EUGOV

Working paper No. 27/2011

From Opacity to Transparency?
The Place of Organized Interests within the European Institutions

Didier Chabanet

Chabanet, Didier (2011): "From Opacity to Transparency? The Place of Organized Interests within the European Institutions". **EUGOV Working Paper, No. 27, February 2011. Bellaterra (Barcelona):** Institut Universitari d'Estudis Europeus

Abstract

Interest group regulation in European governance is crucial to a full understanding of how power is exercised within the European Union (EU) and for a more accurate description of how the EU political system functions (and of its underlying principles). One of the main issues here is how private or specific interests engage with a general or public interest embodied in one way or another by those acting for the EU. Given the range of sensitive issues at stake, it is hardly surprising that the question of regulation meets with considerable resistance, especially in the Commission. However, recent obstacles to European integration have had the effect of relaunching a debate that makes ethics and transparency core parts of the agenda. Current political dynamics seem to testify to a growing EU receptiveness to the claims of the ALTER-EU movement which seeks a more highly regulated environment for EU lobbyists and officials.

Didier Chabanet is senior research fellow at the Ecole Normale Supérieure de Lyon (ENS - LSH). He has widely published in the field of European civil society, discrimination, social integration and/or exclusion and in particular unemployment. He has been involved as PI and team leader in several EU funded projects (e.g., UNEMPOL and YOUNEX in the 5th and 7th FP). From September 2010 to January 2011 he was visiting professor at the Institut Universitari d'Estudis Europeus funded by the Government of Catalonia.

INTRODUCTION: ATTEMPT AT REGULATION: A PATH FULL OF PITFALLS

Following the 1986 Single European Act in 1986, the EU began attracting lobbyists in substantially larger numbers, sometimes to the point where they would interfere with parliamentarians' work and damage the institutions.[1] In May 1991, the Committee on the Rules of Procedures, the Verification of Credentials and Immunities invited Belgian Member of the European Parliament (MEP) Marc Galle to submit proposals to address this problem. The report which Marc Galle filed in October 1992 defined lobbyists[2] in considerable detail and recommended that the Parliament draw up a code of conduct for them, restrict them to areas separate from MEPs' offices and, above all, compel them to enroll in a register available to the public. For the first time, an official EU document raised the possibility of regulation and supervision of lobbying activities. It proposed that the register should in particular specify "the activities developed to influence Members of the European Parliament directly or via staff or assistants, and the budgets involved in it" (European Parliament, 1992: 4). Persons complying with these requirements would then be provided with a renewable annual pass and access to parliamentary facilities.

Two other recommendations targeted the European Parliament and its personnel: "To ensure that Members of parliament meet the same standards of transparency that Parliament requires of lobbyists, Members should be required to update their declaration of financial interests at least annually. A register of financial interest of members' staff should also be introduced forthwith" (European Parliament, 1992: 6). In attempting to regulate both lobbyists and parliamentary assistants – thereby implying that there were at least potential conflicts of interest between the two categories that required specific provisions – the Galle report provoked opposition on a broad front and finally became a dead letter, not even being debated in plenary session.

After the June 1994 European elections, the question of regulating lobbyists' activities once more came to the fore. In November that year, British Labour MEP Glyn Ford was commissioned to report on 'lobbying in the European Parliament.' A series of measures contained in his draft report suggested restricting pass holders' access to the Parliament: in particular, areas in which members' and officials' offices were situated

were to be kept private, except for the holders of a written invitation; and a badge clearly specifying the type of interest represented was to be worn by lobbyists at all times. These two measures were far from innocuous: the first would have hampered considerably physical interaction between MEPs and pressure groups, and the second would undercut the privacy and discretion that lobbyists are often so attached to. Most importantly, a clause relating specifically to parliamentary assistants was introduced, so that they would have been obliged to sign a written declaration that they neither represented nor supported any interests other than those linked to their official post. Thus their accreditation depended on compliance with this provision which, had it been put into effect, would have cleared up one of the principal grey areas in parliamentary work by making a clear distinction between its strictly political side, limited to accredited assistants, and the striving for influence by different groups among the entourage of MEPs and their teams.

These measures seemed all the more restrictive as another project – the so-called Nordmann report – was drawing up at the same time proposals for declarations of interest by MEPs. The proposals put forward were draconian, including detailed public declaration of Members' financial situations in the form of disclosure of all assets of movable and immovable property, including bank accounts. As for pressure groups, all gifts in cash or kind provided to MEPs over 1,000 Ecus were to be declared, opening the way for a cross-referencing process that would constitute a means of checking that the information provided by MEPs accorded with that supplied by lobbyists. In plenary session on 17 January 1996, both reports were rejected (after stormy debate) and sent back to the Committee on the Rules of Procedure. Working groups and commissions were formed, and new versions of the Ford and Nordmann reports (with their most controversial proposals excised) were finally adopted by the Parliament on 17 July 1996.[3] Henceforth every MEP had to declare in a public register his or her professional activities and any other remunerated functions additional to their parliamentary role. Furthermore they must refuse any gift, payment or benefit which might influence their vote. Regarding the declaration of personal property, no special obligations were imposed. All in all, this was no mean set of rules, establishing a framework of basic transparency that had not existed before (but without serious sanctions for breaches).

Lastly, since 2003, a record of accredited public and private interest groups can be accessed online. The value to groups of such accreditation stems not from the paucity of information that this process demands from them,[4] but from the fact that registration carries entitlement to a parliamentary pass,[5] valid for a maximum of one year but renewable on demand and providing access to and freedom of movement within the parliamentary precincts. Until recently this was a mere formality, with requests being granted almost as a matter of course and with no checks on the back-up information.[6] Given the on-going increase in the number of lobbyists seeking this authorization, the rules have tended over time to toughen up and become more restrictive.[7] A major consequence of this change is the very significant decline in the number of organizations registered, from 2,136 in August 2005 to 1,407 in March 2007 (Berkhout and Lowery, 2008).

As far as parliamentary assistants wanting accreditation are concerned, they must simply make a written declaration of their professional activities or other functions, which means that there is no explicit principle of incompatibility between their status and the defending of private interests. The issue of gifts and/or benefits in kind is ignored and the practice thus not expressly forbidden.

INTERGROUPS: A BLIND SPOT IN PARLIAMENTARY LIFE

During the same period, the Parliament was also trying for closer supervision of lobbyists' activities through the intergroups, a relatively informal but nonetheless crucial element of the life of the European Parliament (Costa, 2001: 344-9). At key stages in European integration certain intergroups played a decisive part: the Kangaroo Club in the implementation of the Single Market in 1992; and the Crocodile Club, created to back the construction of a federal Europe. As focal points for encounters and debates between agents of influence and MEPs, they contributed to the process of drafting legislation. Initially few in number, they increased markedly after the Single European Act of 1986 and then grew in line with the extension of parliamentary competences. In January 1991, this proliferation led the Parliament to take a number of not especially restrictive measures aimed more at providing the intergroups with reception and working facilities

comparable to those of the political groups – excluding those of the Secretariat General – and stipulating that they not use the parliamentary logo. In October 1995 these rules were reinforced, placing the functioning of the intergroups under the direct responsibility of the political groups.

On more than one occasion, the president of the Parliament and/or the presidents of the political groups (meeting as the Conference of Presidents[8]) pronounced in favor of greater intergroup transparency and expressed the wish that their status be integrated into the Ford Report, then being drawn up (Dutoit, 2001: 32-3). But having already escaped the regulation provided for in the (aborted) version of the Galle report, the intergroups then vanished from the final version of the Ford report. A few years later the Parliament made another try at disciplining and limiting the extent of the intergroup phenomenon, and in 1996 Mark Spiers MEP found himself given the task of examining intergroup status, notably with a view to endowing them with a transparent financing mode. The initial draft legislation, dated 20 March 1997, proposed a rigorous monitoring system aimed at real transparency. An intergroup was defined as a grouping of European parliamentarians from at least three member states and three political groups, who discuss issues relating to the work of the Parliament and having to do with the EU's fields of activity (European Parliament, 1997). This wide-ranging definition embraced not only groups active within the Parliament – as had been the case until then – but all those matching the stated criteria, wherever the meetings took place. The intergroups were to be subject to strict obligations including a request that formation be authorized, reporting of any changes of composition and a public decoration of any external aid received.

In marked contrast with the toothless existing measures, these stringent measures were judged too ambitious and rejected by the Committee on Legal Affairs. A second draft was put forward on 9 July 1998; stripped of all the clauses relating to the definition of an intergroup, it settled for specifying that intergroups must be registered with the Quaestors [a group of six MEPS who are responsible for administrative and financial issues relating to members]. But it too was rejected. A third version omitted all reference to the intergroups as such, merely mentioning 'groupings of Members' subject to the rules applying to Members as individuals. Placed under the control of the political groups, they were simply required to register with the Quaestors, without their existence

being made public. Finally adopted on 18 February 1999, the Spiers report is strikingly hollow. More than three years' work had not been enough to enable a minimum of transparency and effective regulation of the way intergroups were organized.

The debacle having been duly noted, on 16 December 1999 the Conference of Presidents decided to subject formation of intergroups to stricter, more selective, criteria (European Parliament, 1999). In particular, intergroup projects were to be signed by at least three political groups, each group having a number of signatures limited in accordance with its size. Arbitrarily a maximum of 25 intergroups was authorized, entailing *de facto* the disappearance of many of them.[9] Moreover, in a move against certain rapprochements with foreign states or peoples, intergroups "likely to have an adverse effect on relations with the other Institutions of the Union or relations with non-member countries" were banned (European Parliament, 1999: Article 3).[10] The rules of transparency were likewise tightened up, the list of members and the *raison d'être* of each intergroup having to appear in a register accessible to the public. At the practical level, strict rules were applied to the availability of rooms and time slots for meetings.

These measures had tangible results, leading certain intergroups to merge in order to obtain the necessary authorization from the political groups. The new regulations made their existence official, rationalizing their *modus operandi* and thus favoring the most efficiently structured of them. This process of institutionalization acted as a filter, resulting in enhanced influence for a small number of intergroups. By contrast other interest groups decided to pull out of their intergroups, judging the regulations too restrictive. One example was the extremely powerful International Automobile Federation/International Touring Alliance, which in 1998 withdrew from the Automobile Users intergroup – causing its disbandment – and opted for organizing meetings outside the parliamentary precincts (and thus immune from all monitoring) (Dutoit, 2002). In this sense the effect of the standards imposed was the opposite of that intended: supervision and transparency of lobbying activities. Thus the existence of formal rules does not always mean they will be put into effect or produce the sought effects. As it happens, regulation of the intergroups has only been partially implemented, since the publicly accessible register intended to list intergroups and their members has still to make its appearance. Only a few specialists in European affairs working from parliamentary

documents can put together a list of existing intergroups and their presidents, the political groups that sponsor them and the date of their creation;[11] but even then, none of the information reveals the identity of the MEPs and lobbyists participating in intergroup meetings.

In the final analysis the incredible difficulty involved in having the regulations passed and the practical aspects of getting access to available information[12] point to major resistance. It is significant, too, that the sanctions for non-compliance seem largely virtual and ineffective. Despite these shortcomings, the creation of a system of regulation and supervision of lobbying bespeaks a political will – extremely slow-moving, often thwarted and faced with multiple inertias – specific to the Parliament. At present, the Parliament is the only European institution to possess a procedure for the obligatory registration and accreditation of pressure groups. As such it appears extremely isolated and largely out of phase with the Commission's concerns. Unlike the Parliament, whose operation is based on the sacred 'elected member' – and which is thus responsible to its electors for the way in which it exercises its mandate (Schaber, 1998) – the Commission is above all an administrative institution that has always made receptiveness to interest groups one of its hallmarks. Not being a product of universal suffrage, and as the target of repeated attacks for its famous democratic deficit, the Commission has opted for multiple consultation and participation procedures and so bases its decisions and the implementation of European public policy on unrivalled expertise – it fights for a 'Europe of results' – in the hope of establishing a legitimacy alternative to that of national political systems (Scharpf, 1999). It has so far opposed a strict, compulsory and binding system of lobbying regulation, while espousing transparency in its relations with representatives of European civil society. In this way it avoids the trap of excessively detailed and rigid rules which, for example, could render it dependent on certain member states;[13] and above all it constantly broadens its range of expertise and arms itself with a highly competitive economic policy. This doctrine goes back a long way, being clearly stated in the preparatory work on the setting up of the Single Market (Sutherland, 1992). Thus the creation of an interest group register covering both the Parliament and the Commission, with those listed subject to the same obligations – a project which was officially suggested by the Commission at one time – now looks somewhat unrealistic,

and the profound divergence of approach between the two bodies to date in this respect is unmistakable.

THE 'ORGANIZED EUROPEAN CIVIL SOCIETY'

At the same time as the Parliament was striving to curb lobbying within its precincts, the Commission continued to encourage the practice, pointing to its desire for dialogue with the driving forces of European civil society (European Commission, 2002). It declined to impose compulsory registration or accreditation on pressure groups, arguing that pluralism demands that influence not be the prerogative of any organization in particular. Although access to the Commission reflects selective bias (Balme and Chabanet, 2002), this principle of openness resulted in the creation of formal consultation procedures in which a very broad range of groups played a vital part. Equally, though, the expansion of lobbying is forcing the Commission to select a number of privileged interlocutors, even if this functionalist approach is not always made explicit. This approach aims to facilitate the decision-making process, to improve the quality of lobbying, and to establish the efficacy of the NGO subsidy system which has been gradually developed via partnerships (European Commission, 2000).

The tension between receptivity towards interest groups on the one hand, and rationalization of consultation procedures on the other[14] was resolved via some acrobatics with the notion of 'organized European civil society,' which enabled the Commission to regulate its functioning as an interface with interest groups while continuing to promote the idea of broad, equitable and transparent participation. Very strict criteria were drawn up by the Economic and Social Committee and used by the Commission:

> In order to be eligible, a European organization must: exist permanently at Community level; provide direct access to its members' expertise and hence rapid and constructive consultation; represent general concerns that tally with the interests of European society; comprise bodies that are recognized at Member State level as representative of particular interests; have member organizations in most of the EU Member States; provide for accountability to its members; have authority to represent and act at European level; be independent and mandatory, not bound by instructions

> from outside bodies; be transparent especially financially and in its decision-making structures (Economic and Social Committee, 2002: 5-6).

For some time, scholars have noted the nature of the bias implicit in the selection process and, above all, the apparent arbitrariness governing European institutions' choice of interlocutors, in particular to the detriment of civic and social interests. The Commission in fact partly subscribes to this analysis and "has played a role in encouraging NGOs to regroup into umbrella organizations and to develop common networks across borders within the European Union, given that these forms of collaboration streamline the consultation process" (European Commission, 2000: 2). It has also recommended that they adopt a transparent *modus operandi* and contribute to the democratization of the public arena. These requirements certainly enhance the dialogue the Commission is so keen on, but do also serve to make consultation procedures more rigid and to reinforce their selectivity.

CONECCS (the database for Consultation, the European Commission and Civil Society, and an umbrella for non-profit organizations) has been seen as a concrete expression of the Commission's desire to provide the public with better information about its consultation processes.[15] Established in 2003, it replaced the old interest groups list and marked a step toward transparency. The information provided to CONECCS was detailed and (crucially) was checked by officials, and so it offered a relatively comprehensive picture of the activity of the groups concerned.[16] While the database was voluntary and inclusion in no way constituted an official seal of approval, the distinction it made between 'consultative bodies' and other 'civil society organizations' strongly suggested that dialogue is becoming increasingly selective, is relatively stabilized and indicative of a corporatist system. In April 2006 the first category comprised 141 groups and the second 706, offering a fairly nuanced picture of the most influential European civil society actors structured by and around the Commission. While providing no form of accreditation, the database filtered rigorously, allowing through those organizations deemed by the Commission to be 'open and responsible.' The information it required of groups allowed the Commission to assess groups' capacity to meet the criteria of transparency, competence and representativeness, and thus to form a seedbed from which actors could be selected to participate in specifically orientated consultation procedures.

As Justin Greenwood argues, "The CONECCS database is a de facto accreditation scheme in waiting, despite the Commission's wish to the contrary. Such schemes, when invested with regulatory power, typically act as a stimulus for the re-organization of the interest group landscape, with fewer but larger groups, and 'families' of NGOs" (quoted by EurActiv.com, 2004).

TRANSPARENCY AS A KEY ISSUE: WHEN THE COMMISSION MEETS ALTER-EU CLAIMS

The rise of Euro-skepticism – reflected most starkly in the French and Dutch 'No' to the proposed European Constitution in April 2005 – inaugurated a period of uncertainty. Weakened by this situation, which left the EU's political future in abeyance – but also by the entry of ten new member states which fuelled widespread public fears – the Commission tried again to restart the integration process. In a highly unfavorable environment and very much aware of its shaky democratic status, it embarked on an enormous program of self-legitimation, emphasizing more than ever the cachet of its consultation/communication services in the hope of winning round public opinion (European Commission, 2006b). In a way, then, the Commission has made transparency, efficacy and the ethics of public action core elements of the European agenda and used them as the basis for specific discourses and measures.[17] The key aspect here is to note that the transparency of European institutions and the regulation of lobbying are simultaneously the cause of the emergence of a new alter-European actor and the framework for the construction of the Commission's agenda.

The ALTER-EU movement – the Alliance for Lobbying Transparency and Ethics Regulation – has gradually been taking shape since late 2004, its main weapon being the denunciation of collusion between business and European decision-making elites. It brings together the traditional alter-globalist actors (such as ATTAC, the Association for the Taxation of Financial Transactions to Aid Citizens, which campaigns against neoliberal economic globalization, for fair trade and in defense of public services) with Eurogroups generally representing civic or social interests that see themselves as mistreated by the current EU governance model, and journalists' associations (notably the

European Federation of Journalists) concerned about the influence of pressure groups on the media. In contrast with the usual alter-globalist mobilizations, the interaction here between Europe's governing elites and their challengers is direct and internalized, in the sense that it is taking place in a shared institutional space. Determination to counter the atmosphere of Euro-skepticism represents a window of opportunity for the ALTER-EU movement, whose leaders regularly meet with high-ranking Commission staff and the Commissioners themselves. Largely designed as an information network, ALTER-EU makes enormous use of the Internet to put an extremely precise and well-documented case, grounded in research and often couched in humorous or satirical terms. Its way of working is systematized enough to suggest a strategic positioning likely to catch the eye of Internet surfers and a broad audience.[18] Its aim is to solicit the attention of a public with no specialist knowledge of European issues, while setting itself apart from the great mass of information circulating online and steering clear of the jargon and hermetic style usually employed by EU institutions. Just as social movements with little political or institutional backing specialize in spectacular activities intended to grab the attention of the media and the public, ALTER-EU has opted for a distinctly original style of action and argument, with humor and ridicule as its favorite weapons.

It proposes a binding system of compulsory regulation applicable to all special interest categories – although exceptions would be made for unstructured groups with limited resources (no office in Brussels, for example) for which it argues the demand for a declaration of activity and/or transparency obligations would involve disproportionately heavy administrative costs. Since late 2004, ALTER-EU has set up a dense program which has influenced the Commission's thinking on lobbying regulation and the transparency of European institutions. The most striking proposals relate to the establishment of an independent body with the powers needed to act as a public guardian of lobbying transparency and ethics; for lobbyists, a mandatory system of electronic registration and reporting to ensure transparency in EU decision-making (including the names of their clients); Rules of Conduct for lobbyists and EU officials, notably including a 'revolving door' system imposing a period of transition before any move from the private sector to posts of responsibility within the Commission and *vice versa*; and an obligatory Declaration of Personal Financial Interest. Furthermore, it argues that

immediate family members of a covered official should be prohibited from lobbying for payment the agency in which the covered official serves; that lobbyists and their clients should be banned from offering gifts with a value of more than €150; and that for each policy proposal the European Commission should publish a list of organizations it has consulted (ALTER-EU, 2006).

This work program deserves attention in that it represents the background to the European Transparency Initiative, officially launched in March 2005 by Siim Kallas, the Vice-President of the European Commission and Commissioner for Administrative Affairs, Audit and Anti-Fraud. His speech to the Nottingham Business School largely drew on ALTER-EU's demands and its alarmist (not to say vehement) tone. Stressing the majority of citizens' loss of confidence in the EU, Kallas announced a set of measures aimed at reversing this position and intimated the possibility of both EU legislation and recommendations to the member states on the issue of lobbying regulation (Kallas, 2005). In his speech, Kallas called for greater transparency and stricter ethical standards on the part of lobbyists, and for more openness and accountability on the part of the EU institutions.

Lobbyists' associations – the Society of European Affairs Professionals (SEAP) and the Association of Accredited Lobbyists to the European Parliament (AALEP) – reacted sharply to this initiative, arguing that their existing codes of conduct provided adequate safeguards and that their contribution to European democratic life should not be interfered with. They also asserted that a more restrictive system would hamper civic and social interest groups, for whom access to European spheres would be rendered even more difficult. The existence of several such organizations representing lobbyists – mostly very recent, displaying no distinctive ideological differences, and embracing only 100 or so mainly Commission-oriented groups – might seem surprising in that fragmentation would seem to weaken lobbyists' collective position and capacity for influence. In fact the situation presents a number of advantages: each professional association can claim to speak on behalf of a particular constituency and so enjoy a significant place in the public micro-space made up by the European institutions. At the same time they do not have to submit to the rules of a representative body, the latter being considered a 'vital interlocutor' and so obliged to work on binding rules and

ultimately impose them on its members. Here private sector interest groups can put together all the Codes of Conduct, Codes of Ethics and Codes of Practice they like, without getting too involved in formal consultation procedures that might turn out to be restrictive, while still enjoying freedom of expression and a real right to a hearing.[19] Significantly, they riposted by creating, on 28 January 2005, a new organization – the European Public Affairs Consultancies Association (EPACA) – whose task it was to draw up a new code of conduct while defending the principle of self-regulation for the profession.

Publication of a Green Paper on the European Transparency Initiative (European Commission, 2006a), alongside a public consultation exercise, showed that the issue under consideration has never been set so directly at the core of the European political agenda. The Commission itself acknowledges having "launched a review of its overall approach to transparency," with an explicit emphasis on "the need for a more structured framework for the activities of interest representatives" (European Commission, 2006a: 3). The responses received during the consultation were published (European Commission, 2007), and an overview of the issues raised in the debate can be found in Spencer and McGrath (2006). Partisans of strict regulation were disappointed to find that the Commission ultimately chose to postpone compulsory registration for interest groups: "A tighter system of self-regulation would appear more appropriate. However, after a certain period, a review should be conducted to examine whether self-regulation has worked. If not, consideration could be given to a system of compulsory measures – a compulsory code of conduct plus compulsory registration" (European Commission, 2006a: 10). With its plan for a web-based voluntary system with (minor) incentives to register for all lobbyists who wish to be consulted on EU initiatives (European Commission, 2006a: 8) the Commission is aiming at making public the activities of all interest groups – think-tanks, companies specializing in European affairs, legal consultancies, employer organizations, etc – that do not appear in the CONNECS database and which currently operate for the most part in secret. The effectiveness of the rules of transparency was also slated for improvement, with plans for an independent authority in charge of monitoring the system and imposing sanctions in cases of misleading registration and/or violation of a code of professional ethics ultimately

applicable to all lobbyists. Such a system would provide the general public with a fairly comprehensive information tool, one enabling a better understanding of the rationale of representation of European interests and at least partial clarification of the EU decision-making process.

In May 2008, the Commission published a Communication which set out how the system of registration would operate and included a new Code of Conduct for Interest Representatives (European Commission, 2008a). For the purposes of this system, the Commission expects that any organization engaged in interest representation – defined as "activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions" (European Commission, 2008a: 3) – to register. Registrants must agree to adhere to the provisions of the Code of Conduct, and breaches of the Code will result in an organization being suspended temporarily or excluded from the register. The Code contains seven key rules, none of them particularly difficult for any organization which behaves ethically to begin with. They require that lobbyists: identify themselves and the organization they represent when approaching EU officials; ensure that they do not mislead officials; declare the interests they seek to represent; provide unbiased and accurate information; do not obtain information dishonestly; do not attempt to get officials to act unethically; and respect the confidentiality requirements which must be met by any former officials now employed by them. The register, which was launched on 23 June 2008, is freely available online (European Commission, 2008b), and as of 4 August 2008 it listed 234 interest representatives (under four headings: professional consultancies/law firms involved in lobbying EU institutions; 'in-house' lobbyists and trade associations active in lobbying; NGO/think-tank; and other organizations). Immediate reaction to the register was less than overwhelmingly favorable – many of the large lobbying consultancies are considering the implications of registration (for example, EPACA advised its members to wait until after the association meets in September to discuss the scheme); law firms are concerned that registration could conflict with their requirements for client confidentiality; trade associations fear that registering would have tax implications for them under Belgium law; and ALTER-EU has criticized the register as simply a token gesture given that it names organizations but not individual lobbyists (Hall, 2008). The

register will operate for 12 months before its effectiveness is reviewed by the Commission.

CONCLUSION

The Parliament and the Commission have historically followed largely competing lines of conduct, the former laboriously establishing a compulsory system of registration, and the latter – in favor of self-regulation – settling for incentive measures. Given the intensification of lobbying since the early 1990s and, even more importantly, the EU's political fragility and democratic deficit, the issue is now a crucial one. In this context, the Commission cannot afford the risk of a case of corruption, or even a scandal, which could destroy the ethical credibility of the European project. What is ultimately at stake here is the model of political representation and the conception of European society currently under construction. The challenge is amplified by the fact that European governance has always made the interweaving of private and public interests one of its salient characteristics. The rapprochement between some of the demands of the alter-European movement – notably in the fields of ethics and transparency – and the political policies laid down by EU institutions is opening up a critical period for the future: a period that will provide vital indications of Europe's capacity to meet the aspirations of those calling for a more virtuous democracy.

NOTES

1. Examples include interest group representatives masquerading as parliamentarians, and the theft and/or sale of official documents.

2. Lobbyists were considered as, "Anybody who acts on the instruction of a third party and set out to defend the interests of that third party to the European parliament and other Community institutions or who regularly distributes information or arranges or maintains regular contacts for that purpose with MEPs and staff working within the institution" (European Parliament, 1992: 3).

3. These provisions now constitute the basis of the Rules of Procedure of the European Parliament in the relevant domains. Cf. 'Annex I: Provisions governing the application of Rule 9(1) – Transparency and Members' financial interests' and 'Annex IX: Provisions governing the application of Rule 9(4) – Lobbying in Parliament' (European Parliament, 2008: 100 and 133-4).

4. Only the names of the organization and its representative(s) are mentioned. A slightly more comprehensive print version containing the group's address and corporate name is obtainable at the Parliament.

5. Each group can be represented by a maximum of six people.

6. This was confirmed to the author during an interview in May 2004 with Wilhelm Lehman, European functionary and co-author of a report on lobbying regulation in EU member states (European Parliament, 2003).

7. In 2005 the required submission was more detailed and demanding, calling for proof of the applicant's identity. Above all the Parliament would accredit only groups with an address in Brussels; this constituted a major filter and contributed to the formation of a 'political centre.'

8. Under the terms of Rule 24 of the Parliament's Rules of Procedure, the Conference of Presidents is in charge of parliamentary commissions and relations with third parties (European Parliament, 2008: 22).

9. Before this measure was taken, the level of opacity was such that there was no way of knowing their exact number, but estimates from different sources vary from 50 to over 80.

10. Among them were the Friendship with Taiwan, Friendship with the Hebrew State, and Pro-Arab intergroups (Dutoit, 2001: 45). This measure was important in that it showed how supervision of interest groups took the form of limitation of their fields of competence to the benefit of the EU, which gradually appropriated the influence they formerly exercised. It is clear here that the conduct of a European foreign policy and its influence on the interplay of international relations – both of which had gained considerably in strength in the preceding few years – had difficulty in coming to terms with the activities in the same field by hard-to-control groups of MEPs.

11. In September 2005, 24 intergroups were officially registered.

12. The obstacle course begins with the Kafkaesque business of getting permission to enter the Parliament. To receive a pass, the ordinary citizen must first be invited by a European functionary, who vouches for his or her behavior. Inside the building the citizen is supposed to be accompanied at every moment, as a rule by the person with whom he has an appointment. Finally he must consult the documents that interest him wherever he can find room to do so, as there is no space set aside for this. Photocopying being strictly forbidden, there is no choice but to copy out by hand the information sought. All this demonstrates that while a policy of transparency is certainly to be evaluated in terms of the general principles mentioned, it must also, and above all, be assessed in terms of its practical application.

13. All studies show that, indirectly or not, the member states remain the most influential actors in European governance.

14. Here we find both the Commission and civil society actors faced with the classic dilemma: representational capability or operational efficacy? The more organized a group – or an institution – the more expertise and credibility it enjoys and the more its members tend to feel cut off from their representatives (March and Olsen, 1998).

15. The Commission subsequently decided to create a new voluntary register for interest representatives, which was launched in June 2008 (see below); as this chapter was being drafted, the CONECCS database was closed.

16. It should be emphasized, however, that as CONECCS dealt with NGOS, it revealed nothing about financial interest groups or business consultancies.

17. In this respect we should mention the collective resignation of the Commission under Jacques Santer on 15 March 1999, in response to accusations of fraud, administrative incompetence and nepotism leveled at four Commissioners. While open to interpretation as a sign of ignominy and bankruptcy, this act also – and perhaps above all – testifies to the Commission's sense of responsibility, and more broadly to the determination of EU institutions to be judged according to principles and political morality. So far no national government faced with a political/financial scandal has reacted in the same way.

18. See, for instance, Corporate Europe Observatory (2005) which follows the *Lonely Planet* guidebook model, providing a very comprehensive set of indications on the geography of the main interest groups in Brussels and using their cartography to stress their nearness to European institutions, and Corporate Europe Observatory (2007) which highlights an annual 'Worst EU Lobby Award' for a group using tactics regarded as especially unacceptable.

19. The Union of Industrial and Employers' Confederations of Europe (UNICE) [which changed its name in 2007 to BUSINESSEUROPE] long proceeded in a similar fashion, preferring a weak presence on the European scene so as not to encourage implementation of the Social Dialogue procedure while continuing to decentralize and multiply its negotiation venues.

REFERENCES

ALTER-EU (2006) "Recommendations on Lobbying Transparency and Ethics in the European Union," available at <http://www.alter-eu.org/en/system/files/publications/recommendations_13_01_06.pdf> (accessed 30 January 2008).

Balme, R. and Chabanet, D. (2002) "Action collective et gouvernance européenne," in Balme, R., Chabanet, D. and Wright, V. (eds.) *L'action collective en Europe. Collective Action in Europe*, Paris: Presses de Sciences Po; 21–120.

Berkhout, J. and Lowery, D. (2008) "Counting Organized Interests in the European Union: A Comparison of Data Sources," *Journal of European Public Policy*, 15(4): 489-513.

Corporate Europe Observatory (2007) "Worst EU Lobby Award," available at <http://www.worstlobby.eu/2007/winners_en> (accessed 30 January 2008).

Corporate Europe Observatory (2005) "Lobby Planet: Brussels – The EU Quarter," available at <http://www.corporateeurope.org/docs/lobbycracy/lobbyplanet.pdf> (accessed 30 January 2008).

Costa, O. (2001) *Le parlement européen, assemblée délibérante*, Brussels: The Institute for European Studies.

Dutoit, L. (2002) "L'influence au sein du Parlement européen: les intergroupes," *Politique européenne*, 9:123-42.

Dutoit, L. (2001) *Les intergroupes au Parlement européen*, Geneva: European Institute of the University of Geneva.

Economic and Social Committee (2002) *Opinion of the Economic and Social Committee on 'European Governance – A White Paper'*, CES 357/2002, Brussels: Economic and Social Committee. Available at <http://www.eesc.europa.eu/sco/docs/ces357-2002_ac_en.pdf> (accessed 6 July 2008).

EurActiv.com (2004) "Justin Greenwood Sees Further Strengthening of the Position of the European Parliament by 2009," available at <http://www.euractiv.com/Article?tcmuri=tcm:29-117376-16&type=Interview> (accessed 30 January 2008).

European Commission (2008a) *European Transparency Initiative: A Framework for Relations with Interest Representatives (Register and Code of Conduct)*, COM (2008) 323, Brussels: European Commission. Available at <http://ec.europa.eu/transparency/docs/323_en.pdf> (accessed 2 August 2008).

European Commission (2008b) "Register of Interest Representatives," Brussels: European Commission. Available at <http://webgate.ec.europa.eu/transparency/regin/welcome.do> (accessed 2 August 2008).

European Commission (2007) *Follow-up to the Green Paper 'European Transparency Initiative'*, COM (2007) 127, Brussels: European Commission.

European Commission (2006a) *Green Paper. European Transparency Initiative*, COM (2006) 194, Brussels: European Commission.

European Commission (2006b) *White Paper on a European Communication Policy*, COM (2006) 35, Brussels: European Commission.

European Commission (2002) *Towards a Reinforced Culture of Consultation and Dialogue – General Principles and Minimum Standards for Consultation of Interested Parties by the Commission*, COM (2002) 704, Brussels: European Commission.

European Commission (2000) *The Commission and Non-Governmental Organizations: Building a Stronger Partnership*, COM (2000) 11, Brussels: European Commission.

European Parliament (2008) *Rules of Procedure*, Sixteenth Edition, Brussels: European Parliament. Available at <http://www.europarl.europa.eu/RegData/reglement/2008/05-19/EP-PE_REGL(2008)05-19_EN.pdf> (accessed 1 July 2008).

European Parliament (2003) *Lobbying in the European Union: Current Rules and Practices*, Directorate-General for Research Working Paper (Constitutional Affairs Series 04-2003), Luxembourg: European Parliament.

European Parliament (1999) *Rules Concerning the Establishment of Intergroups: Decision of the Conference of Presidents of 16 December 1991*, PE 339.492/BUR, Brussels: European Parliament. Available at <http://www.epha.org/IMG/doc/rules_for_EP_intergroups.doc> (accessed 1 July 2008).

European Parliament (1997) *Working Document on Financing and Operations of the Intergroups*, Committee on the Rules of Procedure, the Verification of Credentials and Immunities, PE 221.685, Brussels: European Parliament.

European Parliament (1992) *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.

Hall, I. (2008) "Up and Running," *Public Affairs News*, August, 30-31.

Kallas, S. (2005) "The Need for a European Transparency Initiative," speech delivered at Nottingham Business School, 3 March.

March, J.G. and Olsen, J.P. (1998) "The Institutional Dynamics of International Political Orders," *International Organization*, 52(4): 943-69.

Schaber, T. (1998) "The Regulation of Lobbying at the European Parliament: The Quest for Transparency," in Claeys, P.H., Gobin, C., Smets, I. and Winand, P. (eds.) *Lobbyisme, Pluralisme et intégration européenne. Lobbying, Pluralism and European Integration*, Brussels: European Interuniversity Press; 208–32.

Scharpf, F. (1999) *Governing in Europe*, Oxford: Oxford University Press.

Spencer, T. and McGrath, C. (eds.) (2006) *Challenge and Response: Essays on Public Affairs and Transparency*, Brussels: Landmarks.

Sutherland, P. (1992) The Internal Market after 1992: Meeting the Challenge – Report to the EEC Commission by the High Level Group on the Operation of the Internal Market, SEC (92) 2004, Brussels: European Commission.