual and their basic rights, following the principles of freedom of self-determination and political equality. When dealing with democracy theory, Lincoln's conception is often mentioned, and constitutes the classical interpretation: a system of government of the people, by the people, and for the people. The first aspect of government of the people presupposes a common identity, and cannot be realized without the presence of a community, the demos that Dahl often mentions in his works. Government by the people means that the input decisions are made directly by the people or representatives on the basis of a system of democratic authorization, usually a vote, or accountability. Government for the people concerns the output decisions that reflect the wishes and needs of the people in respect of the common good.[166]

This normative conception of democracy has often been challenged as non-applicable in a realistic system of government, for normative concepts are rather rigid in their understanding. In the case of the European Union, an additional difficulty arises due to its peculiar mode of functioning, which sometimes proves incomparable to any national example. That is why comparative concepts of democracy have emerged, and in particular the model of consociational democracy, applicable to a representative system such as the EU, in which the two principles of political equality and freedom of self-determination are guaranteed.[167] In *The Political Science Reviewer*, Van Schendelen introduces us to Lijphart's work as the foundation of consociational democracy, especially through two main writings, *The Politics of Accommodation* (1968) and *Democracy in Plural Societies* (1977). Although mainly focused on Dutch politics, the books gained international recognition and Lijphart's theoretical models found an echo in democratic systems in other parts of the world. He also himself

---

[166] Karolina Karr, *Democracy and Lobbying in the European Union*, p.21-22. Karolina Karr was particularly committed in the analysis of the comparative model of democracy in this book, see in particular pages 17-24.
[167] Karolina Karr, *Democracy and Lobbying in the European Union*, p.24-30.

decided to broaden his focus and look for other models of politics of accommodation, in order to develop a cross-national theory of consociational democracy.[168]

After a few years, consociational democracy was no longer regarded as a Dutch-only phenomenon. In the end, Lijphart defined consociational democracy in terms of four characteristics: "the first and most important element is government by a grand coalition of the political leaders of all significant segments of the plural society […] The other three basic elements are the mutual veto […], proportionality […] and a high degree of autonomy for each segment."[169] He also mentioned that "elite cooperation is the primary distinguishing feature of consociational democracy."[170] However, Lijphart also did mention some counter elements to consociational democracy in the sense that for some countries, consociationalism is the only way to reach democratic stability, since in many cases, according to him, "the choice is between consociational democracy or no democracy at all."[171]

Therefore, we are left to wonder what could be democracy in the European Union. Does it possess the basic principles of government of, by and for the people? Is the output legitimacy a necessary condition for democracy? Can the model of consociational democracy be applicable? Are the arguments of democratic deficit still valid? And, more importantly, is lobbying making it better or worse?

As it appears at first sight, all the models exposed above are only valid for a nation-state and as such, any adaptation to the European Union context requires going beyond the national criteria in order to reach a suitable definition. A mere transposition of the national model will not be possible to maintain the same level of democratic legitimacy due to all the specificities that the EU possesses. This is why there needs to be an additional set of characteristics to apply in order to be able to assess democracy in the European Union. Warleigh introduces those characteristics as twofold, and mentions formal versus substantive democracy.[172] By formal democracy, he understands that the focus is on the design of a legitimate and fair set of procedures, rules and institutions,

---

[168] Rinus Van Schendelen, "Consociational Democracy: The Views of Arend Lijphart and Collected Criticisms", *The Political Science Reviewer* (1983), 151-154.

[169] Arend Lijphart, quoted in Van Schendelen, "Consociational Democracy: The Views of Arend Lijphart and Collected Criticisms", p.153. Lijphart is also mentioned in Karolina Karr's *Democracy and Lobbying in the European Union* (2007).

[170] Ibid.

[171] Ibid, 154.

[172] Alex Warleigh, *Democracy and the European Union, Theory, Practice and Reform* (London: SAGE Publications, 2003), 4. Warleigh takes on previous authors such as Kaldor and Vejvoda, who already mentioned factors such as formal and substantive democracy in the late 1999s.

whereas substantive democracy focuses on active civil society and widespread public participation. Those two views are not irreconcilable, on the contrary: achieving substantive democracy is particularly sensitive to foster the presence of a demos, which many authors starting with Dahl consider the key element to establish the EU's legitimacy in relation to its people. Due to the considerable weight of the European Union, its most important challenges are in terms of size and demos development. Those two issues are of course intricately related, and cases of heterogeneity are likely to persist along with the enlargement process. Some solutions have already been proposed, and mainly concern efforts for more unification, participation and accommodation. Those notions are already well incorporated in the EU official discourse and are regularly put forward through various publications and initiatives.

However, although some theorists do argue that the EU's democratic legitimacy can be fixed, others hold the rather pessimistic view that the EU cannot achieve the status of democracy, no matter which type of democratic form is emphasized. Among those scholars, we can mention Schmitter, who claimed in 1994 that the European Union is not a modern political democracy because it is not a political system in which rulers are held accountable for policies and actions by the citizens, and where competing elites can offer alternative programs.[173] One possible line of criticism to Schmitter's view, though, is that in his conception of democracy as a gauge, the EU is associated to the functioning of a national state, and this is limiting rather than expanding its possibilities for democratic expression.

In a similar fashion, some authors have started to criticize the marginal role that parliamentary democracy seems to hold nowadays. Parliamentary democracy is one of the models that have not been further developed in this chapter, and therefore a few words are necessary. Like the majority of democratic governments today, the European Union belongs to a system of parliamentary democracy, which is in other words representative as opposed to direct; as such, it is very similar to the definitions of representative democracy that have been formulated earlier in this chapter, and it follows the traditional patterns of input and output legitimacy. The recent debate over parliamentary democracy questions the viability of the parliamentary system as a model, especially in the light of Moravcsik arguments, which tend to consider the European

---

[173] Philippe Schmitter, quoted in Sotirios Petrovas, *Parliamentary Democracy in the Lisbon Treaty: The Role of Parliamentary Bodies in Achieving Institutional Balance and Prospects for a New European Political Regime* (Boca Raton, Florida: Disstertation.com, 2008), 11.

Union as a system of separation of powers instead of a parliamentary one.[174] Therefore, according to Moravcsik, the need for participative democracy, let alone representative democracy, is not a real debate. This critical position is directly linked to the trend of analysis that developed after the series of reforms designed to make the European Parliament a stronger actor within the whole of the EU institutions. Following the national conceptions of democratic legitimacy, the European Parliament is naturally at the center of the debate as provider of the EU's legitimacy, and therefore is also a contested institution since it mirrors the EU's position as determined by various political interpretations and interests.[175] In this context, the attempts to encourage more participation from the citizens to favor the EU's community building through the supervision of the Parliament are seen as doubtful for the following reasons: isolated institutions are more popular than the main ones, the issues handled by the European Union are still in a large part not salient enough to the citizens, making the projects to mobilize them either likely to fail or in the worst situations likely to develop hostile sentiments. Those arguments are gaining ground in relation to the EU polity, and as some critics defended a limited transparency for the EU, preferring to leave decision-making in competent hands rather than allow for public accountability, a new movement of scholars also suggest that limited participation is more desirable to ensure the smooth functioning of the EU.

Based on the examination of the democratic deficit, it appears that the traditional arguments that are displayed to justify such a lack of democratic legitimacy are valid in the sense that all democratic systems in the world seem to experience a deficit in some way. This deficit is of course variable and can be more or less severe, depending on the source of democratic legitimacy that is concerned. In the case of the European Union, the focus has been mainly directed towards the role and powers of the European Parliament as the safeguard for the EU's legitimacy in terms of all the attributes that are generally associated with a democratic system: accountability, representativity, transparency, participation, etc. The very situation of the Parliament as a still contested institution makes the democratic deficit even more apparent, but it does not mean that

---

[174] Andrew Moravcsik, "In Defence of the 'Democratic Deficit': Reassessing Legitimacy in the European Union", p.610.

[175] Thomas Banchoff and Mitchell P. Smith (eds.), *Legitimacy and the European Union, the contested polity* (New York: Routledge, 1999), 137.

this situation will necessarily last. As a concluding point for this chapter, let us just say that the whole validity of the debates presented above is the direct consequence of the interpretation of the European Union as a political system. Whether it is understood as a large-scale nation state or as a sui generis entity, the EU system has attracted a lot of attention on its peculiarities and the subsequent criteria to apply. If the theoretical approaches of democracy in Europe have still not managed yet to find appropriate responses to the questions of legitimacy that the EU suffers from, there is a chance that more practical solutions can provide a more appropriate answer to the criticism of democratic deficit by generating a bottom-up approach to the institutions' initiatives. This is what this paper will focus on for the remainder of the second part.

Chapter 3: Lobbying at the rescue of democracy

The first two chapters of this part have touched upon some of the essential debates in relation to the European Union's legitimacy in its dealings with the people it represents and the decisions it makes. We have seen that although pertaining to two separate fields of research, both lobbying and democracy theory have a common ground, which is the EU polity. As emphasized throughout the previous chapters, tight relations do exist between lobbying activities and the expression of democratic legitimacy or lack thereof in the European Union. Having discussed the arguments of democratic deficit, and reached the conclusion that the EU does possess to a certain extent some features leading to a visible erosion of its democratic features, especially in relation to its systemic organization, the question of democracy in Europe was in turn analyzed, leading to an interesting debate about the very nature of the European Union, the central notion which directly impacts on the model of democracy to apply. Indeed, the variety of models presented in the previous chapter point to the large diversity of definitions that can be applied to the EU: parliamentary, pluralist, consociational, participatory, etc. The following part will therefore attempt to measure the impact of lobbying in the European Union and link broader issues of European governance to a new over-encompassing model that is described as multi-level. In this framework, it will be possible to reexamine the diverse features of the European Union in which lobbying and civil society play a determining role.

II.3.1. Lobbying's impact on democracy in the EU

The study of lobbying has led to a profusion of theories on its impact on decision-making capabilities and its potential threats to democracy. Some of those aspects have already been covered in this paper. For clarity purposes, we will now expose in a synthetic manner the main arguments that drive the debate over whether lobbying can actually improve democracy or be detrimental to democratic expression in the European Union. Karr's contribution to the elaboration of a means to determine the impact of lobbying on EU democracy led to the following observation.

The positive influence of lobbying is principally perceived at the decision-making level since lobbying contributes to support an effective and efficient policy process, thanks to the expertise lobbyists provide on specific areas of decision. Therefore, lobbying is influential at two different stages in the decision-making process:

first, by providing information during the drafting phase, and second by acting as monitoring actor during the implementation phase. It ensures a certain control over the whole process, also making sure that the representation of interests is taken into account until the final outcomes of the policy process. This in turn leads to a strengthening of the institutional legitimacy of the decision-makers, since the output aspect guarantees the role of the institutions in relation to the citizens.[176]

The positive aspects have some limitations though, since it is quite difficult to link lobbying activities to the democratic principles of self-determination and political equality, which we posed as key features of the democratic system. There is still little evidence of interest groups acting as clear links between the EU and its citizens, since the interests represented are sometimes far from being genuinely concerned with the common good. We will later see if the mobilization of civil society can offer an adequate response to establish a stronger link between the institutions, lobbying and the European citizens.

As lobbying supports the policy process, it can also become a threat to its effectiveness and efficiency, for reasons that are obvious; we have already mentioned the problem of imbalanced interest representation, mostly due to the inequality of resources, influence capabilities and organizational ability and also the natural selection that is operated at the institutional level. One other reason for this possible brake on the policy process is due to the technical aspect of a growing number of lobby groups which target the EU arena, causing issues of overcrowding among interest representatives. Taking this situation to the extreme, it might in turn directly harm the democratic principles of self-determination and political equality, rendering information providing and transparency more difficult to achieve due to the imbalance of interest representation causing more intricate relations between the institutions and the lobbyists.[177]

Those negative points contribute to reinforce the criticism of the EU as a technocratic bureaucracy where interest groups do nothing but amplify the remoteness of the citizens from the institutions that are supposed to represent them, leading to problems of democratic legitimacy.

---

[176] Karolina Karr, *Democracy and Lobbying in the European Union*, p.170-171.
[177] Ibid, 171-172.

The technocratic features of the EU decision making system is what makes it different from any other political system because it requires a level of sophistication that is not needed in more confrontational models such as the United States.[178] Moreover, Andersen and Eliassen also suggest that lobbying in the European Union takes place under very specific conditions ensuing from the weak position of the European Parliament.[179] Therefore, the party system being not as well developed as in national parliaments, lobbying acts as a substitute for the traditional channel of representation through parliament, and in some occasions exerts more influence than the parliament itself. This is the direct cause of democratic legitimacy issues. The debate over the positive and negative impact of lobbying on EU democracy is then likely to remain locked, which is unfortunate since a slight change in perspective could be useful to relativize the situation. For now, the reflection does appear stuck in the midst of a very intricate field of analysis that remains too large and of a situation that does not allow for an exhaustive examination without losing itself in pointy precisions. In that respect, the introduction of the concept of multi-level governance, as announced earlier, will be more than useful to provide the adequate framework in which European institutions, interest groups and civil society as a whole can operate within the boundaries of democratic legitimacy.

II.3.2. European governance

The term "governance" entered quite recently in the mainstream discourse; theories about government systems have gained considerable popularity over the years as the new paradigm in political science. Nowadays, both scholars and politics use the word "governance" sometimes without even providing a clear understanding of the term; it has become the new way to talk about government, and as such, has been subject to increasing literature on the part of national and international organizations. One aspect in particular is widely debated: the concept of good governance. According to some researchers, governance simply refers to public administration.[180] Theories of governance mostly appeared in reaction to the recurrent criticism about the lack of the state's capacity to deal with societal problems in general. As such, governance is

---

[178] Karolina Karr, *Democracy and Lobbying in the European Union*, p.176-177.
[179] Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*(Thousand Oaks, CA: Sage Publications, 1996), 255.
[180] Guy B. Peters and John Pierre, "Governance Without Government? Rethinking Public Administration", *Journal of Public Administration Research and Theory*, Volume 8.2 (1998), 223-225.

nothing more than the expression of the shift that occurred in the way governments and society deal with each other. The United Nations provide an interesting definition of governance, as "the process of decision-making and the process by which decisions are implemented (or not implemented)."[181] Therefore, it depends on the level of policy making that is taken as reference. The UN publication refers to corporate, international, national and local as the various levels in which governance can be performed.[182] Another model will be analyzed later in this chapter, that of multi-level governance, which is a possible system to be applied to the European Union.

In relation to the democratic aspects, there are several positions on governance. Some theorists focus on the way governance can lead to more democratic deficit because it represents a threat to democracy by weakening the role of the institutions in a representative democracy.[183] Indeed, since governance is focused on decision making and decision implementation, various non-institutional actors take part in the process, such as interest groups and civil society for instance. Others prefer to concentrate on the positive aspects of governance, and mention that governance can be complementary to representative democracy by providing for the missing link between the institutions and the citizens; this would act as a reinforcement of the positive impact of lobbying on EU democracy, as developed above.[184] Indeed, when looking at how good governance is generally perceived, it seems that much of its desired features are similar to the traditional views on a legitimate and democratic European Union. The features are presented in Table E, according to UN sources.[185] Those characteristics are of course valid and applicable in the case of the European Union.

Andersen and Eliassen focus on two main aspects as characteristics of European governance. For both scholars, European governance is to be found in relation to effectiveness and sovereignty, the latter not being specifically mentioned by the UN.[186] Those two aspects can be seen as complementary but, as is often the case, can also be in conflict, which constitutes a challenge for the EU: how can it be successful in

---

[181] United Nations Economic and Social Commission for Asia and the Pacific, "What is good governance?", http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp (accessed 18 November 2011).
[182] Ibid.
[183] Viktor Bekkers, Geske Dijkstra, Arthur Edwards and Menno Fenger, *Governance and the Democratic Deficit: Assessing the Democratic Legitimacy of Governance Politics* (Aldershot: Ashgate Publishing Ldt, 2007), 4.
[184] Ibid, 4-5.
[185] See Annex part.
[186] Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*, p. 2.

improving effectiveness, namely the output dimension, without endangering the sovereignty aspects that are granted with democratic legitimacy?[187] The authors performed a thorough analysis of the possible solutions, and came to the conclusion that only by reinforcing the European Parliament's powers at the expense of the national parliaments can the EU be a successful model of governance.[188] Andersen and Eliassen therefore chose the federalist approach, in opposition to a large number of scholars who despite expressing strong concern about the democratic deficit of the European Union, stand against a federal solution. In the logic of federalism versus confederalism, another alternative would be to consider an inter-governmental approach to the EU, with some risks of making the EU considerably less effective in terms of decision making, but probably much more legitimate.[189]

II.3.3. European multi-level governance

The multi-level character of governance means that it operates with a double focus, with concerns for both intergovernmental and regional levels in terms of policy making. Multi-level governance is therefore a new way of conceiving co-operation between the different layers of government. The term was first coined by Marks in 1992 to describe the change in the EU's structural policy and the subsequent legitimacy crisis that developed after the signature of the Maastricht Treaty.[190] Over the years, multi-level governance widened in its acceptation, and finally encompassed the variety of actors, both formal and informal, that were involved in a process of regular interaction. According to Marks, two main characteristics are therefore associated with the concept of multi-level governance: first, "the decision making competences are shared by the different actors at different levels rather than monopolized by national governments" and second, "political arenas are interconnected rather than nested."[191] As such, it can very well be the new alternative to neofunctionalism and intergovernmentalism, by creating a level of interaction that actually accommodates both views.

As regards the democratic component in multi-level governance, Hirst is particularly critical:

---

[187] Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*, p.10.
[188] Ibid, 10-11.
[189] Ibid, 61-62.
[190] Joan DeBardeleben and Achim Hurrelmann, *Democratic Dilemmas of Multilevel Governance, Legitimacy, Representation and Accountability in the European Union* (Basingstoke, Hampshire: Palgrave Macmillan, 2007), 2.
[191] Gary Marks, quoted in Joan DeBardeleben and Achim Hurrelmann, *Democratic Dilemmas of Multilevel Governance, Legitimacy, Representation and Accountability in the European Union*, p. 3.

"[it] needs to be rethought on the assumption that it has no primary locus and no single demos; the national state shares power with increasingly salient sub-national governments, with proliferating forms of network and partnership governance, with a variety of quasi-public and private organizations, with NGOs, and with international agencies and other forms of supra-national governance."[192]

Three issues are therefore problematic in the assessment of democracy in a system of multi-level governance such as the EU. As mentioned by Hirst, and later supported by several other theorists, the social preconditions of democracy are absent in this system: no demos is to be found, and can ever be fostered. It is then likely to generate a lack of legitimacy, as the previous models of democracy that were analyzed showed. The rest of Hirst's comment refers to the way multi-level governance will tend to privilege the output dimension, namely effectiveness, over accountability, especially since new spaces for participation can be found with a proliferation of actors that will not be guaranteed the same equality of representation.

As far as the European Union is concerned, the question of multi-level governance has been analyzed extensively in the way it provides informal governance in contrast with the traditional modes of policy making. In that respect, the following definitions do belong to a conception of EU multi-level governance in which various actors have a say. Kohler-Koch and Eising define governance as embracing various modes of governing patterns, as in a system of "network" governance, "where the state is vertically and horizontally segmented" and where governing "involves bringing together the relevant state and societal actors and building issue-specific constituencies."[193] Similarly, Christiansen also emphasizes the informal character of multi-level governance, which he describes as "the production of decisions which are not produced by a single structure, such as democratically elected legislative assembly and government, but instead arise from the interaction of a plethora of public and private, collective and individual actors."[194]

We have seen that the concept of multi-level governance is traditionally presented as the theoretical alternative to solve the issues of democratic legitimacy by

---

[192] Paul Hirst, quoted in Joan DeBardeleben and Achim Hurrelmann, *Democratic Dilemmas of Multilevel Governance, Legitimacy, Representation and Accountability in the European Union*, p. 5.

[193] Beate Kohler-Koch and Rainer Eising, *The Transformation of Governance in the European Union* (London: Routledge/ECPR, 1999), 3-6.

[194] Thomas Christiansen, quoted in Stijn Smismans (ed.), *Civil Society and Legitimate European Governance* (Northampton: Edward Elgar Publishing, 2006), 9.

including a wide range of societal actors which, through their informal interaction with the decision makers, act to bridge a gap between the European Union and its citizens. However, this model is not devoid of certain flaws, and the criticism of democratic erosion is still valid in the case of multi-level governance. What could the solution then be to alleviate the issues concerning the lack of legitimacy? Is achieving more transparency the only way? Do we need to operate a more radical shift in perspective? As Andersen and Eliassen put it:

> "As long as Europe is culturally pluralistic it will be more or less impossible to develop a real European democracy, because of the absence of the formal and informal structure of a 'European civil society' – or of a European 'Offentlichkeit'. The civil society in Europe is national, and therefore the democratic legitimacy of the future EU must mainly be based on the democracy of the member states, as it is today."[195]

This position somehow contradicts the general tendency towards federalism that the two authors expressed about reinforcing the European Parliament's powers to the detriment of the national governments. However, they do point to a critical element, the presence, or absence, of a European civil society. On several occasions throughout the paper, we already made some references to the importance of civil society as a complement to lobbying in the way they impact on the democratic features of the European Union. As a concrete aspect of multi-level governance, the model that we will adopt for the EU in this paper, civil society will prove useful in refocusing the debates that we have dealt with so far in order to move from the two main issues of lobbying and democratic deficit to the relations between legitimacy and civil society, relations in which interest representation does hold an important position.

II.3.4. Towards a new debate

Throughout the paper, several key debates have been presented, all in relation with one central concept, as mentioned in the general title. The notion of legitimacy is indeed of great importance, since it conditions the EU's acceptance as the modern polity for several hundreds of millions of people. It is therefore a very sensitive type of recognition by society and presupposes a certain degree of authority.[196] Based on those social preconditions, a legitimate political system possesses the necessary justifications

---

[195] Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*, p. 225.
[196] Thomas Banchoff and Mitchell P. Smith (eds.), *Legitimacy and the European Union: the contested polity*, p.3-4.

for its existence based on society's endorsement. It leads to a definition of political legitimacy which is in agreement with Weber's point of view. Following Weber, legitimacy should be based on three important characteristics upon which society is entitled to judge: a rational-legal component that recognizes efficiency and the predominance of the rule of law, a traditional aspect which ensures some continuity with valued past practices and charismatic attributes to define the personal qualities of the leaders.[197] Of course, this quite early definition had no pretension of becoming a normative concept, and later theories did attempt to be more normative by distinguishing two dimensions, namely recognition and representation. Those features imply that legitimacy is more about democratic legitimacy, and a few authors agree in saying that both terms are now almost coterminous in their understanding.[198] For the European Union, it means that all the debates that surrounded its legitimacy or lack thereof and to a certain extent still apply today derive from a conception of legitimacy that is linked to democracy in its essence.

The legitimacy crisis of the European Union became visible in 1992 with the project of the Maastricht Treaty which was challenged from various sides and seemed to stall the European integration process.[199] The apparent crisis of legitimacy was mostly manifested by a lack of popular identification with the European Union, which seriously jeopardized the EU project. On a more technical level, recurrent assessments of the European Union kept pointing to undemocratic features, especially since the end of the permissive consensus.[200] Although primarily designed for the study of American politics, the term of 'permissive consensus' has been adopted towards the end of the 20th century by Lindberg and Steingold to measure the degree of support to the European project of integration.[201] The permissive consensus is believed to be what allowed for the European elites to pursue their own objectives about European integration without being sanctioned by the opposition of the public opinion, since the general disinterest that was felt coming from the European people was interpreted as a sign of consent. The

[197] Thomas Banchoff and Mitchell P. Smith (eds.), *Legitimacy and the European Union: the contested policy*, p.4.
[198] Ibid.
[199] Ibid, 1 ; for more information see, Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?* (Thousand Oaks, California: Sage Publications, 1996), 207-210; Barbara Finke, "Civil society participation in EU governance", *Living Reviews in European Governance* Volume 2.2 (2007), http://www.livingreviews.org/lreg-2007-2.
[200] Thomas Banchoff and Mitchell P. Smith (eds.), *Legitimacy and the European Union: the contested policy*, p. 8-10.
[201] Amandine Crespy and Nicolas Vershueren, "De l'euroscepticisme aux résistances : contribution au débat sur la théorisation des conflits sur l'intégration européenne", *Cahiers du CEPIVOL 5* (2008), 2.

debate that generated for the Treaty of Maastricht eventually ruptured this pattern, especially due to some strong disagreement about the nature of the treaty. Some scholars even point to the evidence that a growing dissent precipitated the end of the permissive consensus by questioning the confrontation between political and social actors in Europe.[202] Indeed, in contrast to the political agenda that was the driving force of the Maastricht Treaty establishing the European Union, a wave of discontent, centered on the notions of a "social" Europe, began to become more assertive towards the potential conflicts linked to the European integration process, especially in the light of the harsh economic context in Europe at the time.

The birth of euroscepticism became even more a reality during the first ratification process, which was countered by several Member States starting with Denmark.[203] In other countries, the low figures of the yes-vote clearly showed that the political process behind the European integration was not to be taken for granted, and that despite a tradition built on consensus and compromise, conflicts could not be prevented, and have actually persisted until today in the various forms of democratic deficit that are regularly analyzed. Both political and social actors started to question the problems of democratic deficit, and place their roots that the origin of the European project as devised by Monnet, supporting the federalist disappointment over the essential gap between the European Coal and Steel Community and the European Economic Community.[204]

In the light of the growing concern for the liberal turn Europe was perceived to be taking, the traditional supporters of European integration, historically socialists and Christian-democrats as presented by the federalist discourse, progressively challenged the vision that such a project would find its source in civil society.[205] As a result, a large part of the theorization process devoted to the analysis of the integration's potential conflicts focused on finding effective solutions. Some of those solutions were analyzed in the paper, and concerned mainly the way to achieve greater accountability, increase parliamentary debate or design new approaches for democratic control. We have also seen that since the dominant discourse still emphasizes the role of national governments

---

[202] Amandine Crespy and Nicolas Vershueren, "De l'euroscepticisme aux résistances : contribution au débat sur la théorisation des conflits sur l'intégration européenne", p. 5.
[203] See Historiasiglo20.org, "The Treaty of Maastricht (1992)", http://www.historiasiglo20.org/europe/maastricht.htm (accessed 19 November 2011).
[204] Amandine Crespy and Nicolas Vershueren, "De l'euroscepticisme aux résistances : contribution au débat sur la théorisation des conflits sur l'intégration européenne", p.6.
[205] Ibid, 5-6.

as safeguards of democracy, a few suggestions have also been made to establish a greater national control over the European Union, in an intergovernmental perspective.

Considering the European Union as a multi-level polity, in contrast to the more traditional models of representation that have been proposed, has allowed for a return to the more basic confrontation of ideas between the federalist and the confederalist positions, which in turn led to a substantial lessening of the legitimacy crisis by shifting the focus of the debate from the institutional systemic flaws of the European Union to other modes of democratic expression. The recent years have therefore been more extensively devoted to the emergence of a particular form of representation that could be beneficial to strengthen the EU's political legitimacy, although the theories of multi-level governance do not pretend to solve the democratic legitimacy issues; as we have noticed through the analysis of the model, some core issues still do persist, such as the absence of a demos. However, by pointing to other alternatives such as societal actors, legitimacy could then be recognized as a desirable and achievable condition for a political framework in which representative institutions can interact with society and accommodate its needs. Indeed, the sources of legitimacy are numerous, and can compensate each other; even though an important part of the EU's legitimacy comes from its institutions, an equally important part is to be found in the responses offered by the national governments and society in general. Still, in EU governance, the output approach remains largely predominant in the discourse, putting the initiatives launched by the institutions to the forefront of a new governance model. As such, the potential offered by the recent angle of approach developed by the EU and centered on lobbying and civil society as a whole can be realized through the pragmatic exercise of participation. This view about participation is also shared by Warleigh, for whom the deficits of legitimacy can be alleviated by more participation in order to ensure more democracy in the European Union.[206]

II.3.5. Participatory governance

As most of the theories about the European Union, the paradigm of participatory governance has attracted a profusion of empirical analyses and normative literature. With the EU's latest developments, it became evident that the notion of participatory governance acquired a privileged status as a component of its democratic legitimacy.

---

[206] Alex Warleigh, *Democracy in the European Union: Theory, Practice and Reform*, p. 2.

We have already noticed this trend in the draft version of the Treaty Establishing a Constitution for Europe (Article I-46), and in the 2001 White Paper on Governance which acknowledges the lack of clarity surrounding the activities of the policy makers. Therefore, the new policies of openness and participation were designed to lessen the lack of democratic legitimacy by creating "a transnational ''space'' where citizens from different countries can discuss what they perceive as being the important challenges for the Union."[207]

However, ten years after the publication of the document, scholars and representatives of public opinion in Europe are still divided on the actual effectiveness of the project for more participation. Ingmar von Homeyer studied the characteristics of participation in a modern democracy such as the EU, and detached four key dimensions that need to be taken into account when assessing participatory governance.[208] The four aspects are the following: mobilization, public political communication and debate, decision making openness and responsiveness of the policy makers. Her conclusions were that participation entails a constant interaction between the institutions and the public whose degree of mobilization depends on the existence of a forum for debate in which their voices can be heard. Therefore, participation should not only be analyzed in terms of those dimensions presented above, but also in the degree of participation that is visible.[209] It is expected that the intensity of the mobilization will depend on the attachment of the population towards certain issues; for now, it seems that issues of European salience do not succeed in achieving large degrees of mobilization which contradicts the neo-functionalist spill-over theory. Indeed, the visibly low interest manifested by the European citizens concerning EU affairs seems to follow a more realist approach which suggests that unless non-institutional actors are offered with concrete opportunities to influence decision-making, their active participation is likely to remain limited.[210] On a similar level, and irrespective of the approach retained, it seems that for some authors, the presence of opportunities to influence does not matter

---

[207] Commission of the European Communities, "European Governance: a White Paper", COM (2001) 428 final, http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf (retrieved 14 March 2011), 12.

[208] Ingmar von Homeyer, "Participatory governance in the European Union", in Liana Giorgi, Ingmar von Homeyer and Wayne Parsons (eds.), *Democracy in the European Union, Towards the emergence of a public sphere* (London: Routledge, 2006), 44-45.

[209] Ibid, 46.

[210] Ibid, 45-46.

much, since the effectiveness of those actors in participatory governance will always remain limited due to organizational contradictions.[211]

In order to summarize the concept of participatory governance in the EU, it is important to remember that the European institutions have been insisting on the possible advantages of participative democracy and the means to implement it at the EU level as a way to make up for the lack of direct participation which comes with the parliamentary system in place in the European Union. However, the main potential conflict remains between the Parliament, which is based on the principle of representative democracy, and civil society, whose existence depends on the possibility for participation that is offered. Enhancing participation, therefore, is not an easy task, and depends on a variety of factors that condition its effectiveness. Recent studies are already much critical upon that matter, and challenge the view that participatory governance can successfully serve as a starting point to tackle the issues of democratic legitimacy in the European Union. To analyze this further, and perform an assessment of those arguments, we will now turn to civil society to see its possible benefits for democracy and the consequences of enhanced participation for the EU.

II.3.6. Civil society

The concept of civil society is not new and on the contrary has a long history that dates back to the origins of societal developments in Ancient Greece, the place where democracy is said to have originated. At the time, civil society was more or less associated to a political community, encompassing society as a whole.[212] The term later evolved to become a more distinct entity, which possessed organizational characteristics that made it different from the state. According to Locke, civil society was to be conceived as opposed to the state; Montesquieu took a different approach and rather saw civil society and the state in a more integrative approach which possesses similar features to the model of associative democracy.[213] The modern understandings of the concept tend to define civil society as a "social sphere distinct from both state and

---

[211] Ingmar von Homeyer, "Participatory governance in the European Union", in Liana Giorgi, Ingmar von Homeyer and Wayne Parsons (eds.), *Democracy in the European Union, Towards the emergence of a public sphere*, p.45-46.

[212] Stijn Smismans (ed.), *Civil Society and Legitimate European Governance* (Northampton: Edward Elgar Publishing, 2006), 4.

[213] Barbara Finke, "Civil society participation in EU governance", *Living Reviews in European Governance* Volume 2.2 (2007), 11-12.

market."[214] In 1992, Cohen and Arato defined civil society as one particular type of society:

> "one can distinguish a 'political society' composed of parties, political organizations and political publics (in particular parliaments); an 'economic society' composed of organizations of production and distribution, such as firms, cooperatives and partnerships; and 'civil society' composed of the intimate sphere, the sphere of associations, social movements and forms of public communication."[215]

The latest definitions point to a complex organization of society in which dual models are no longer applicable due to the variety of actors that exists in relation to the state. Then again, the concept has attracted a profusion of theories, and various definitions do compete today, each being determined by the main role civil society is perceived to have in society. In the situation that concerns us in this paper, the two main conceptions of civil society revolve around the possible benefits of civil society for democracy, especially due to the growing dissatisfaction about the forms of representative democracy that were in place in Europe. As we have seen in the previous section, this discontent grew stronger in the 1990s and threatened the democratic legitimacy of the European Union.

Therefore, civil society emerged in Europe as a new actor in the democratization process, though since the 1990s, large discrepancies are visible between the various Member-States. Indeed, the communist past of Central and Eastern Europe made the emergence of civil society a different impacting force on society; while civil society was already taking the form of organized groups in Western Europe, those organizations in post-communist countries experienced a timid start. However, as McGrath suggested in his study, the development of civil society in Central and Eastern Europe shows positive signs of catching up, leading to prospects of a more balanced picture in the European Union.[216]

Meanwhile, the discourse on civil society also acquired some relevance in the general debate about governance, and it progressively emerged as an important actor in European governance. European civil society, then, also appeared relatively late as a

---

[214] Stijn Smismans (ed.), *Civil Society and Legitimate European Governance*, p.3.
[215] Jean Cohen and Andrew Arato, quoted in Stijn Smismans (ed.), *Civil Society and Legitimate European Governance*, p. 6.
[216] Conor McGrath, "The development and regulation of lobbying in the new member-states of the European Union", *Journal of Public Affairs*, Volume 8 (2008), 16.

theoretical concept and as such it only recently started to attract the attention of both scholars and the institutions. We already mentioned that civil society rightfully belongs to the umbrella notion of governance due to its focus on society's participation and to a larger extent, the re-establishment of a new form of permissive consensus.[217] On the part of the institutions, the two main bodies that took on the concept of civil society are the European Economic and Social Committee (EESC) and the European Commission, and they successfully managed to put forward a conception of civil society that matched their institutional aspirations.[218] During the 1990s, there was practically no mention of civil society in any official document emanating from the institutions, the concept being still largely ignored by the mainstream considerations. It was only in the late 1990s that the EESC decided to uncover the real meaning of civil society by publishing an opinion on "the role and contribution of civil society organizations in the building of Europe."[219] At the time, the general discourse of the European institutions rather talked about "special interest groups", such as the Commission did, NGOs or voluntary organizations; the term "civil dialogue" was used much later. Smismans mentions that the EESC had a particular interest in developing a discourse on civil society in order to gain more importance vis-à-vis the other institutions.[220] It was thanks to the EESC that a reflection was created about the "democratic potential of civil society involvement in European governance."[221] This discourse rapidly found its way among the main institutions and was finally adopted by the European Commission under Prodi in the 2000s. With the White Paper on European Governance, the idea of civil society participation as a way to strengthen the legitimacy of European governance became a recurrent topic.

Nevertheless, the claims about the democratic potential of civil society participation can appear contradictory, for reasons that we have mentioned above about the intensity of participation that is measurable. As a new concept, civil society has often been used to fuel both sides of an argument, and as such often appears in opposed debates. It is notably the case in the literature about European integration for example,

---

[217] Barbara Finke, "Civil society participation in EU governance", p.1.
[218] For more information, see Stijn Smismans, "European Civil Society: Shaped by Discourses and Institutional Interests". *European Law Journal*. 9.4. (2003): 482-504.
[219] European Economic and Social Committee, Opinion of the Economic and Social Committee on the role and contribution of civil society organizations in the building of Europe, CES 851/99 D/GW, (Brussels, 22 September 1999), http://www.eesc.europa.eu/resources/docs/ces851-1999_ac_en.pdf (retrieved 17 September 2011).
[220] Stijn Smismans (ed.), *Civil Society and Legitimate European Governance*, p.4.
[221] Ibid.

or in analyses of civil society as a political tool. The main line of criticism is yet quite different, and has to do with empirical evidence pointing to the real implications of civil society's involvement. Warleigh mentioned in 2001 that it was still too soon to assess the actual potential of civil society to make the European Union more democratic due to the lack of empirical studies.[222] The last part of the thesis will attempt to show whether or not this claim is still true today.

II.3.7. Civil society – contributions and limitations to participation in European governance

We stated earlier that civil society and European governance were notions that found a natural connection, although European governance is not exclusively about civil society only. Similarly, civil society does possess a potential for research that goes beyond its involvement in governance. The combination of the two suggests interesting perspectives for new areas of investigation that comprise the role of civil society during the multiple stages of policy making, enlarging the debate of interest intermediation to new modes of governing, all in the light of the discussion about the EU's legitimacy.[223] It therefore opens the way to a vast interdisciplinary debate, which incorporates the variety of concepts and theories that have been covered in this paper.

However, the interdisciplinary approach also entails more potential conflicts due to the variety of viewpoints that are taken into account. In the case of civil society and European governance, two main issues become particularly salient. The first one concerns the input- versus output-dimension of governance. Civil society is often seen as trapped in the middle of a battle of power that traditionally favors the output-oriented conception of legitimacy.[224] Theories about European governance clearly focus on the output effects by privileging effectiveness over accountability. As such, the two dimensions seem irreconcilable; enhancing one aspect will automatically be detrimental to the other. However, a new functional approach, developed by Finke, might lessen the potential for conflict. By analyzing citizens' involvement in the European Union, and in particular their contribution to the maintaining of an effective democratic system, civil society can contribute to the output system through participation.[225]

---

[222] Alex Warleigh, mentioned in Stijn Smismans (ed.), *Civil Society and Legitimate European Governance*, p.5.
[223] Stijn Smismans (ed.), *Civil Society and Legitimate European Governance*, p.9.
[224] Barbara Finke, "Civil society participation in EU governance", p.13-14.
[225] Ibid, 6-7.

That leads to the second main problem, namely the opposition between participatory and representative democracy. We have already mentioned in the previous part that the concept of participatory democracy is likely to provoke conflicts with the traditional model of representative democracy that is currently dominant in the European Union through its Parliament. Kohler-Koch argues that when dealing with civil society in EU governance, there is no room for the discourse on representation because civil society is about participation.[226] Therefore, even though the draft Constitutional Treaty introduces participatory democracy as a complement to representative democracy, both concepts are incompatible in a working system. In reaction to this growing realization that achieving democracy in a multi-level governance system such as the EU might prove ultimately unfeasible, a few theorists started to examine the benefits of a deliberative understanding of democracy in the context of European governance. Steffek, Kissling and Nanz noted that:

> "[d]eliberation is central to democracy, because it focuses political debates on the common good: in fact, it is the interests, preferences and aims that comprise the common good that 'survive' the process of deliberation. Deliberative democracy needs a framework of social and institutional conditions that facilitate the expression of citizens' concerns and rational debate about them, as well as a mechanism to ensure the responsiveness of political power to these concerns."[227]

As such, deliberative democracy provides for a new forum of deliberation in which organized civil society can participate as an intermediary between the institutions and the general public. This conception goes beyond Habermas' original view that separates political deliberation from a more public one.[228] However, this model also shows some limitations, and functional theorists are rather critical about the democratic legitimacy of the deliberative system of governance: "Deliberation, understood as reasoning about how to best address a practical problem, is not intrinsically democratic: it can be conducted within cloistered bodies that make fateful choices, but are inattentive to the views or the interests of large numbers of affected parties."[229]

---

[226] Beate Kohler-Koch, "Civil society and EU democracy: "astroturf" representation?". *Journal of European Public Policy*. 17.1. (2010), 101-103.

[227] Jens C. Steffek, Claudia Kissling and Patrizia Nanz, *Civil Society participation in European and global governance: a cure for the democratic deficit?* (Basingstoke, Hampshire: Palgrave Macmillan, 2008), 5.

[228] Ibid, 7.

[229] Joshua Cohen and Charles Sabel, quoted in Jens C. Steffek, Claudia Kissling and Patrizia Nanz, *Civil Society participation in European and global governance: a cure for the democratic deficit?*, p.6.

Therefore, if citizens' concerns ensure to be taken into account by external mechanisms of control, the lack of input legitimacy will limit the democratic component of deliberative governance. Unless a European transnational public sphere emerges with strong links of communication between the decision makers and the general public, European governance is likely to remain shaky.

Civil society remains still today a rather fuzzy concept, with a lot of unclear aspects and contradictions. So does the EU's legitimacy problems and the criticism of democratic deficit. Magnette once said that the arguments of those who claim that the democratic deficit is a false problem are not strong enough as long as there are still large parts of public opinion who doubt the democratic characteristics of the European Union.[230] Therefore, the emergence of civil society can be interpreted as the alternative to the absence of a European demos; although they are not based on the same principles, it is possible, since civil society already exists both as a concept and as a reality, and is theoretically less demanding to accommodate in the framework of relations between the institutions and the citizens.[231] The political role of intermediary can then in turn foster the development of a European civil society, fully transnational and involved in the multiple levels of EU governance.

Part II forms the theoretical core of this paper, and as such has covered issues that are essential for a good understanding of the stakes of lobbying the European Union. The examination of the concept of democratic deficit has revealed a profound division between those theorists who emphasize the EU's illegitimate existence by pointing to major flaws in terms of transparency and accountability. However, there are also strong arguments proving that the EU does not suffer from democratic deficit, or at least not a severe one if considered in relation to other political systems. The reflection on the EU's democratic deficit has led us to the central debate on the real democratic nature of the European Union, which is also tedious to define. A few concepts were presented, in order to show the various possibilities that exist when it comes to democracy in the EU: a significant trend of analysis has been noted and encompassed

---

[230] Paul Magnette, "Democracy in the European Union: why and how to combine representation and participation?", in Stijn Smismans (ed.), *Civil Society and Legitimate European Governance*, p. 24-25.
[231] Ibid, 26.

elements of direct democracy, representative democracy, deliberative democracy and participatory democracy. Those models have been successfully covered in an attempt to establish both normative and comparative concepts of democracy for the EU. The main limitation that was noted had to do with the establishment of unfortunate comparisons with 'regular' nation states, which prevented the elaboration of a suitable model for the European Union. The inclusion of interest representation and civil society is crucial in the redefinition of the EU as a multi-level system of governance, a key concept that allows for a workable alternative in order to merge the various debates that have been exposed so far. Under the light of multi-level governance, the legitimacy crisis of the EU has been re-examined, and concluded on the beneficial contribution of civil society in the debate about the EU's democratic features. Part II therefore concluded on a rather optimistic note, by introducing an interesting case study worth analyzing in detail as a general illustration for how to mobilize civil society in Europe, which will be presented in the following part.

Part III: Mobilizing Civil Society

Chapter 1: Europe in practice – How to mobilize civil society

The previous two parts have presented a theoretical approach to the European Union by analyzing main sources of debate in political science. Starting with what appeared to be separate fields of research in the first place, we managed to link lobbying, democracy and civil society participation into one general concept of multi-level governance to describe the functioning of the EU. This part, which is also the concluding part of the thesis, will therefore present an interesting case study of a recent development in terms of citizen participation in the European Union. Both the content of the European Citizens' Initiative and the course that the idea has taken since the beginning of the project until its future practical realization are illustrations of the trend that progressively came to include non-state actors in the picture. We have seen that the inclusion of lobby groups and interest representatives in the decision making process is not new, at least not in the academic debate. However, the European Citizens' Initiative that will be presented and analyzed is remarkable, in the sense that it is the first time such a large scale European project has ever been launched to foster citizen transnational European participation.

Before moving on to the initiative itself, let us first place it in its corresponding analytical framework. Towards the end of the 1990s, the concept of multi-level governance started to attract a variety of related theories to deal with the pressing issues that were identified earlier in this paper and mainly deal with the weak democratic legitimacy of the European Union. The confrontation of the diverse points of view, either siding with a federalist approach or rather inclined towards intergovernmentalism, led to a burst in academic theories of European multi-level governance. One of them, the Directly Deliberative Polyarchy, is particularly relevant for this paper, since it contains elements for participatory democracy in a multi-level system and a possibility for institutionalization which correspond to the European Citizen's Initiative project.

III.1.1. The Directly Deliberative Polyarchy and the Open Method of Coordination

The concept of Directly Deliberative Polyarchy (DDP) was coined by Cohen and Sabel in 1997 and later expanded by Gerstenberg and Sabel in 2002. DDP refers to the way private actors can play an active role in European governance. It emerged as a

response to the rather unfruitful confrontations between the advocates of the federalist approach and its opponents. As such, the DDP theory proposed an alternative to the federalist view, arguing that the European Union does not possess a demos, which makes civil society the core element in democratic governance.

According to Gerstenberg and Sabel, "the opening boundaries of the modern polity, the undeniable increase in heterogeneity that follows, and the manifold institutional responses that these changes in turn provoke are better seen as creating the occasion for, indeed in part anticipating, a radical re-definition of our democratic and constitutional ideals, rather than as signs of a democratic declension."[232] Based on this assumption, the European Union polity needs a specific form of governance since the nature of the EU policies differs greatly from those of national states. In that respect, the European Union should be considered as a sui generis entity, whose rules are not directly transferable from the national level. Therefore, while supporters of the democratic deficit point to many features of unaccountability at the European level, reducing its claims of legitimacy, the advocates of the DDP claim for a more open, direct and participatory democracy because the traditional mechanisms of accountability are not applicable to the European Union, like the national-based solution of forums for public deliberation that Scharpf defends.[233]

An emphasis on a deliberative conception of democracy in this respect allows for a rediscovery of three main concerns, the first two being mainly linked to the multi-level governance approach and its capacity of problem-solving due to the growing heterogeneity of the EU polity in terms of actors and interests. The other major concern is linked to the legitimacy aspects that we have already covered; there is a tension as regards the predominance of the European Union over its Member States while it still displays weak signs of legitimacy. According to Sabel and Gerstenberg, deliberative democracy would allow for a possible solving of those issues by impacting on both the polity in general, and its members in particular: "it depends crucially on the exploration of possibilities, and the discovery of unsuspected ones, that occur when actors come to grips with their differences in the course of solving common problems that none can

---

[232] Oliver Gerstenberg and Charles F. Sabel, "Directly Deliberative Polyarchy, an institutional ideal for Europe", in Christian Joerges and Renaud Dehousse, *Good Governance in Europe's Integrated Market* (Oxford: Oxford University Press, 2002), 291.
[233] Stijn Smismans, (ed.), *Civil Society and Legitimate European Governance*, p. 28.

resolve alone."[234] It matches the current situation that the European Union provides in terms of decision making, situation in which actors, irrespective of the level in which they are to be found, cannot solve their problems without appealing to other actors with a different type of experience. The need for collaboration is already common practice in some areas of policy making, especially with the participation of interest representatives in various stages during the decision making process. Therefore, as Smismans put it, the defenders of the DDP method not only assume that the approach is "normatively desirable", but they also claim that it is also "politically plausible."[235]

One of the most common examples that are used to illustrate their arguments is the Open Method of Coordination (OMC) practiced in the EU for employment policies mainly, but which constitutes a potential for a wider application in other areas of public management. Similar to the DDP, the OMC also has its primary focus on the effectiveness of the problem solving capabilities of the EU in relation to democracy: "The OMC has been seen as a new and flexible instrument able to introduce more democratic parameters in decision-making, and to regain the lost popular confidence in the European integration project by inducing further political action complementing the Community method."[236] It is considered to be a "soft" method used by the various Member States to reduce the costs of adjustment by creating the conditions for a permanent confrontation of national practices in terms of comparison and assessment. This method, monitored at the EU level by the Commission, is said to improve the overall level of policy efficiency by developing a tradition of mutual learning among the Member States. Cohen and Sabel defined this method of drawing lessons from experiences as "epistemic democracy."[237] The OMC indeed appears to provide a significant contribution in terms of democracy and legitimacy in the fields in which it was applied, and especially within the European Employment Service program.

The question remains whether it can also fulfill broader conditions linked to European governance and be applied in other areas of decision making without seriously impacting on the current institutional balance in the case of a full

---

[234] Oliver Gerstenberg and Charles F. Sabel, "Directly Deliberative Polyarchy, an institutional ideal for Europe", in Christian Joerges and Renaud Dehousse, *Good Governance in Europe's Integrated Market*, p.292.
[235] Stijn Smismans, (ed.), *Civil Society and Legitimate European Governance*, p. 29.
[236] Susana Borras and Kerstin Jacobsson, "The open method of co-ordination and new governance patterns in the EU", *Journal of European Public Policy* Volume 11.2 (2004), 187.
[237] Charles Sabel, quoted in Stijn Smismans, (ed.), *Civil Society and Legitimate European Governance*, p. 30.

institutionalization of the DDP. As for the DDP in general, the main limit concerns its potential elitist nature, which will privilege the participation of already closed groups of very specific interests, leading to a deliberation process that in the end is not as open as it claims to be. Therefore, even the DDP cannot provide a definitive solution to democratic legitimacy or participation since it cannot ensure a positive impact on the citizen's political education. Dewey's observation, although primarily focused towards the United States in the 1920s, is still quite valid for the European Union today:

> "The ramification of the issues before the public is so wide and intricate, the technical matters involved are so specialized, the details are so many and so shifting, that the public cannot for any length of time identify and hold itself. It is not that there is no public, no large body of persons having a common interest in the consequences of social transactions. There is too much public, a public too diffuse and scattered, and too intricate in composition. And there are too many publics, for conjoint actions which have indirect, serious and enduring consequences are multitudinous beyond comparison, and each one of them crosses the others and generates its own group of persons especially affected with little to hold these different publics together in an integrated whole."[238]

Most scholars do agree on the fact that citizen participation ultimately depends on individual factors such as a general understanding of the issues at stake, and a personal motivation linked to a feeling of importance. In the absence of those factors, and due to the well-established remoteness of the European affairs, civic mobilization is likely to remain minimal unless specific forums are designed for the general public. In that respect, the European Citizen's Initiative constitutes a new step towards the achievement of a form of democracy that can be performed in a multi-level framework of governance with participation as its core feature. As we will later see the ECI does possess a lot of the characteristics that the DDP mentioned, especially in terms of direct participation and openness in the way it brings non-institutional actors to play a role in decision making. The project is all the more interesting to analyze that it is the latest one launched by the European institutions in terms of enhanced democratic legitimacy through participation.

---

[238] John Dewey, quoted in Stijn Smismans (ed.), *Civil Society and Legitimate European Governance,* p. 33-34.

III.1.2. Mobilizing civil society in the EU

Recent studies on the importance of civil society in the European Union have also pointed to classical and desirable ways to foster their active participation through large-scale mobilization concerning matters of European salience, in the attempt to find a substitute for the missing European demos through civil society. There are several ways to achieve desirable levels of mobilization, and those have been largely analyzed by scholars and political theorists.

The most common solution is directly linked to the topic of this paper, and involves the practice of intensive lobbying, especially through citizen representation during political processes of policy making. Lobbying, as we have seen throughout the paper, is still considered an ambiguous activity, due to all the controversial aspects it entails in terms of democracy especially in the EU. However, the combination of lobbying practices with the organized character of civil society can have positive impacts in creating a forum for active participation in respect of the democratic principles the EU needs in order to be recognized as legitimate.

A second alternative would be visible in the involvement of civil society in European political parties, as expressed in the European Parliament's elections. The presence of party politics in Europe has been somewhat overlooked, due to the marginal role that party confrontation had been granted at the beginning of the European integration process. The very fact that the Parliament did not benefit from direct elections before 1979 clearly reflected the objectives of the 'founding fathers' to avoid any unnecessary confrontation of ideas in the realization of the economic community. Therefore, the European Union was formed around political leaders representing their countries rather than through political affiliations. As the legislative powers of the Parliament grew, party politics gradually came to play an active role in the decision making process especially since the Maastricht Treaty which states that "political parties at European level are important as a factor for integration within the Union. They contribute to forming a European awareness and to expressing the political will of the citizens of the Union."[239] The Euro-parties of the Parliament are not like traditional political parties. According to Andersen and Eliassen, despite the establishment of direct elections, the electorate is not direct since for the elections, voters usually tend to

---

[239] Eurotreaties, "The Maastricht Treaty, Provisions amending the treaty establishing the European Economic Community with a view to establishing the European Community", Article 138 a (Maastricht, 1992), http://www.eurotreaties.com/maastrichtec.pdf (retrieved 28 November 2011).

vote for their own national parties. It makes it difficult to form a sense of group cohesion in which organized leadership can maintain steady campaigning and group consciousness.[240] Therefore, it seems that European parties are somewhat inconsequent: they are not a danger for the EU polity, but they are not very useful either.

Today, the main positions about the role of the European Parliament are still divided between arguments in favor of a strong parliament and those which remain rather critical towards its real impact. Positive arguments focus in particular on the role that the European parties play in representing the different interests that exist in society under a European label; they also encourage the practice of party politics at the European level to create a constructive challenge to the tradition of consensus-seeking that exists within the other institutions. As Hix once said, "more Left-Right politics at the European level is not only inevitable but is also healthy, as it will allow the EU to overcome institutional gridlock, will encourage policy innovation and so will increase the legitimacy of the EU."[241] It follows the common acceptation that "it is still the case that the old – socio-economic – 'left-right' dimension dominates" since it is "fundamentally embedded in the mind of the European citizen."[242] The critics of such a system usually put forward practical arguments, and claim that the European Union is too heterogeneous to allow for truly representative Europe-wide political parties, especially since the new rules for political parties that have been introduced after the last 2009 elections.[243] The evolution of the party system in the Parliament led to the presence of two big groups dominating the political scene, and only those two groups manage to attract people from all the Member States by creating alliances with smaller groups. The coalition system that results from it also has some limitations since it does not prevent contradictions in their own political orientations. As an example, the British Conservative Party left the European People's Party in 2009 to create a new more skeptical group called the European Conservatives and Reformists, mainly due to

---

[240] Mogens N. Pedersen, "Euro-Parties and European Parties: New Arenas, New Challenges and New Strategies", in Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*, p. 16.

[241] Simon Hix, "Why the EU needs (Left-Right) Politics? Policy Reform and Accountability are Impossible without it, in Notre Europe, *Politics: The Right or the Wrong Sort of Medicine for the EU?*, Etudes & Recherche, Policy Paper n°19 (March 2006), 2.

[242] Mogens N. Pedersen, "Euro-Parties and European Parties: New Arenas, New Challenges and New Strategies", in Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*, p. 19.

[243] Those new rules set the minimum number of members to form a party, which went from 20 MEPs to 25 MEPs coming from at least seven different Member States. This rule has been widely criticized as undemocratic since it practically bans smaller parties from entering the political arena.

irreconcilable differences with other members, including pro-European groups. Those differences of opinion point to the difficulty of creating a single political debate that would rally all members around one issue. Those MEPs, although they belong to a European party, also answer to national preferences, making it more difficult to convince the European citizens to vote for the interests of the EU instead of following national priorities. That is still the current problem, and will probably be the long-lasting one: EU elections are still fought in a national context on European issues that have a clear national outlook, and campaigns are sometimes even defined by domestic issues, making coordination more difficult to achieve.[244] Therefore, even though party politics seems to be the most accessible option for the general public to become familiarized with European issues and have a say in the shaping of the EU, the forum for discussion and confrontation that the European Parliament represents is still not attractive enough to encourage massive mobilization.[245]

The last option that is often mentioned in relation to civil society participation is through the launching of pan-European initiatives in which the citizens can express their opinions. A particularly interesting example, both in its process and in the actual opportunities it creates for participation, is to be found in the European Citizens' Initiative project that is currently reaching its final stages of preparation before the official start in 2012. The following chapter offers an extensive analysis of the project, and a reflection on the potential benefits of such an initiative to alleviate the EU's legitimacy issues.

---

[244] Mogens N. Pedersen, "Euro-Parties and European Parties: New Arenas, New Challenges and New Strategies", in Svein S. Andersen and Kjell A. Eliassen, *The European Union, how democratic is it?*, p. 38-39.
[245] For a more detailed analysis of national, transnational and European parties, see Thomas Banchoff and Mitchell P. Smith (eds.), *Legitimacy and the European Union: the contested polity*, p. 94-114; an interesting analysis of the 2004 European Parliament elections can be found in Joan DeBardeleben and Achim Hurrelmann, *Democratic Dilemmas of Multilevel Governance, Legitimacy, Representation and Accountability in the European Union*, p. 139-194.

Chapter 2: The European Citizen's Initiative

The European Citizens' Initiative is the new project developed by the European Union in co-operation with civil society to achieve a 'Union of citizens' and bridge the gap between the decision-making institutions and the European citizens. For too long now the EU has been criticized of remaining too aloof towards the very people that make it, and issues of democracy and citizen participation are regularly used to remind the public of the negative aspects of what being a EU citizen entails. Thanks to the Lisbon Treaty, however, a new form of enhanced citizen participation eventually saw the light of day in the form of the ECI, which allows for the European citizens to propose new legislation under specific conditions. Officially launched in 2011, the first initiatives are expected to be presented to the European Commission under the ECI framework in April 2012, and have already attracted a lot of attention from the most vibrant citizen-oriented NGOs and civil society organizations in Europe. By looking at the project in detail, we will attempt to uncover the ECI's potential for a new transnational form of citizen participation, which in turn can create opportunities to enhance the EU's democratic legitimacy as a multi-level polity.

III.2.1. The European Citizens' Initiative before the Lisbon Treaty

The ECI, defined as the process allowing "one million citizens from at least one quarter of the EU Member States to invite the European Commission to bring forward proposals for legal acts in areas where the Commission has the power to do so,"[246] is not a new concept introduced by the Lisbon Treaty. There have been several instances of proposals for concrete forms of citizens' participation as early as the 1990s, introduced either by the European Parliament or by Member States nationals. Those initiatives proved crucial in the process that finally led to the ECI as provided for by the Lisbon Treaty.[247]

In 1996, during the talks over the Treaty of Amsterdam, the first albeit somewhat sketchy attempt to appeal to the European Parliament was proposed by the Foreign Ministers of Austria and Italy but was finally rejected during the Amsterdam Inter-Governmental Conference.[248] It was however soon followed by the European

---

[246] See the European Commission's webpage on the European Citizens' Initiative: http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/index_en.htm (accessed 29 April 2011).
[247] More details on the birth of the ECI can be found on: www.citizens-initiative.eu
[248] It concerned political proposals made by the population that the Parliament would have to consider.

Parliament, and a Petitions Committee was created in order to act in favor of more citizens' participation. One of their most significant achievements materialized in 2002, when the Committee proposed the extension of the right to petition to the possibility of initiating changes to community legislation and emphasized the fact that at the time, the EU polity did not provide for either initiatives or referenda, hence the call for more direct democracy.[249] That decision was warmly welcomed by civil society groups, who started pulling their interests together towards reducing the democratic deficit by allowing more participation from the European citizens.

At the time, concrete proposals emanated mainly from Germany and Austria, due to their long experience of dealing with initiatives at the national level. Heidrun Abromeit, a German expert in political science, proposed the establishment of a set of instruments for direct democracy, such as veto rights and compulsory referenda in case of treaty change, ideas that were quite daring.[250] Austrian lawyer Michael Nentwich made a less extreme proposal and introduced his idea of a "European indirect popular initiative" that would be similar to the Swiss model.[251] In parallel to those proposals, civil society quickly gathered to form networks and involve citizen-oriented NGOs in order to push in favor of more direct democracy. Those NGOs proved influential in their negotiations with the convention that was in charge of preparing the draft Treaty establishing a Constitution for Europe. The network called 'Eurotopia' was particularly active in dealing with the Inter-Governmental Conference and promoted a draft that would result from the use of direct democracy as well as include elements of direct democracy.[252] Another network of citizen groups also proved quite vocal and presented 'Loccumer Erklärung', a text proposing a right of submission to the European Parliament – with a minimum requirement of one percent of the electorate coming from at least three Member States – as well as the possibility to amend the treaties on a basis

---

[249] Michael Efler, *European Citizens' Initiative, Legal options for implementation below the constitutional level*, study sponsored by the European United Left/Nordic Green Left Parliamentary Group in the European Parliament, 2006, http://www.democracy-international.org/fileadmin/di/pdf/papers/2006-12-eci-study.pdf (retrieved 12 April 2011).

[250] Heidrun Abromeit, *Democracy in Europe: Legitimising Politics in a Non-State Polity* (Oxford: Berghahn Books, 1998), 95-135.

[251] Michael Nentwich, *Opportunity structures for citizens participation, the case for the European Union*, in *Political theory and the EU: legitimacy, constitutional choice and citizenship* (Oxford: Routledge, 1998).

[252] Bruno Kaufmann and Peter Köppen, *The Rostock Process, 1991-2004: On the way to more direct democracy in Europe*, 2001.

similar to the Swiss system – in which the initiative leads to a referendum.[253] The most significant contribution came from the network of European democracy movements, called Democracy International, which also presented a paper, "More democracy in Europe,"[254] containing concrete measures for a citizen-based law-making procedure.

After weeks of negotiations between those networks and the Inter-Governmental Conference, an agreement was reached and measures were taken to include the European Citizens' Initiative in the draft constitution. The provision was included under Article I-46.4, and reads the following:

> "Not less than one million citizens who are national of a significant number of Member States may take the initiative of inviting the Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Constitution. European laws shall determine the provisions for the procedures and conditions required for such citizens' initiative, including the minimum number of Member States from which such citizens must come."[255]

Three amendments were made in the article for clarification purposes, but despite a meticulous preparation, the text was severely criticized by many experts on the grounds that it did not lead to any vote or referendum, and therefore was very weak in substance. Moreover, in the absence of any mention concerning its precise mode of functioning, the ECI project remained for a large number of people too vague and difficult to implement. The project was finally abandoned when the Treaty establishing a Constitution for Europe was rejected due to the no-vote obtained via referendum in France and the Netherlands.

III.2.2. The European Citizens' Initiative and the Lisbon Treaty

In 2006, despite the failure of the project for a constitution, the ECI was finally made part of the discussions about the Lisbon Treaty.[256] The strong habits of

---

[253] Roland Erne et al., *Transnationale Demokratie, Impulse für ein demokratisch verfasstes Europa* (Zurich: Realotopia Verlagsgenosenschaft, 1995), 432-433.

[254] Democracy International, "More democracy in Europe" (2005) http://www.democracy-international.org/fileadmin/di/pdf/papers/di-more-democracy.pdf (retrieved 12 April 2011).

[255] Conference of the Representatives of the Governments of the Member States, "Treaty establishing a Constitution for Europe", CIG 87/04, http://www.consilium.europa.eu/igcpdf/en/04/cg00/cg00087.en04.pdf (retrieved 6 April 2011).

[256] Euractiv, "The European Citizens' Initiative", Euractiv, http://www.euractiv.com/en/future-eu/european-citizens-initiative-linksdossier-502067 (accessed 20 March 2011).

cooperation and negotiation that developed between the EU institutions and the various NGOs and civil society groups had a lasting impact in making the issue of citizens' participation a matter of great interest for the EU. The latter was eager to tackle the criticism of democratic deficit and looked for more ways to encourage the European citizens to participate in EU affairs, especially in the light of a growing concern over people's lack of interest in the EU, as visible in the low turnouts for the European Parliament elections[257] and further confirmed by several Eurobarometer[258] surveys conducted during the early 2000s. The EU had previously designed other means to appeal to its citizens' participation, notably through the petitions committee of the European Parliament by allowing citizens to address complaints. However, this system is perceived rather negatively, since most MEPs and EU officials doubt the positive impact of urging European citizens to express themselves only in areas where the EU does not work. As a result, the ECI was designed in a much more positive way by allowing the citizens to take initiative over a large range of policy issues. The negotiations over the ECI unfolded relatively smoothly compared to the rest of the tenuous discussions over the contents of the Reform Treaty, and in 2009, Members of the European Parliament approved a resolution providing the guidelines for the implementation of the future initiative's project.[259] The Lisbon Treaty eventually came into force on 1 December 2009 and launched the start of a lengthy process of enforcement for the ECI, especially since the Treaty remains fairly vague on that matter.

III.2.3. The ECI project

The importance and scope of the ECI pushed the European Commission to launch a public consultation on a Green Paper that was drafted in November 2009[260] in order for the European institutions to have a better understanding of how the whole project was perceived by the concerned parties. A Green Paper is generally defined as a

---

[257] See Table F in the Annex part for an overview of the elections to the European Parliament from 1979 to 2009.

[258] Eurobarometer is an EU public opinion analysis instrument that gathers information through surveys on a large variety of topics related to the European Union. For more information see the Standard Eurobarometer's reports: http://ec.europa.eu/public_opinion/index_en.htm.

[259] European Parliament, "Guidelines for a proposal of a regulation of the European Parliament and the Council on the implementation of the citizens' initiative, pursuant to Article 11(4) of the Treaty on the European Union", INI/2008/2169, http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2008/2169 (accessed 11 April 2011).

[260] Commission of the European Communities, Green paper COM (2009) 622 final on a European Citizens' Initiative, (Brussels, 2009), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0622:FIN:EN:PDF (retrieved 20 March 2011).

"first draft document on a specific policy area circulated among interested parties and stakeholders, who are invited to join in a process of consultation and debate."[261]

The public consultation was largely advertised for on the European Commission's website,[262] and included important information such as the period of consultation, which lasted from 11 November 2009 until 31 January 2010. During that time, people were invited to give their opinion on the Green Paper, which is structured the following way: the first part forms an introduction and sets the purpose of the document in the context of the ECI; the second part concerns the actual ten points on which people are asked to reflect upon, and the last part contains details of technical nature about how to participate in the public consultation.

Table G[263] shows the different issues that were presented and provides a detailed comparative analysis of the contents of the Green Paper, which reflects the European Commission's position, and contrasts it with the Commission Staff Working Document[264] which presents the outcome of the public consultation, in order to highlight the differences between what the European Commission suggested and what the public decided.

After that first step, a proposal for a regulation was addressed to the European Parliament and the Council, and the former adopted a general approach to the ECI in June 2010.[265] Talks between the Commission, the Parliament and the Council followed on a regular basis during almost a year, and a final agreement was eventually reached, allowing for the final version to be approved in the form of a Regulation on 16 February 2011. The Regulation No 211/2011 of the European Parliament and of the Council on the Citizens' Initiative is now one of the legislative acts of the EU, and as such is binding for all Member States.[266] The text follows the recommendations of the

---

[261] *Business dictionary*, s.v. "green paper", http://www.businessdictionary.com/definition/green-paper.html (accessed 28 April 2011).

[262] See http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/consultation_en.htm

[263] The table presented in this paper is of the responsibility of the author. It has been created for the sole purpose of presenting the main issues in a concise and synthetic way. See the Annex part.

[264] European Commission, Commission Staff Working Document SEC (2010) 370: outcome of the public consultation on the Green Paper on a European Citizens' Initiative (Brussels, 2010), http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/sec_2010_370_en.pdf (retrieved 20 March 2011).

[265] Council of the European Union, Agreement 11099/10 on draft regulation implementing the European citizens' initiative (Luxembourg, 2010), http://register.consilium.europa.eu/pdf/en/10/st11/st11099.en10.pdf (retrieved 30 March 2011).

[266] Official Journal of the European Union, Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (Strasbourg, 2011), http://eur-

European Commission after analysis of the public consultation and the drafting of a proposal for a regulation. The final document is divided into twenty-three articles of highly technical nature and manifests a strong effort to accommodate all parties that took part in the elaboration of the project, the European institutions as well as the organized civil society.

III.2.4. Reactions and analysis

- Main points of discord among the EU institutions and Member States' point of view

The actual negotiations over the details of the ECI and its functioning took a long time and it was not an easy task for the Commission and the Parliament to reach a compromise, especially over two aspects, the admissibility criteria and the admissibility checks. The divergence in opinions led to two main positions reflecting the concern about broader debates such as direct democracy and citizens' participation. On the one hand, some MEPs feared that if the ECI was made too accessible, it would become the easy target of organizations that are not fully dedicated to citizens' interests, such as business or private interests. On the other hand, people argued that if the ECI was on the contrary made too technical, it could jeopardize the whole project by putting a brake on the expression of direct democracy.[267] In that context, the Commission and the Parliament stood on opposing sides, the Commission being in favor of tough admissibility criteria, while the Parliament argued for the lowest possible criteria. In that regard, parliamentarians have been proactive in making suggestions that would reduce the possible obstacles to a bare minimum.

The variety of experiences that exist among the twenty-seven Member States was likely to lead to divergent opinions, and possibly turn into a similar confrontation of positions as the Commission and the Parliament. The original assumption was that those Member States with a previous knowledge of initiatives at the national level would be more willing to see such a project developed at the EU level, and therefore push for a direct uploading of their own practices to a wider transnational framework. The

---

lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:065:0001:0022:EN:PDF (retrieved 30 March 2011).

[267] Bertille Gallais, "Inventaire des prises de position sur la mise en place de l'Initiative Citoyenne Européenne prévue à l'article 11, paragraphe 4, du traité sur l'Union Européenne", Permanent Forum of Civil Society (Report presented to the European Parliament in December 2010), http://forum-civil-society.org/IMG/pdf_Rapport_Bertille_Gallais.pdf (retrieved 30 March 2011).

expected frictions did not necessarily occur and the European Council showed great cohesion even in matters that could lead to fierce debate. Therefore, in the Member States which constitutionally guarantee citizens' initiatives, a general position emerges and manifests a strong desire to make ECI more effective than their national counterparts.[268] Indeed, in countries like Spain, Italy or Poland, experiences are often quite mixed, since even though initiatives allow for more citizens' participation, the administrative and institutional requirements that surround the procedure are so burdensome that only a few initiatives manage to get to the final stage and become enacted.[269]

- Civil society and think tanks in Europe

Apart from the European Parliament, which has been very active in pointing out the shortcomings of the ECI, reactions from civil society and think tanks were also fairly critical, especially due to their long-term involvement in the project. The Permanent Forum of Civil Society conducted an enquiry among MEPs and political parties within the European Parliament when parliamentarians were actually debating the implementation of the ECI in March 2010.[270] The report shows the predominance of issues related to the role of the different institutions in the project and reveals great caution towards the role of the Commission, which is several times asked to work in closer cooperation with the Parliament, in order to ensure a better expression of democracy and transparency. Moreover, enhanced participation of the Parliament, although no further details were given as to the extent of competence it should have, could also help to give more relevance to the transnational aspect of the ECI. The role of the Commission is the one issue that kept reemerging at every stage of the negotiations, indicating that what is at stake is not merely about the position of the Commission in relation to the other institutions but also, and more importantly, an issue of democracy and legitimacy of representation at the EU level.

---

[268] For an overview of direct-democracy procedures in Europe, see: Bruno Kaufmann, Rolf Büchi and Nadja Braun, (eds.), *Guidebook to Direct Democracy in Switzerland and beyond*, (Bern: Initiative and Referendum Institute Europe, 2005).

[269] Michael Efler, *European Citizens' Initiative, Legal options for implementation below the constitutional level*, http://www.democracy-international.org/fileadmin/di/pdf/papers/2006-12-eci-study.pdf (retrieved 12 April 2011).

[270] Bertille Gallais, "Inventaire des prises de position sur la mise en place de l'Initiative Citoyenne Européenne prévue à l'article 11, paragraphe 4, du traité sur l'Union Européenne", Permanent Forum of Civil Society.

Piotr Maciej Kaczynski, in a commentary he wrote for the Centre for European Policy Studies,[271] ponders about the implications of the Commission's response to the initiatives and raises the following question: "what happens if the proposal is considered inadmissible?"[272] – referring to situations in which the EU does not have adequate competence to deal with its citizens' needs. According to Kaczynski, the answer 'this is beyond EU competence' should not even be accepted, since the proposals are the very expression of society pointing at problems to be fixed, and as such deserve to be addressed by the institutions.[273] Therefore, Kaczynski suggests the Commission, instead of simply declaring its lack of competence, give an alternative solution in order to avoid a project being abandoned for the sole reason that it goes beyond the Commission's powers. To make up for the Commission's limitations, the European Parliament is once again suggested as the substitute authority, as it is the direct representative of the European citizens. In a system that seeks to increase direct democracy and citizens' participation, a stronger involvement of the Parliament stands to reason, especially in order to avoid jumping to the conclusion that an ECI is illegal if its scope goes beyond the Commission's powers.

All in all, those first reactions on the ECI do point to possible organizational problems due to an apparent complexity of the project. Several platforms have been created to ask for a simpler procedure and despite the consultation through the Green Paper, the final resolution does not take into account many of the concerns that NGOs and civil society organizations have raised. As a result, two forums have been created to gather the citizens around the ECI, whose process is made more accessible to the general public. A first platform has been created under the name "Initiative for a European Citizens' Initiative" and aims at campaigning for a more citizen-friendly ECI. It emerged out of two major organizations, Democracy International, which we already introduced earlier, and Citizens of Europe e.V. Their website has been particularly active in providing information following the developments of the ECI project since its inclusion in the Lisbon Treaty.[274] This platform is supported by NGOs from all over Europe, whose range of action is very diverse; it goes from important groups dealing

---

[271] Piotr Maciej Kaczynski, "The European Citizens' Initiative: A Proper Response from the Commission", Centre for European Policy Studies, comment posted January 8, 2010, http://aei.pitt.edu/14522/1/Commentary_Citizens_initiative_PMK.pdf (retrieved 6 April 2011).
[272] Ibid.
[273] Ibid.
[274] For more information, see : http://www.citizens-initiative.eu/

with democracy or the citizen to smaller national youth or politically oriented organizations. The second platform, also mainly active online, has been created quite recently under the aegis of the Euractiv group. Indeed, the Euractiv Foundation and the French organization Netscouade launched a forum for participation that will be available in early 2012 at the following address: initiative.eu. The aim of this website is, according to its creator, to create a platform for a "pre-petition" that can generate a healthy and transparent debate, as well as an adequate preparation in order to avoid having an initiative fail the admissibility checks. In the meantime, the Euractiv group is also active in fostering debates by initiating online discussions about the ECI, which might as well become one of the stronger EU-wide debates so far, according to some analysts. Therefore, since its official launch in April 2011, a real enthusiasm has been perceived from the principal actors that a project such as the ECI would concern, pointing at some positive developments as to the popularity of the initiative.

III.2.5. The first expected petitions and future outcomes

When the Regulation entered into force in April 2011, it made provisions for the first initiatives to be registered on 1 April 2012. The length of the negotiation has not been received well by some organizers who did not expect the talks over technical details to take that long. Indeed, some groups had started to collect signatures before the final agreement was reached but in the end had seen their proposal rejected because in the meantime the admissibility criteria had changed. However, a few initiatives were pursued and are likely to be carried out until the final stages.

- The first expected initiatives

One of the groups likely to see their initiative enacted, Greenpeace, constitutes a good case-study of how NGOs can use the ECI in their campaigning.[275] Greenpeace launched an anti-genetically modified organism (GMO) campaign after the Commission decided in March 2010 to authorize BASF's genetically modified potato – Amflora – to be cultivated in the EU, thus breaking a twelve-year period of ban on GMO crops.[276] Greenpeace launched calls for a moratorium on all GM crops in the EU, which was later

---

[275] See Annex 1 in the Annex part.
[276] European Commission, Commission announces upcoming proposal on choice for Member States to cultivate or not GMO's and approves 5 decisions on GMO's, IP/10/222, Europa Press Release (Brussels, March 2010),
http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/222&format=HTML&aged=0&language=EN&guiLanguage=en (accessed 30 April 2011).

transformed into an ECI and collected the required amount of signatures by 28 September 2010.[277] In December 2010, the initiative was officially sent to Commissioner Dalli[278] and is now awaiting further scrutiny based on the admissibility criteria. The Commission's spokesperson insisted that the initiative would be carefully studied since it is one of the first to reach the Commission under the ECI framework. The initiative will most likely be approved by the Commission and be registered as such, allowing the Commission to study the proposal and give its final answer after a four-month time period.

Another interesting example of a probable initiative comes from the Socialists and Democrats (S&D) group in the European Parliament about the taxation of financial speculation.[279] Until then, calls for tougher financial regulation have been strongly opposed by the Commission, especially Taxation Commissioner Algirdas Šemeta, who claims that a financial transaction tax in the EU would increase the costs for businesses and national governments.[280] The S&D group has been pushing for new legislation on financial speculation, and received support from France and Germany among other Member States.[281] So far, there have been no official ECI launched, but the S&D has made a series of calls and declarations as part of their regular parliamentary petitioning activity.[282] The last significant move came from the Party of the European Socialists in May 2010 which welcomed the decision taken by German and Austrian S&D MEPs to launch an ECI for a financial transaction tax system. The process of rallying citizens' groups, organizations and individuals is still under way. Some questions have been raised concerning the fairness of having such huge political groups initiate an ECI, but since the Parliament does not have competence to ask for legislation in the field of taxation, the use of an initiative can be the solution to confront the Commission in a

---

[277] Greenpeace's website provides an interesting example of a type of online collection of signatures. Although the one million signatures have already been reached, Greenpeace decided to allow people to continue signing, and therefore have more weight on the Commission. See: http://www.greenpeace.org/international/en/campaigns/agriculture/solution-ecological-farming/take-action/EU-Petition/

[278] John Dalli is European Commissioner for Health and Consumer Policy since February 2010.

[279] See Annex 2 in the Annex part.

[280] Euractiv, "Socialists plan 'Citizens' Initiative' on taxing speculation", Euractiv, http://www.euractiv.com/en/future-eu/socialists-plan-citizens-initiative-taxing-speculation-news-497412 (accessed 2 May 2011).

[281] Euractiv, "France and Germany push for financial transactions tax", Euractiv, http://www.euractiv.com/en/financial-services/germany-france-push-financial-transactions-tax-news-496236 (accessed 2 May 2011).

[282] A campaign was organized as well and the online petition has resulted in 384 000 mails sent to the Commission. See: http://europeansforfinancialreform.org/en

new legal framework. Even though the initiative is still not quite well-structured, the active campaigning is already gathering people from all over Europe, which gives a positive sign of transnational participation of citizens in EU affairs.

One last example worth mentioning is interestingly presented by Mr. Martin Kastler, a German former MEP who decided to launch an ECI to preserve Sundays as resting days in the whole of the EU. During the first weeks, from February 2010 until late March 2010, the online petition collected more than 11 000 signatures.[283] According to Mr. Kastler, Sundays are family days and "work free Sundays are part of our culture."[284] The ECI will be useful to renew a previous project that Mr. Kastler and other MEPs tried to push forward in the Parliament in 2009 but which was unfortunately dropped due to the lack of required support.[285] Mr. Kastler is very optimistic about the initiative, which has already received support from various religious groups, NGOs dealing with children's rights and other organizations.[286]

According to European Voice, in November 2010 there were around twenty ongoing petitions that have been initiated although some of them might not pass the admissibility checks since they were launched before the final regulation was agreed upon. The petitions present calls coming from various groups all across the EU over a large collection of topics, ranging from health concerns – detain the construction of nuclear power plants in the EU – to economy – oppose the possible establishment of a EU-wide tax system to fund the EU budget – enlargement – offer Turkey a partnership instead of membership – and even administration – make Brussels the only seat of the EU.[287]

- Implications for European citizens and future outcomes

There is a startling observation to make in the view of all the potential initiatives that can be initiated: the European public remains largely unaware of the ECI and its democratic potential – not to mention the implications of the Lisbon Treaty at large. A survey conducted in Ireland by European Movement Ireland revealed that eighty-six

---

[283] The petition is accessible online : http://www.free-sunday.eu/en
[284] See Martin Kastler's website cited above.
[285] Ibid.
[286] Among the initial supporters, there are Junge Aktion der Ackermann-Gemeinde, KKV-Katholiken in Wirtschaft und Verwaltung and Evangelische Allianz Deutschland. Other organizations such as Care for Europe joined later.
[287] Constant Brand, "MEPs look to make it easier to launch citizens' initiatives", *European Voice*, 4 November 2010, Policies section, EU governance, Reform.

percent of the population had not heard about the ECI. The alarmingly high figures dropped a little when an online poll was introduced, showing the positive effect of the internet for information diffusion and public awareness. The more positive results are also explained by the fact that most of the people who participated in the online poll were already member of European Movement Ireland, and were thus more likely to have some knowledge of EU affairs. As for the people who took part in the street poll, once made aware of the ECI and its mode of functioning, seventy percent of them declared to be willing to use such a tool, and this was particularly popular among the younger population as a means to develop their interest in politics and foster democratic participation.[288] There is unfortunately no other case of such a survey being conducted in other Member States, but it is likely that, had such an enquiry been realized in the form of poll, the results would have generated similar results, which suggests that the concerns over a lack of information of the general public about EU affairs are well-founded. The situation can however be easily remedied by co-ordinated efforts to organize general information campaigns in the EU, in order to appeal to the public and make them aware for their potential for action.

In view of those results and the concerns expressed by many civil society representatives, there is some serious need to consider whether or not the ECI is really the ultimate tool to achieve improved democracy in the EU, and why there has not been extensive promotion among the general population in this regard. Indeed, it seems rather strange that the EU institutions did not proceed to EU-wide information campaigns to make people sensitive to the ECI while supporting the project as a means to encourage citizens' participation.

Moreover, the role of the Commission is still too obscurely defined and surrounded by too many intricate legal technicalities to be fully comprehensive, making the ECI overburdened with details because of precision purposes. Many opportunities have already been offered by the institutions to foster participation and to improve the channels of communication by implementing a closer relationship in the form of frequent dialogues and open forums of discussion. Yet, the public's passion for

---

[288] European Movement Ireland, "European Citizens' Initiative Campaign Report", Results of a nation-wide poll conducted on Europe Day, http://www.europeanmovement.ie/fileadmin/files_emireland/downloads/Uploads_2011/CI_Campaign_Report.pdf (retrieved 21 April 2011).

European affairs remains still weak, suggesting that opportunity for participation is not enough.

However, in spite of this lack of information the ECI contains viable potential for the creation of a solid European civil society by developing a transnational tool of European democratic participation. Indeed, the lengthy process leading to its eventual adaption and implementation has shown mechanisms of co-operation and networking that can be applicable to the general public. The ECI projects that are going to be launched will most certainly be relayed by the media and the ECI organizers themselves, therefore establishing new communication networks and rendering the rather obscure system of policy-making in the EU more visible and truly European. The real potential of the ECI is at the moment too soon to determine – it could very well be a success or a complete failure to fix the issues of democratic legitimacy, especially since the main concern is still focused on the complexity of the project, as developed in this chapter. For now, it seems that the concerns expressed by some MEPs about the ECI's regulation acting as a deterrent are justified, which is why the principal mobilization is coming from the already organized groups such as Greenpeace or the S&D group in the European Parliament, groups that have some experience in politics and are quite visible in the public sphere. However, the development of individual initiatives such as the one endorsed by Mr. Kastler shows positive signs of diffusion and can serve as a good basis in teaching the general public how to handle this new tool of democratic participation. The question remains though whether that type of organizing can achieve transnational character.

To offer a temporary conclusion to the ECI project, it is recommended that a full assessment of its successes, failures and flaws be performed in a few years' time since it will realistically not be possible to expect a radical change as early as 2012. What is already measurable though is contained in the following two points.

During the preparatory phase, namely the negotiations, the project has managed to gather civil society organization; as a matter of fact, we should not forget that the very existence of the ECI is due to civil society mobilization and co-operation with the institutions for more participation. The final text in itself is therefore a successful example of participatory democracy.

What the ECI allows for, even though it is too soon to assess empirically, and despite some caution due to formal technicalities is that civil society appears more than willing to act as an intermediary between the institutions and the European public in general. In addition to the various platforms that we mentioned earlier, the ECI-Campaign group is particularly promising, and there is all the more much to expect from it to act as a social platform and stepping stone for the creation of the European demos that is still long awaited.

The key to those organized group's successful mobilization of people will be in the way they manage to make themselves accessible to people, and use lobbying tools as a real communication process. In that respect, the role of the media and the information campaigns, which were not analyzed in this paper, can serve as an interesting starting point to diversify the already interdisciplinary field of research. The process will no doubt take some time, and it is surely expected that a lot of initiatives will not reach the final stage of the procedure, and as such tend to confirm the general trend of countries which grant the right of initiative in their national constitutions, but in the end, the ECI will probably succeed in bringing people closer to Europe and closer to each other by gathering them around common projects and values, and giving them the possibility to shape Europe according to their own dreams. Therefore, as a tentative answer, this paper states that the ECI does provide for the basis of an improved and legitimate democratic system of governance for the EU by providing for more participation on the part of the citizens in areas that they think deserve more attention. Of course, the project is not a perfect one, but for now, it is good enough to identify positive signs of change. A full-range assessment in three to five years will then be useful to measure the ECI's impact on features of democratic legitimacy such as the people's awareness, the development of civil society organizations and the institution's responses.

Part III offers a tentative answer to the main issue of how to mobilize civil society in the European Union as the most probable solution to alleviate the EU's lack of democratic legitimacy. The first chapter presented a theoretical overview of the debate in which the whole reflection should be considered. Theories of multi-level governance proved useful in pointing to alternatives to representative democracy by suggesting new areas of interdisciplinary research. Therefore, practical solutions such as

the Directly Deliberative Polyarchy and the Open Method of Coordination were introduced as important contributions to foster civil society mobilization. Three main possibilities covered political involvement in European parties, practice of lobbying activities and participation in pan-European initiatives. The European Citizens' Initiative, recently launched by the European institutions, provides an interesting case-study since if offers the possibility to go through all three options mentioned above to mobilize civil society participation. A closer analysis of the project unveiled an elaboration process that was very much concerned about the central role of the citizen in the legitimation of the European Union; despite some criticism, the ECI has a good potential of realizing its expectations in terms of civic participation in EU affairs thanks to the mediation of civil society and interest representation practices.

Conclusion

This thesis has presented some of the many interrogations that surround the practice of lobbying in the European Union. As mentioned in the introduction and throughout the paper, lobbying still holds an ambivalent place as a political process, especially concerning decision-making activities. Recurrent criticism against interest representation has been one of the main incentives for the writing of this paper, since it touches upon key elements of various contemporary debates about the European Union. As already presented in the introduction, and made clear in the core of the text, this thesis was divided into main fields of research whose common features allowed for the emergence of new perspectives on lobbying, democracy theory and civil society.

Part I focused on lobbying as a contemporary political process. The historical background of the evolution of this phenomenon from a natural activity to an organized industry served two purposes: it showed the progressive inclusion of interest representation within the realm of politics through a growing exercise of influence and as a consequence raised the questions of ethics and regulation. The examples that were provided showed the extent to which lobbying practices differ greatly from one country to the other, directly impacting on the general perception of such activities. This part also reaffirmed the predominance of the trend that sees interest representation as rather negative, despite the adoption of strict regulation systems to define the lobbyists' range of action. The second chapter of Part I introduced the specificities relative to lobbying in the European Union, and stressed the similarities and differences that the EU displays in terms of definition, evolution, practice and regulation. In the European Union, lobbying belongs to various theoretical paradigms and holds an important place in the set of integration theories, making interest representation a determining feature in the general debate over the nature of the EU. The study of the historical developments of lobbying has shown that its practice, though dating back to the start of the European project, is still relatively young, and as such, so is the field of analysis. A particularly interesting example has been mentioned in relation to the ways to measure the interest population today, which task is being further complicated by the lack of consensus on a common definition. However, the traditional division of interest representation between public and private seems to be generally accepted though other criteria are also frequently used by both scholars and government officials. For the purpose of this paper, the classification used by Greenwood has been retained, since it allowed for the

analysis of citizen-oriented representation in a separate field that directly concerns the scope of this paper.[289] At the end of the first part, all the necessary elements were present to notice the obvious links between lobbying and democracy, especially as regards the criticism of democratic deficit.

Part II therefore dealt with the examination of democracy as impacted by interest representation, in an attempt to critically reflect on the arguments of democratic deficit. We mentioned earlier that it was the predominance of a rather negative discourse about lobbying that provoked the need for this paper. The second part was then crucial to the reflection developed here since it analyzed in which aspects lobbying can be beneficial to democracy by suggesting new perspectives. Different models were analyzed, following the trends of interest intermediation, to suggest that the arguments of democratic deficit point to a significant degree of erosion in various aspects: legitimacy, transparency, accountability, consensus and protection. Those elements were considered as crucial to guarantee the democratic character of the EU, which was analyzed in more detail in the second chapter of Part II. The core concept of democracy proved as tedious to define as the notion of lobbying due to the variety of understandings that have been successively theorized. A brief overview of some conceptual models was presented, leading to a critical reflection on the limitations of having a normative concept at the basis of all analyses. This paper therefore chose to consider the benefits of comparative models, in an attempt to build a suitable model of democracy for the EU. Consociational features were particularly helpful although new trends of research have also pointed to the validity of a more participatory model. The issue of participation would then reappear later in the paper with the introduction of the concept of civil society. The examination of democracy theory and democratic deficit arguments in the European Union led to consider the real impact of lobbying on EU democracy in the third chapter of the second part. A critical overview of both the positive and negative aspects of interest representation confirmed the position of the EU as a peculiar political system whose functioning could not be measured by a direct transposition of the models prevailing for other nation-states. In that respect, the concept of multi-level governance has been proposed as an alternative to the profusion of theories about democracy in the European Union. Multi-level governance proved useful in the way it offers a particular role for the participation of a varied range of societal actors, including interest

---

[289] Justin Greenwood, *Interest Representation in the European Union*, p. 2-7.

representatives and civil society organizations in order to make up for the heterogeneous character of the EU. That way, a multi-level understanding of the EU allows for new modes of participatory governance in which civil society holds a determining place, providing for a theoretical tentative answer to the research questions that have been posed at the beginning of this paper. Part II therefore presented the theoretical core of the reflection and covered issues that are at stake when dealing with interest representation in the European Union.

Following the multi-level conception of Europe, Part III offered a practical view on how to mobilize civil society by taking into account two models of participatory democracy – Directly Deliberative Democracy and Open Method of Coordination. The first chapter presented an overview of the different ways to mobilize civil society in the European Union, and focused on three methods: intensive lobbying, participation in party politics and pan-European initiatives. A practical example follows in the second chapter, and although directly concerns the third method, also contains elements of lobbying and party politics. The concrete project is known as the European Citizens' Initiative; it will officially start in April 2012 and contains potential for a new transnational form of citizen participation that could in turn create opportunities to enhance the EU's democratic legitimacy by allowing civil society to act as an intermediary between the institutions and its citizens. This chapter analyzed the ECI in detail, from its institutional genesis to the final regulation that was made possible thanks to the Lisbon Treaty. The examination of the reactions coming from the various concerned parties gave a concrete insight on the perception of participation in the EU. It also uncovered potential flaws and ambiguities that can jeopardize the success of the whole project, whose final assessment will not be possible to perform before a few years.

In the light of the core text, whose summary has just been presented, some tentative answers to the research question can now be formulated. The introduction part defined the main issues that are covered in this work, and mainly concern lobbying's impact on the democratic legitimacy of the European Union. We have seen in the first two parts that as a political activity, lobbying exerts an important degree of influence on the processes of decision-making that are taking place at the European Union level. The growing importance of interest representation is clearly a sign that the EU is believed to matter and that lobbying makes up for a lack of representation. Nevertheless, the close

examination of lobbying practices also revealed the strong presence of concern or mistrust as to the negative side of lobbying, especially when it leads to the over-representation of some interests over others. It also showed the great inequality in terms of organization and influence capabilities, which is traditionally manifested by the presence of large groups in the EU arena. This was partly demonstrated in the case-study when describing the origins of the initiatives that are likely to pass the first stage of admissibility checks. However, despite those negative connotations that have been identified both in public opinion and scholarly works, there is a substantial potential for benefits, and those were most importantly considered in this thesis. Therefore, at the end of the analysis, it appeared that the impact of interest representation on the EU is relative, and largely depends on the importance that is attributed to the exercise of influence during the decision-making processes. Lobbying was particularly significant to assess in relation to the so-called democratic deficit of the European Union, and this constituted the central part of the thesis, by linking two main debates into one general concern. As Part II suggested, the theoretical framework that makes up for the mainstream discourse nowadays analyzes the European Union as experiencing some degree of democratic deficit in various key areas of control that directly impact on its democratic legitimacy. One of the research questions was then targeted at assessing whether or not lobbying was helping alleviating this legitimacy crisis. The examination of the current models of democracy led to the conclusion that the democratic deficit is a reality, especially in key areas such as accountability and transparency. Those characteristics belong to a vision that privileges the output dimension of the EU as a polity. The critical assessment of that particular point of view led to the realization that a shift in perspective might be the solution to the EU's legitimacy issues by focusing more on the input-dimension, which is included in the multi-level conception presented in the paper. Some theoretical reflections on the concept of multi-level governance allowed for a re-examination of the democratic character of the EU in the light of new approaches which took into account the participation of other societal actors and reestablished lobbying as a desirable practice. It also facilitated the relativizing of some major paradoxes such as the absence of a European demos, without which many scholars think that the EU cannot be a democratic political system. Despite those significant improvements as to the benefits of an interdisciplinary approach, the multi-level model is not devoid of certain flaws, and does not seem to solve the issues of democratic deficit, proving once more that democratic erosion is a phenomenon that

belongs to any democratic system, irrespective of the approach that is adopted. The main contribution of multi-level governance for the scope of the paper is in the special relation that it maintains with civil society, the last major concept that has been introduced in the paper. Civil society was posed as the societal prerequisite as the key actor to solve the EU's democratic legitimacy by acting as an organized intermediary between the citizens and the EU institutions, therefore filling the gap left by the inexistent demos. As such, the participation of civil society through their involvement in citizen interest representation has great potential for developing a certain awareness of the EU with a view of becoming a truly transnational movement. To illustrate this hypothesis, the European Citizens' Initiative was analyzed in greater detail in order to assess the presence of mechanisms that would justify such arguments. The findings that were presented at the end of Part III are still mixed, and it seems that at the moment there is no definite answer that can be rightfully offered and justified. One reason for that is the extreme novelty of the project, which has not yet reached the final stage of full implementation. However, some tentative answers have been provided, and primarily focus on the positive aspects that such a project allowed for; it seems that even though there is a chance that the ECI will not be entirely successful in mobilizing civil society, the habit of cooperation and organization that such a project required will prove beneficial for future initiatives.

This thesis is of course largely incomplete, and due to size restriction we had to proceed to a strict selection of the topics and issues to be covered in the core text. The initial project of linking lobbying, democracy and civil society required synthetic qualities that were unfortunately performed at the expense of information for some sections. The main limitations of this paper concern various aspects that were too imposing and complex to be examined here without overlooking the main objective of the paper. The second chapter of Part I mentions lobbying in the European context; though it has been briefly mentioned, it is essential to keep in mind that the heterogeneous character of the EU makes lobbying greatly variable within the EU arena itself. Therefore, the description of lobbying in the EU follows general trends, and did not take into account the particularities of lobbying in the Central and Eastern European Member States for example, especially in terms of organization and regulation. This particular dichotomy has been the subject of various works of research, though the field could still benefit from up to date and more extensive analysis. The other major

limitation worth mentioning has to do with the case-study. A preliminary analysis had already been conducted by the author in the early 2011, when the ECI provoked a profusion of reactions, publications and debates that were useful for the reflection. Our original assumption was that this trend would continue until the final stages of preparation until April 2012; however, we had but to notice that this was not the case, since very few mentions of the ECI appear relayed for the second half of the year 2011. In any case, the information collected at the beginning was of great help to identify patterns of mobilization and also point to recurrent flaws.

All in all, this work is the fruits of a reflection both on current debates but also on the methodological approaches that traditionally prevail while doing research. The benefits of an interdisciplinary perspective cannot be stressed enough as the alternative for the theoretical analysis of long-lasting preoccupations. As an opening to this conclusion, and as a way to suggest new areas of investigation that would benefit greatly from further research, we would like to ask the reader to consider some important related debates, which have been briefly referred to throughout the text. The debate over the democratic deficit of the European Union is only one side of the issue and the reflection over new modes of governance still need conceptualization. Moreover, this thesis introduced the concept of civil society, which is still being debated in the academic field. A larger perspective on the public sphere in general is also needed, in order to measure the real impact of the media in the creation of a European public sphere. The Eurobarometer surveys have been mentioned several times, and constitute an interesting starting point for future studies aiming at assessing the importance of public opinion in the European Union. In the end, it all comes down to what the European citizens expect the EU to be – do we want the EU to work efficiently or to be legitimately democratic? Is there any way to achieve both? To leave the last word to Müller, translated by Karr: "not attending European elections means trusting Europe. Europe the way it works is not democratic. But it works."[290]

---

[290] Karolina Karr, *Democracy and Lobbying in the European Union*, p.91.

Bibliography

Works cited

Abromeit, Heidrun. *Democracy in Europe: Legitimising Politics in a Non-State Polity*. Oxford: Berghahn Books, 1998.

Alejandro, Roberto. "What is Political about Rawl's Political Liberalism?" *The Journal of Politics*. 58.1 (1996): 1-24.

Andersen, Svein S. and Kjell A. Eliassen. *The European Union, how democratic is it?* Thousand Oaks, CA: Sage, 1996.

Archive of European Integration. "Europe 1992: The Overall Challenge (summary of the Cecchini Report)". European Commission. SEC (88) 524 final. 13 April 1988. http://aei.pitt.edu/3813/1/000209_1.pdf (retrieved 14 October 2011).

Ayberk,Ural and François-Pierre Schenker. "Des lobbies européens entre pluralisme et clientélisme". *Revue française de science politique*. 48.6. (1998): 725-755.

Balme, Richard, and Didier Chabanet. *European Governance and Democracy: Power and Protest in the European Union*. Lanham, MD: Rowman & Littlefield, 2008.

Balosin, Miruna Andreea. "Analyzing EU's Lobbying". Studia Universitatis. Petru Maior University. (2010). http://www.upm.ro/facultati_departamente/stiinte_litere/conferinte/situl_integrare_eu ropeana/Lucrari3/istorie/121_Miruna%20Balosin%20articol.pdf (retrieved 17 December 2010).

Banchoff, Thomas and Mitchell P. Smith (eds.). *Legitimacy and the European Union: the contested polity*. New York: Routledge, 2005.

BBC News. "Lobbying". *BBC*. 1 October 2008. http://news.bbc.co.uk/2/hi/uk_news/politics/82529.stm (accessed 17 September 2011).

Bekkers, Viktor, Geske Dijkstra, Arthur Edwards and Menno Fenger. *Governance and the Democratic Deficit: assessing the democratic legitimacy of governance politics*. Aldershot: Ashagte Publishing, Ltd, 2007.

Bender, Gunnar and Lutz Reulecke. *Handbuch des deutsches Lobbyisten, wie ein modernes und transparentes Politikmanagement funktioniert*. Frankfurt: F.A.Z Institut, 2003.

Berkhout, Joost and David Lowery. "The changing demography of the EU interest system since 1990". *European Union Politics*. 11. (2007): 447-461.

Berkhout, Joost and David Lowery. "Counting organized interests in the European Union: a comparison of data sources". *Journal of European Public Policy*. 15.4. (2008): 489-513.

Beyers, Jan, Rainer Eising and William L. Maloney (eds.). *Interest groups politics in Europe: lessons from EU studies and comparative politics*. London: Routledge, 2010.

Borras, Susana and Kerstin Jacobson. "The open-method of coordination and new governance patterns in the EU". *Journal of European Public Policy*. 11.2. (2004): 185-208.

Brand, Constant. "MEPs look to make it easier to launch citizens' initiatives". *European Voice*. November 4, 2010. Policies section, EU governance, Reform.

Brand, Constant. "Inquiries into Scandal of 'Influence-for-Cash'". *European Voice*. 24 March 2011. http://www.independent.co.uk/news/uk/politics/ministers-furious-at-new-lobbying-scandal-1925106.html (accessed 20 July 2011).

Burthenshaw, Claude J. "The Political Theory of Pluralist Democracy". *The Western Political Quarterly*. 21.4. (1968): 577-587.

Campos, Nauro F. and Francesco Giovannoni. "Lobbying, corruption and political influence". Centre for Economic Policy Research Discussion Paper, 2006.

Canfora, Luciano. "The Beginning: Democracy in Ancient Greece". In, *Democracy in Europe: a History*, 21-34. Oxford: Blackwell Publishing. 2006.

Chabanet, Didier. "From Opacity to Transparency? The Place of Organized Interests within the European Institutions". EUGOV Working Paper 27. Institut Universitari d'Estudis Europeus. Bellaterra, Barcelona, 2001.

Charrad, Kristina. "Lobbying the European Union". Nachwuchsgruppe Europäische Zivilgesellschaft Und Multi-level Governance. Münster, 2005.

Coen, David and J. Richardson. *Lobbying the European Union: Institutions, Actors, and Issues*. Oxford: Oxford University Press, 2009.

Commission of the European Communities. "An Open and Structured Dialogue between the Commission and Special Interest Groups". European Commission. SEC (92) 2272 final. 2 December 1992. http://ec.europa.eu/civil_society/interest_groups/docs/v_en.pdf (retrieved 14 October 2011).

Commission of the European Communities. "European Governance: a White Paper". COM (2001) 428 final. 25 July 2001. http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0428en01.pdf (retrieved 14 March 2011).

Commission of the European Communities. Green paper COM (2009) 622 final on a European Citizens' Initiative. Brussels, November 2009. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0622:FIN:EN:PDF (retrieved 20 March 2011).

Conference of the Representatives of the Governments of the Member States. "Treaty establishing a Constitution for Europe", CIG 87/04. Brussels, August 2004.

http://www.consilium.europa.eu/igcpdf/en/04/cg00/cg00087.en04.pdf (retrieved 6 April 2011).

Council of the European Union. Agreement 11099/10 on draft regulation implementing the European citizens' initiative. Luxembourg, June 2010. http://register.consilium.europa.eu/pdf/en/10/st11/st11099.en10.pdf (retrieved 30 March 2011).

Crespy, Amandine and Nicolas Vershueren. "De L'euroscepticisme aux résistances: contribution au débat sur la théorisation des conflits sur l'intégration européenne." *Cahiers du CEPIVOL*. 5. (2008): 1-25.

DeBardeleben, Joan and Achim Hurrelmann. *Democratic dilemmas of multilevel governance: legitimacy, representation and accountability in the European Union*. Basingstoke: Palgrave Macmillan, 2007.

Democracy International. "More democracy in Europe". 2005. http://www.democracy-international.org/fileadmin/di/pdf/papers/di-more-democracy.pdf (retrieved 12 April 2011).

Efler, Michael. European Citizens' Initiative, Legal options for implementation below the constitutional level, study sponsored by the European United Left/Nordic Green Left Parliamentary Group in the European Parliament. 2006. http://www.democracy-international.org/fileadmin/di/pdf/papers/2006-12-eci-study.pdf (retrieved 12 April 2011).

Erne, Roland, Andreas Gross, Bruno Kaufmann, and Heinz Kegler (eds.). *Transnationale Demokratie, Impulse für ein demokratisch verfasstes Europa*. Zurich: Realotopia Verlagsgenosenschaft, 1995.

Euractiv. "Commission trusts EU-lobbyists to self-regulate". Euractiv. 5 May 2006. http://www.euractiv.com/pa/commission-trusts-eu-lobbyists-self-regulate/article-154962 (20 October 2011.)

Euractiv. "Transparency Initiative". Euractiv. 1 October 2009. http://www.euractiv.com/fr/node/188351 (accessed 20 October 2011).

Euractiv. "The European Citizens' Initiative". Euractiv. http://www.euractiv.com/en/future-eu/european-citizens-initiative-linksdossier-502067 (accessed 20 March 2011).

Euractiv. "Socialists plan 'Citizens' Initiative' on taxing speculation". Euractiv. http://www.euractiv.com/en/future-eu/socialists-plan-citizens-initiative-taxing-speculation-news-497412 (accessed 2 May 2011).

Euractiv. "France and Germany push for financial transactions tax". Euractiv. http://www.euractiv.com/en/financial-services/germany-france-push-financial-transactions-tax-news-496236 (accessed 2 May 2011).

European Commission. "Communication on Promoting the role of voluntary organizations and foundations in Europe". COM (97) 241 final. 6 June 1997.

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:1997:0241:FIN:EN:PDF (retrieved 20 October 2011).

European Commission. "The Commission and Non-Governmental Organization: Building a Stronger Partnership". Commission Discussion Paper presented by President Prodi and Vice-President Kinnock. COM (2000) 11 final. 18 January 2000. http://ec.europa.eu/civil_society/ngo/docs/communication_en.pdf (retrieved 20 October 2011).

European Commission. "Green Paper, European Transparency Initiative". COM (2006) 194 final, Brussels, May 2006. http://ec.europa.eu/transparency/eti/docs/gp_en.pdf (retrieved 10 November 2011).

European Commission. Commission Staff Working Document SEC (2010) 370: outcome of the public consultation on the Green Paper on a European Citizens' Initiative. Brussels, March 2010. http://ec.europa.eu/dgs/secretariat_general/citizens_initiative/docs/sec_2010_370_en.pdf (retrieved 20 March 2011).

European Commission. Commission announces upcoming proposal on choice for Member States to cultivate or not GMO's and approves 5 decisions on GMO's, IP/10/222. Europa Press Release. Brussels, March 2010. http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/222&format=HTML&aged=0&language=EN&guiLanguage=en (accessed 30 April 2011).

European Commission. "EMU: a historical documentation". Europa. http://ec.europa.eu/economy_finance/emu_history/history/part_a_1_b.htm (accessed 14 June 2011).

European Economic and Social Committee. "Opinion of the Economic and Social Committee on the role and contribution of civil society organizations in the building of Europe". CES 851/99 D/GW. Brussels, Belgium. 22 September 1999. http://www.eesc.europa.eu/resources/docs/ces851-1999_ac_en.pdf (retrieved 17 September 2011).

European Movement Ireland. "European Citizens' Initiative Campaign Report". Results of a nation-wide poll conducted on Europe Day. http://www.europeanmovement.ie/fileadmin/files_emireland/downloads/Uploads_2011/CI_Campaign_Report.pdf (retrieved 21 April 2011).

European Parliament. "Proposals for the Enlarged Bureau with a view to Laying Down Rules Governing the Representation of Special Interest Groups at the European Parliament". Committee on Rules of Procedure, the Verification of Credentials and Immunities. PE 200.405. Brussels, European Parliament, 1999.

European Parliament. "Lobbying in the European Union: Current Rules and Practices". Directorate-General for Research Working Paper. Constitutional Affairs Series. AFCO 104 EN. Luxemburg, European Parliament, 2003.

European Parliament. "Report on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions. (2007/2115(INI)). 2 April 2008. http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2008-0105+0+DOC+PDF+V0//EN (retrieved 9 June 2011).

European Parliament. "Guidelines for a proposal of a regulation of the European Parliament and the Council on the implementation of the citizens' initiative, pursuant to Article 11(4) of the Treaty on the European Union", INI/2008/2169. Strasbourg, May 2009. http://www.europarl.europa.eu/oeil/FindByProcnum.do?lang=en&procnum=INI/2008/2169 (accessed 11 April 2011).

Europolitique. "Commission Européenne: Sim Kallas commente la nouvelle initiative en faveur de la tranparence". Europolitique, le quotidien des affaires européennes. 10 November 2005. http://www.europolitique.info/commission-europeenne-siim-kallas-commente-la-nouvelle-initiative-en-faveur-de-la-transparence-artr82609-29.html (accessed 9 June 2011).

Eurotreaties. "The Maastricht Treaty, Provisions amending the treaty establishing the European Economic Community with a view to establishing the European Community". Article 138 a. Maastricht, 1992. http://www.eurotreaties.com/maastrichtec.pdf (retrieved 28 November 2011).

Finke, Barbara. "Civil society participation in EU governance", *Living Reviews in European Governance*. 2.2. (2007) http://www.livingreviews.org/lreg-2007-2 (accessed 14 January 2011).

Flannery, Paul. "Lobbying regulation in the EU: A comparison with the USA and Canada". *Social and Political Review*. Trinity College Dublin. 20. (2010): 69-78.

Flyvbjerg, Bent. "Habermas and Foucault: Thinkers for Civil Society?" *The British Journal of Sociology*. 49.2. (1998): 210-233.

Gallais, Bertille. "Inventaire des prises de position sur la mise en place de l'Initiative Citoyenne Européenne prévue à l'article 11, paragraphe 4, du traité sur l'Union Européenne", Permanent Forum of Civil Society. Report presented to the European Parliament in December 2010. http://forum-civil-society.org/IMG/pdf_Rapport_Bertille_Gallais.pdf (retrieved 30 March 2011).

Gelak, Deanna. *Lobbying and Advocacy*. Alexandria, Virginia: TheCapitol.net, 2008.

George, Stephen and Ian Bache. *Politics in the European Union*. Oxford: Oxford University Press. 2001.

Gerstenberg, Olivier and Charles Sabel. "Directly Deliberative Polyarchy: an institutional ideal for Europe?", in *Good Governance in Europe's Integrated Market*, edited by Christian Joerges and Renaud Dehousse, 289-341. Oxford: Oxford University Press, 2002.

Giorgi, Liana, Ingmar von Homeyer and Wayne Parsons (eds.). *Democracy in the European Union: Towards the emergence of a public sphere*. Abingdon, Oxon: Routledge, 2006.

Goerhing, Rebecca. "Interest Representation and Legitimacy in the European Union: the New Quest for Civil Society Formation". In *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy*, edited Alex Warleigh and Jenny Fairbrass, 118-137. London: Europa Publications Limited, 2002.

"Green paper". *Business dictionary*. http://www.businessdictionary.com/definition/green-paper.html (accessed 28 April 2011).

Greenwood, Justin. *Representing Interests in the European Union*. New York: Palgrave Macmillan, 1997.

Greenwood, Justin. "The future of EU-level interest representation." *Journal of Communication Management*. 4.1. (1998): 9-19.

Greenwood, Justin. *Interest Representation in the European Union*. 2nd edition. New York: Palgrave Macmillan, 2007.

Grant, Wyn. *Pressure Groups and British Politics*. Basingstoke: Palgrave Macmillan, 2000.

Historiasiglo20.org. "The Treaty of Maastricht (1992)". http://www.historiasiglo20.org/europe/maastricht.htm (accessed 19 November 2011).

Hix, Simon. "The Study of the European Community: The challenge to Comparative Politics". *West European Politics*. 17.1. (1994): 1-30.

Hix, Simon. "Why the EU needs (Left-Right) Politics? Policy Reforms and Accountability are Impossible without it". In Notre Europe, *Politics: The Right or the Wrong Sort of Medicine for the EU?* Etudes&Recherche. Policy Paper 19. March 2002.

Hodges, Michael (ed.). *European Integration*. Harmondsworth: Penguin, 1972.

Holman, Craig. "Origins, Evolution and Structure of the Lobbying Disclosure Act". Public Citizen. 11 May 2006. http://www.citizen.org/documents/LDAorigins.pdf (retrieved 27 March 2011).

Joerges, Christian and Renaud Dehousse. *Good Governance in Europe's Integrated Market*. Oxford: Oxford University Press, 2002.

Jordan, Grant. "Towards regulation in the UK: from 'General good sense' to 'Formalised rules'". *Parliamentary Affairs*. 51. (1998): 524-537.

Kaczynski, Piotr Maciej. "The European Citizens' Initiative: A Proper Response from the Commission". Centre for European Policy Studies. Comment posted January 8, 2010. http://aei.pitt.edu/14522/1/Commentary_Citizens_initiative_PMK.pdf (retrieved 6 April 2011).

Kallas, Siim. "Communication to the Commission from the President, Ms Wallström, Mr Kallas, Ms Hübner and Ms Fischer Boel proposing the launch of a European Transparency Initiative". European Commission Archives. November 2005. http://ec.europa.eu/archives/commission_2004-2009/kallas/doc/etik-communication_en.pdf (retrieved 20 October 2011).

Kallas, Siim. "Lobbying: What Europe can learn from the US". Speech given at the American Chamber of Commerce EU Plenary Meeting. 18 September 2007. http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/07/544&format=HTML&aged=1&language=EN&guiLanguage=en (accessed 10 October 2011).

Kallas, Siim. "A more transparent and accountable Commission – And what about the Think Tanks?". European Policy Center. Brussels, 17 April 2009. http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/181 (accessed 9 June 2011).

Karr, Karolina. *Democracy and Lobbying in the European Union*. Frankfurt, Germany: Campus Verlag; Chicago, Illinois: The University of Chicago Press, 2007.

Kaufmann, Bruno and Peter Köppen. "The Rostock Process, 1991-2004: On the way to more direct democracy in Europe". 2001.

Koeppl, Peter. "The acceptance, relevance and dominance of lobbying the EU Commission – a first-time survey of EU Commission's civil servants". *Journal of Public Affairs*. 1.1. (2000): 69-80.

Kohler-Koch, Beate and Rainer Eising. *The Transformation of Governance in the European Union*. London: Routledge/ECPR, 1999.

Kohler-Koch, Beate. "Political Representation and Civil Society in the EU". Paper prepared for Connex Thematic Conference on Political Representation. European University Institute. Florence, Italy, 25-26 May 2007.

Lane, Jan Erik and Svante O. Ersson. *Democracy: a comparative approach*. New York: Routledge, 2003.

Lipset, Seymour M. "Some social requisites of democracy". *American Political Science Review*. 53. (1959): 69-105.

Malone, Margaret M. "Regulation of Lobbyists in Developed Countries: current rules and practices". *Institute of Public Administration*. (2004): 1-28.

Maloney, William. "Interest Groups and the Revitalization of Democracy: Are We Expecting Too Much?" Paper presented for the Revitalising Politics Conference. London Parliament, United Kingdom, 5-6 November 2008.

Mazey, Sonia and Jeremy Richardson. "Interest groups and EU policy making: organizational logic and venue shopping". In *European Union: Power and Policy-Making*, edited by Jeremy Richardson, 247-268. London: Routledge, 2001.

McGrath, Conor. "The development and regulation of lobbying in the new member states of the European Union". *Journal of Public Affairs*. 8. (2008): 15-32.

Michalowitz, Irina. "Beyond Corporatism and Pluralism: Towards a New Theoretical Framework". In *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy*, edited by Alex Warleigh and Jenny Fairbrass, 35-56. London: Europa Publications Limited, 2002.

Milbrath, Lester W. "Lobbying as a Communication Process". *The Public Opinion Quarterly*. 14.1. (1960): 32-53.

Moravcsik, Andrew. "In Defence of the 'Democratic Deficit': Reassessing Legitimacy in the European Union". *Journal of Common Market Studies*. 40.4. (2002): 603-624.

Morris, Nigel. "Ministers furious at new lobbying 'scandal'". *The Independent*. 22 March 2010. http://www.independent.co.uk/news/uk/politics/ministers-furious-at-new-lobbying-scandal-1925106.html (accessed 2 February 2011).

Naurin, Daniel. *Deliberation behind Closed Doors: Transparency and Lobbying in the European Union*. Colchester: ECPR Press, 2007.

Nentwich, Michael. "Opportunity structures for citizens' participation, the case for the European Union" In *Political theory and the EU: legitimacy, constitutional choice and citizenship*, edited by Michael Nentwich and Albert Weale. Oxford: Routledge, 1998.

Official Documents Archive. Summary of the Nolan Committee's First Report on Standards in Public Life. Official Documents. 1 October 1996. http://www.archive.official-documents.co.uk/document/parlment/nolan/nolan.htm (accessed 7 April 2011).

Official Journal of the European Union. "Treaty Establishing a Constitution for Europe". 2004/C 310/01. http://eur-lex.europa.eu/JOHtml.do?uri=OJ:C:2004:310:SOM:EN:HTML (accessed 15 November 2011)

Official Journal of the European Union, Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative. Strasbourg, March, 2011. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:065:0001:0022:EN:PDF (retrieved 30 March 2011).

Official Journal of the European Union. "Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organizations and self-employed individuals engaged in EU policy-making and policy-implementation". Inter-institutional Agreements. L 191/29. 22 July 2011. http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:191:0029:0038:EN:PDF (retrieved 20 October 2011).

Oxford University Blog. "Congressional Lobbying Scandals: a top ten list". OUP Blog. 14 March 2006. http://blog.oup.com/2006/03/congressional_l/ (accessed 2 February 2011).

Perez-Solorzano Borragan, Nieves. "Coming to terms with European Union Lobbying: The Central and Eastern European Experience". In *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy*, edited by Alex Warleigh and Jenny Fairbrass, 160-183. London: Europa Publications Limited, 2002.

Peters, Guy B. and John Pierre. "Governance Without Government? Rethinking Public Administration". *Journal of Public Administration Research and Theory*. 8.2. (1998): 223-243.

Petrovas, Sotirios. *Parliamentary Democracy in the Lisbon Treaty: The Role of Parliamentary Bodies in Achieving Institutional Balance and Prospects for a New European Political Regime*. Boca Raton (FL): Dissertation.com, 2008.

Rosamond, Ben. *Theories of European Integration*. Houndsmills: Macmillan, 2000.

Saurugger, Sabine. "Analyser les modes de représentation des intérêts dans l'Union européenne : construction d'une problématique". *Questions de Recherche/Research in Question*. 6. (2002): 2-49.

Schendelen, Rinus van. "Consociational Democracy: The Views of Arend Lijphart and Collected Criticisms". *The Political Science Reviewer*. (1983): 143-183.

Schendelen, Rinus van. *National Public and Private EC Lobbying*. Dartmouth: Aldershot. 1993.

Schendelen, Rinus van. *Machiavelli in Brussels: the Art of Lobbying the EU*. 2nd edition. Amsterdam: Amsterdam University Press, 2005.

Schumpeter, Joseph. *Capitalism, Socialism and Democracy*. New York: Routledge, 1943.

Sculy, Roger M. "Policy Influence and Participation in the European Parliament". *Legislative Studies Quarterly*. 22.2. (2007): 233-252.

Smismans, Stijn. "European Civil Society: Shaped by Discourses and Institutional Interests". *European Law Journal*. 9.4. (2003): 482-504.

Smismans, Stijn. "Reviewing normative theories on civil society participation". NEWGOV New Modes of Governance. Integrated Project 11: The Role of Civil Society in Democratising European and Global Governance (CISONANCE). (2004).

Smismans, Stijn. *Civil society and legitimate European governance*. Northampton: Edward Elgar Publishing, 2006.

Spinelli, Altiero. "The Growth of the European Movement since the Second World War". In Hodges, Michael (ed.). *European Integration*. Harmondsworth: Penguin, 1972.

Steffek, Jens, C. Kissling and P. Nanz. *Civil Society participation in European and global governance: a cure for the democratic deficit?* Basingstoke: Palgrave Macmillan, 2008.

Taylor, Simon. "Kallas faces battle of wills with lobbyists". *European Voice*. 21 June 2007.http://www.europeanvoice.com/CWS/Index.aspx?PageID=166&articleID=577 48 (accessed 9 June 2011).

The House of Commons. "The Code of Conduct" and "The Guide to the Rules related to the conduct of Members". 9 February 2009. http://www.publications.parliament.uk/pa/cm200809/cmcode/735/735.pdf (retrieved 7 April 2011).

United Nations Economic and Social Commission for Asia and the Pacific. "What is good governance?" http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp (accessed 18 November 2011).

US House of Representatives. "Lobbying Disclosure Act". Office of the Clerk. Public Law 104-65. 19 December 1995. http://lobbyingdisclosure.house.gov/lda.html (accessed 6 April 2011).

Warleigh, Alex and Jenny Fairbrass (eds.). *Influence and Interests in the European Union: The New Politics of Persuasion and Advocacy*. London: Europa Publications Limited, 2002.

Warleigh, Alex. *Democracy and the European Union: Theory, Practice and Reform*. London: SAGE Publications, 2003.

Weiler, Joseph. *The Constitution of Europe, "Do the New Clothes Have an Emperor?" and Other Essays on European Integration*. Cambridge: Cambridge University Press, 1999.

Wesselius, Erik. "High time to regulate EU lobbying". *Consumer Policy Review*. 15.1. (2005): 13-18.

Woll, Cornelia. "Lobbying in the European Union: from sui generis to a comparative perspective". *Journal of European Public Policy*. 13.3. (2006): 456-469.

Wonka, Arndt, Frank R. Baumgartner, Christine Mahoney and Joost Berkhout. "Measuring the size and scope of the EU interest group population". *European Union Politics*. 11. (2010): 463-476.

Zeller, Belle. "American Government and Politics: The Federal Regulation of Lobbying Act". *The American Political Science Review*. 42.2. (1948): 239-271.

Zetter, Lionel. *Lobbying, the Art of Political Persuasion*. Petersfield: Harriman House LTD, 2008.

Zittel, Thomas and Dieter Fuchs. *Participatory democracy and political participation: can participatory engineering bring citizens back in?* New York: Routledge, 2007.

Zweifel, Thomas D. *Democratic deficit?: institutions and regulation in the European Union, Switzerland and the United States in comparative perspective*. Lanham (MD): Lexington Books, 2002.

Zweifel, Thomas D. "Democratic deficits in comparison: Best (and Worst) Practices in European, US and Swiss Merger Regulation." *JCMS*. 43.1. (2003): 541-566.

Works consulted

Autret, Florence. "L' « affaire Kallas » : peut-on réguler les lobbyistes ?". La vie des idées. 4 July 2008. http://www.laviedesidees.fr/L-affaire-Kallas-peut-on-reguler.html (accessed 9 June 2011).

Bélot, Céline and Bruno Cautrès. *La vie démocratique de l'Union européenne*. Paris: La Documentation française, 2006.

Berkhout, Joost and Caelesta Poppelaars. "Going to Brussels. A Population Perspective on Interest Representation in the EU". Paper prepared for the 11th Biennial EUSA Conference. Panel 9E: Interest groups in EU studies and comparative politics. Los Angeles, United States, 23-25 April 2010.

Bernhagen, Patrick and Neil J. Mitchell. "The Determinants of Direct Corporate Lobbying in the European Union". *European Union Politics*. 10.2. (2009): 155-176.

Bernhagen, Patrick and Richard Rose. "European Interest Intermediation vs. Representation of European Citizens". Paper prepared for the 5th Pan-European Conference on EU Politics. Porto, Portugal, 23-26 June 2010.

Bouwen, Pieter and Margaret McCown. "Lobbying versus litigation: political and legal strategies of interest representation in the European Union". *Journal of European Public Policy*. 14.3. (2007): 422-443.

Broscheid, Andreas and David Coen. "Lobbying activity and for a creation in the EU: empirically exploring the nature of policy good". *Journal of European Public Policy*. 14.3. (2007): 346-365.

Coen, David. "Empirical and theoretical studies in EU lobbying". *Journal of European Public Policy*. 14.3. (2007): 333-345.

Constantelos, John. "Interest group strategies in multi-level Europe". *Journal of Public Affairs*. 7. (2007): 39-53.

Curtin, Deirdre. "Private Interest Representation or Civil Society Deliberation? A contemporary dilemma for European Union governance". *Social and Legal Studies*. 12.1. (2003): 55-75.

De Beaufort, Viviane. *Lobbying, portraits croisés*. Paris: Autrement, 2008.

Durand, Mathilde and Hélène Jorry. "Les groups d'intérêt, vecteurs d'information sur l'Europe?" *Horizons Stratégiques*. Centre d'analyse stratégique. 6. (2007).

Euractiv. "Analyse : l'initiative de Kallas sur le lobbying à Bruxelles". Euractiv. 3 April 2006. http://www.euractiv.com/fr/affaires-publiques/analyse-initiative-kallas-lobbying-bruxelles/article-153872 (accessed 9 June 2011).

Euractiv. "Encadrement du lobbying: La France accouche d'une souris". Euractiv France. 7 July 2009. http://www.euractiv.fr/la-france-et-lue/article/encadrement-lobbying-france-accouche-souris-001871 (accessed 20 September 2011).

Euractiv. "Comment évoluent les pratiques de lobbying des entreprises à Bruxelles?" Euractiv study presented in July 2009 in Paris. 2 July 2009. http://www.euractiv.fr/sites/default/files/20090702_Enquete_EurActiv.pdf?issuusl=ignore (accessed 20 September 2011).

Euractiv. "Top European companies 'lobbying in secret', says NGO". Euractiv. 22 April 2010. http://www.euractiv.com/pa/top-european-companies-lobbying-secret-says-ngo-news-468173 (accessed 20 September 2011).

Euractiv. "EU transparency talks to resume next month". Euractiv. 27 April 2010. Updated 26 May 2010. http://www.euractiv.com/pa/eu-transparency-talks-resume-next-month-news-485734 (accessed 20 September 2011).

Euractiv. "Le Parlement rejette le nouvel objectif de réduction d'émissions: les lobbys en question". Euractiv France. 6 July 2011. http://www.euractiv.fr/parlement-rejette-nouvel-objectif-reduction-emissions-lobbys-question-article (accessed 20 September 2011).

Euractiv. "Le lobbying dans l'UE vu par un nouvel Etat membre". Euractiv. 19 Septembre 2011. http://www.euractiv.com/fr/elargissement/le-lobbying-dans-lue-vu-par-un-nouvel-etat-membre-analysis-507752 (accessed 20 September 2011).

Gullberg, Anne Therese. "Lobbying friends and foes in climate policy: The case of business and environmental interest groups in the European Union". *Energy Policy*. 36. (2008): 2964-2972.

Hix, Simon. *The Political System of the European Union*. New York: Palgrave Macmillan, 2005.

Jordan, Grant and William A. Maloney. *Democracy and Interest Groups: Enhancing Participation?* Basingstoke: Routledge, 2007.

Kohler-Koch, Beate. "Civil society and EU democracy: "astroturf" representation?". *Journal of European Public Policy*. 17.1. (2010): 100-116.

Kretschmer, Heiko and Hans-Jörg Schmedes. "Enhancing Transparency in EU Lobbying? How the European Commission's Lack of Courage and Determintion Impedes Substantial Progress". *Internationale Politik und Gesellschaft*. 1. (2010): 112-122.

Kurczewska, Urszula. "In search of a Polish interest representation pattern in the European Union – the case of sector interest organisations". *Studies of Transition States and Societies*. 2.2. (2010): 3-15.

Lange, Rob de. "Book Review on Karolina Karr's *Democracy and Lobbying in the EU*". *International Journal of Public Opinion Research*. 20.4. (2008): 528-531.

Lefebvre, Jean-Sébastien. "Le top 10 des lobbys européens les plus improbables". Eurosduvillage.eu. 4 November 2010. http://www.eurosduvillage.eu/Le-top-10-des-lobbys-europeens-les,4215.html (accessed 20 September 2011).

Lowery, David. "Why do organized Interests Lobby? A Multi-Goal, Multi-Context Theory of Lobbying". *Polity*. 39.1. (2007): 29-54.

Mahoney, Christine. "Lobbying Success in the United States and the European Union". *Journal of Public Policy*. 27.1. (2007): 35-56.

Mather, Janet. *Legitimating the European Union: aspirations, inputs and performance*. Basingstoke: Palgrave Macmillan, 2006.

Mazey, Sonia and Jeremy Richardson. "Environmental groups and the European Community: Challenges and Opportunities". In *Environmental Policy in the European Union. Actors, Institutions and Processes*, edited by Andrew Jordan, 106-182. London: Earthscan, 2002.

Michalowitz, Irina. "What determines influence? Assessing conditions for decision-making influence of interest groups in the EU". *Journal of European Public Policy*. 14.1. (2007): 132-151.

Perez-Solorzano Borragan, Nieves. "Do Organised Interests Contribute to Participatory Democracy in the EU? Lessons from the EU's Constitutional Process". Paper prepared for the conference 'Interest Groups in the 21st century in France and Europe'. Paris, France. 24-25 September 2004.

Ruzza, Carlo and Emanuela Bozzini. "Organized Civil Society and European Governance: Routes of Contestation". *European Political Science*. 7.3. (2008): 296-303.

Saurugger, Sabine. "Democracy and Interest Group Studies in the EU: Towards a Sociological Research Agenda". Paper prepared for the ECPR Joint Sessions. Workshop 9: Does European integration theory need sociology? Towards a research agenda. Rennes, France, 11-16 April 2008.

Schmidt, Vivien A. *Democracy in Europe: The EU and National Polities*. Oxford: Oxford University Press, 2006.

Spurga, Saulius. "Lithuanian interest intermediation and communication of interest groups at the European Union level". *Informacijos Mokslai*. 35. (2005): 136-149.

Teegen, Hildy, Jonathan P. Dosh and Sushil Vachani. "The Importance of Nongovernmental Organizations (NGOs) in Global Governance and Value Creation: An International Business Research Agenda". *Journal of International Business Studies*. 35.6. (2004): 463-483.

Van Deth, Jan W., Jose Ramon Montero and Anders Westholm (eds.). *Citizenship and Involvement in European Democracies: A comparative analysis*. Abingdon: Routledge, 2007.

Wallace, Helen, and Alasdair R. Young (eds.). *Participation and Policy-making in the European Union*. Oxford: Clarendon, 1997.

Woll, Cornelia. "L'initiative européenne pour la transparence: quelle réglementation pour le lobbying à Bruxelles?" *Kiosque du CERI*. (2007).

Warntjen, Andreas. *Governance in Europe: the Role of Interest Groups*. Baden-Baden: Nomos Verlagsgesellschaft, 2004.

Annexes

Table A: Distribution of interest groups according to interest and focus

	Public interest	Private interest
National or unilateral focus	National advocacy, non-profit groups Local, regional, national government bodies	Individual companies National associations
International or multilateral focus	International advocacy, non-profit groups International organizations of governments	Supranational associations Umbrella organizations

Source: Karolina Karr (2007)

Table B: Distribution of interest groups according to nature of organization

Group type	Frequency	%
Professional associations and interest groups	1848	50.0
Corporations	493	13.3
Chamber of Commerce	37	1.0
Consultants	220	6.0
National employer's federations	58	1.6
International organizations	118	3.2
Law firms	124	3.4
National trade and professional organizations	252	6.8
Regions (including municipalities)	269	7.3
Think tanks and training	146	4.0
Labor unions	30	0.8
National associations of Chambers of Commerce	27	0.7
Political parties (not included in Landmarks)	7	0.2
Other	9	0.2
Missing	62	1.7
Total	37 000	100.2

Source: Wonka et al. (2010)

Table C: Lobbying organizations according to country of origin

Country	Frequency	%
EU-15 Member States		
Germany	380	17.2
UK	294	13.3
France	292	13.2
Belgium	171	7.8
Netherlands	151	6.9
Italy	139	6.3
Spain	78	3.5
Austria	59	2.7
Sweden	47	2.1
Denmark	44	2.0
Finland	19	0.9
Portugal	16	0.7
Ireland	15	0.7
Luxembourg	12	0.5
Greece	5	0.2
New EU-27 Member-States		
Poland	30	1.4
Czech Republic	18	0.8
Slovakia	13	0.6
Hungary	13	0.6
Romania	7	0.3
Latvia	4	0.2
Estonia	4	0.2
Slovenia	3	0.1
Lithuania	2	0.1
Cyprus	2	0.1
Malta	2	0.1
Bulgaria	2	0.1
Top 2 non-EU States		
USA	173	7.8
Switzerland	73	3.3

Source: Wonka et al. (2010)

Table D: Citizen interest organizations

Name of Group	Description
Social Platform	40 citizen interest groups in the wider social policy fields. It has emerged to become the leading organization in the sector with an elevated status in the Commission
CONCORD	European NGO Confederation for Relief and Development, comprising 10 international networks and 18 national associations across Europe. It is the leading partner of the DG Development
Human Rights and Democracy Networks	Informal organization of EU outlets of international peace and human rights organizations, including Amnesty International
G 10	Family of 10 environmental organizations active at the EU level, including WWF, Greenpeace, Friends of the Earth and the confederated European Environmental Bureau. It is a means to purposely coordinate resources between network members to focus upon different environmental issues. It is heavily institutionalized within DG Environment
European Women's Lobby	Confederation of 25 national and 21 transnational organizations. It is institutionalized within DG Employment and Social Affairs
European Forum for the Arts and Heritage	Family of 65 member organizations working on EU culture issues
European Public Health Alliance	From 80 to 115 NGOs working in public health field. 35 of them are pan-European or international

Source: Justin Greenwood (2007)

Table E: Principles of good governance
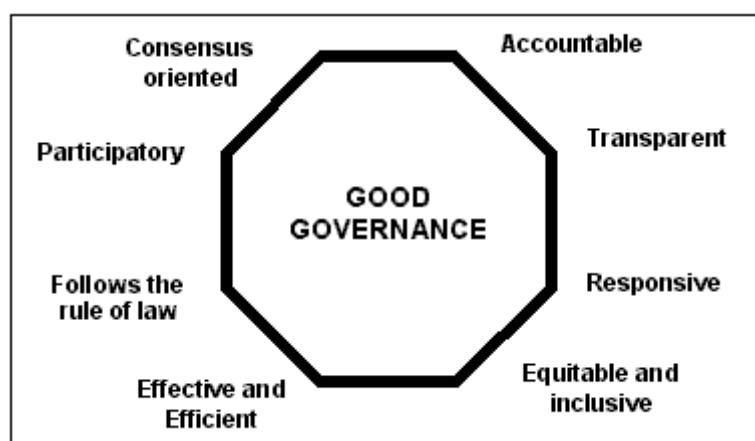
Source: UNESCAP

Table F: Turnout at the European Elections (1979-2009)

Election year	Turnout (in %)
1979 - EU9	61.99
1984 - EU10	58.98
1989 - EU12	58.41
1994 - EU12	56.67
1999 - EU15	49.51
2004 - EU25	45.47
2009 - EU27	43

- 1979 - EU9 - 9 Member States: Germany, France, Italy, the Netherlands, Belgium, Luxembourg, the UK, Denmark and Ireland.
- 1984 - EU10 - The 9 Member States + Greece in 1981.
- 1989 - EU12 - The 10 Member States + Spain and Portugal in 1986.
- 1994 - EU12 - 12 Member States.
- 1999 - EU15 - The 12 Member States + Austria, Sweden and Finland in 1995.
- 2004 - EU25 - The 15 Member States + Poland, Hungary, Slovenia, Slovakia, the Czech Republic, Estonia, Latvia, Lithuania, Cyprus and Malta in 2004.
- 2009 - EU27 - The 25 Member States + Bulgaria and Romania in 2007.

Source: TNS opinion in collaboration with the EP.

Table G: Synthetic presentation of the outcomes of the Green Paper on the ECI

Issue	Heading	Commission's suggestions	Public's decision
1	Minimum number of Member States from which citizens must come	Two important aspects to consider: the threshold should be sufficiently representative of a Union interest and it should be objectively determined	Out of the many options proposed, the most popular alternative was a threshold of ¼ of Member States
2	Minimum number of signatures per Member States	A minimum number of signatures per Member States would ensure "genuine European flavor": the threshold should be set in proportion with the European population (since one million of five hundred million is 0.2%, the minimum number of signatures for each Member State should be of 0.2% of their population)	The criterion of 0.2% was very popular among the public, and a lower threshold was even suggested on the grounds that there is no mention of such a provision in the Treaty. A system of sliding scale was also proposed.
3	Eligibility to support a citizens' initiative – minimum age	Two alternatives were suggested: either refer to the general practice of setting the age limit as the voting age for the European elections, or set a new criterion in the Regulation	The known framework of the voting age for the European elections was quite popular, although some groups also supported the age of 16 as it might help to foster civic participation while not bearing the same legal implications since the initiative is not an election
4	Form and wording of a citizens' initiative	No mention of it in the Treaty, so some clarification was needed and suggested, but on the condition that the form should not become a burden and discourage people	The public put forward the possibility for the Commission to propose a common template to be filled
5	Requirements for the collection, verification and authentication of signatures	Since the EU has no competence on that matter, the decision to leave it in the hands of the national governments has been taken	The public came up with two possible alternatives: either creating a common set of procedures to make it uniform, or refer to national practices, as suggested
6	Time limit for the collection of signatures	Based on the practices in place in the Member States which already have a certain experience of initiatives, a large panel of time limits do exist and range from a few days to a few months	A 12-month limit was popular among the consulted population; 6 months was also argued for in the name of technology, but inversely, 18 months was put forward because of the size of the

			EU
7	Registration of proposed initiatives	A system of mandatory registration of initiatives on a website provided by the Commission would ensure better management and transparency in the process	The proposal was generally well accepted but it was pointed out that other institutions, such as the ombudsman, could be in charge of hosting the website as well
8	Requirements for organizers – transparency and funding	This issue directly refers to democratic accountability and transparency, and in that respect, organizers are required to make public all information about support and public funding	Mixed feelings were expressed in that case: the procedure could easily become burdensome but can also be beneficial and serve as a safeguard to ensure the representation of citizens' interests and no other types of interests
9	Examination of citizens' initiatives by the Commission	The Treaty does not set any time limit, mostly because some issues can be complex and therefore require a longer time to be examined, so a 6-month limit is suggested as a reasonable solution	Some concern has been voiced here about a preliminary assessment of admissibility before proceeding to the collection of signatures, on the grounds that it could be helpful to avoid a waste of time and resources but opponents insisted on freedom of expression and democratic commitment
10	Initiatives on the same issue	The issue raised here concerns the necessity or not to regulate the eventual cases of successive presentations of the same initiative	The public did not view this as an issue and did not think it necessary to regulate

Source: own design after the Green Paper

Table H: Minimum number of signatures per Member States

Belgium	16 500
Bulgaria	12 750
Czech Republic	16 500
Denmark	9 750
Germany	74 250
Estonia	4 500
Ireland	9 000
Greece	16 500
Spain	37 500
France	54 000
Italy	54 000
Cyprus	4 500
Latvia	6 000
Lithuania	9 000
Luxembourg	4 500
Hungary	16 500
Malta	3 750
Netherlands	18 750
Austria	12 750
Poland	37 500
Portugal	16 500
Romania	24 750
Slovenia	5 250
Slovakia	9 750
Finland	9 750
Sweden	13 500
United Kingdom	54 000

Annex 1: Greenpeace petition page

Annex 2: S&D petition page

The Petition

Citizen response to the European Commission consultation on "Financial Sector Taxation"

Dear President,
Dear Commissioner

As you know, on 8 March 2011, the European Parliament adopted a resolution that called on the EU to implement a financial transaction tax across the EU as a first step. The resolution was adopted with a very large cross-party majority of 529 to 127 with 18 abstentions. By this vote, the Parliament has simply reflected the views of the European public opinion.

One hour after the vote, you, Commissioner Šemeta, called it "premature and "irresponsible". This is an insult to both the citizens and their representatives. This insult is further compounded by the biased nature of the European Commission consultation on Taxation of the Financial Sector, which is only available in English, thus limiting the ability of many to respond and calling into question the democratic legitimacy of the consultation process.

As a citizen, I expect you and the College of Commissioners to become more open to the concept of new revenues and in particular an FTT.

The consultation will be the first test as to whether interests, other than those of the financial sector, are being listened to.

To this end, I would like to draw your attention to the following 5 points, which constitute my answer to the consultation:

• **200 billion, not 20 billion:** I demand an FTT with a broad tax base to ensure that all parts of the financial sector make an adequate contribution. Scientific estimates show that a European FTT on all spot and derivatives products, exchange traded and OTC, can generate revenue of €200bn. This contrasts with other proposals such as the Financial Activities Tax, which would only accrue €20 billion: A Financial Transaction Tax would generate 10 times that amount.

• **A European tax first and foremost:** I demand that the FTT is put in place at EU level, irrespective of negotiations at global level. A European FTT is a first, not second, best. The EU should set the example and demonstrate it is a world leader instead of hiding behind arguments that we need to wait for a global agreement

• **Putting the wheels in motion in 2012 for a tax in operation in 2013:** I demand a clear timetable for the implementation of the FTT as early as possible.

• **0.05% and nothing less:** this is an extremely small tax rate, so as to ensure that the tax remains unnoticeable for ordinary citizens like myself and the real economy. 0.05% is small enough, and I won't settle for anything less. Some have already called for a rate that is only one tenth of this amount.

• **A tax to finance social and development policies:** the revenue collected with the FTT must be allocated to those issues where the need for funding is the most pressing, in the context of the ongoing social crisis and spending cuts, rather than financing banking rescue funds.

I will watch very carefully how the responses of this consultation are weighted in the impact assessment.

With my best regards,
First name Surname

I do not object to the publication of personal data and I agree to have my response to the consultation published along with other responses. As all citizens in the EU, I will be positively affected by the introduction of a Financial Transaction Tax as it will improve fairness and stabilize our economies.

f Share   Tweet   Email

powered by: