

## Assessing conditions for influence of interest groups in the EU

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Reihe Politikwissenschaft

Political Science Series

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November 2005

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Founded in 1963 by two prominent Austrians living in exile – the sociologist Paul F. Lazarsfeld and the economist Oskar Morgenstern – with the financial support from the Ford Foundation, the Austrian Federal Ministry of Education, and the City of Vienna, the Institute for Advanced Studies (IHS) is the first institution for postgraduate education and research in economics and the social sciences in Austria. The **Political Science Series** presents research done at the Department of Political Science and aims to share “work in progress” before formal publication. It includes papers by the Department’s teaching and research staff, visiting professors, graduate students, visiting fellows, and invited participants in seminars, workshops, and conferences. As usual, authors bear full responsibility for the content of their contributions.

Das Institut für Höhere Studien (IHS) wurde im Jahr 1963 von zwei prominenten Exilösterreichern – dem Soziologen Paul F. Lazarsfeld und dem Ökonomen Oskar Morgenstern – mit Hilfe der Ford-Stiftung, des Österreichischen Bundesministeriums für Unterricht und der Stadt Wien gegründet und ist somit die erste nachuniversitäre Lehr- und Forschungsstätte für die Sozial- und Wirtschaftswissenschaften in Österreich. Die **Reihe Politikwissenschaft** bietet Einblick in die Forschungsarbeit der Abteilung für Politikwissenschaft und verfolgt das Ziel, abteilungsinterne Diskussionsbeiträge einer breiteren fachinternen Öffentlichkeit zugänglich zu machen. Die inhaltliche Verantwortung für die veröffentlichten Beiträge liegt bei den Autoren und Autorinnen. Gastbeiträge werden als solche gekennzeichnet.

## **Abstract**

An important factor for the ability of interest groups to contribute to democratic decision-making is the balance between their input and the political autonomy of decision-makers. This article focuses on the results of four case studies of decision-making in the fields of IT and transport in the EU. These case studies show that private actors do contribute to decision-making, but they are less influential for EU politics than anticipated. Based on the case studies, this article assesses how and to what extent interest groups contribute to decision-making in the two sectors, in the context of the EU's political structure and, notably, its alleged democratic deficit.

## **Zusammenfassung**

Die Fähigkeit von Interessengruppen, zu demokratischen Willensbildungs- und Entscheidungsprozessen beizutragen, wird entscheidend von der Balance zwischen ihrer Interessenartikulation und der politischen Autonomie der Entscheidungsträgerinnen und –träger beeinflusst. Dieser Artikel präsentiert die Ergebnisse von vier Fallstudien über europäische Entscheidungsprozesse in den Feldern IT und Verkehr. Diese Fallstudien zeigen, dass private Akteure zwar zur Entscheidungsfindung beitragen, aber weniger einflussreich sind als allgemein angenommen. Auf der Grundlage dieser Fallstudien untersucht dieser Artikel im Kontext der politischen Struktur der EU und insbesondere im Zusammenhang mit dem häufig genannten demokratischen Defizit der EU, wie und in welchem Ausmaß Interessengruppen zur Entscheidungsfindung in den beiden Sektoren beitragen.

## **Keywords**

Interest groups, Lobbying, Influence, Democracy, Transport, Information and Communications Technology

## **Schlagwörter**

Interessengruppen, Lobbying, Einfluss, Demokratie, Verkehr, Informationstechnologie

**General note on content**

The opinions expressed in this paper are those of the author and not necessarily those of the IHS  
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# Contents

<b>Introduction</b>	<b>1</b>
<b>1. Interest groups and democracy</b>	<b>3</b>
<b>2. Identifying interest group influence when we see it</b>	<b>6</b>
<b>3. Interest group influence in transport and IT</b>	<b>11</b>
The Erika Case .....	13
Opt in / Opt out .....	15
The Climate Case .....	18
Standardisation and Interest Groups .....	21
<b>4. Conclusions: Interest groups and the democratic deficit</b>	<b>23</b>
<b>Bibliography</b>	<b>25</b>





## Introduction

Influence of interest groups on EU decision-making poses a dilemma to scholars of democracy theory. On the one hand, political systems live from a free exchange of opinions and the articulation of citizen interests. Interest groups help to organise and aggregate interests and thus provide them with weight and a representative character (see Knill 2001; Greenwood 2003). Some streams of research therefore even go so far as to attribute the power to facilitate the generation of democratic legitimacy as a strengthening element of participation to interest groups, and thus express a normative expectation of civil society involvement as an element that can help overcome the EU's democratic deficit (see Schmitter 2000). On the other hand, democracy in its most basic understanding demands that the power of decision-making lies with the citizens. If this power is delegated, there must be a transparent chain of delegation that is clearly traceable to the citizen (Pollack 2003). In this sense, interest groups cannot account for satisfactory elements of this chain, as the citizens do not elect them. They do not aim at representing a broad range of interests but the very specific interests of their members, be they public or business interests (see Warleigh 2001: 619). This dilemma gains especially new momentum with the discussion of multi-level governance and the exposed role interest groups play in it. An increasing awareness of the growing impact of trans- and supranational governance on domestic policy-making (see Saurugger 2001; Eising 2004; Grossman 2004; Woll 2005a), of the lack of democratic legitimacy of the increasingly important institutions of supranational governance, and of the dilemma arising from the need to accommodate representation and efficiency in political decision-making on the supranational level has emerged (see Mazey and Richardson 1993, 2001; Kohler-Koch and Eising 2005).

What is puzzling is that the question as to how the value interest groups add to political decision-making and the potential danger of an overly influential special interest group participation can be balanced is increasingly an issue in studies of EU interest representation<sup>1</sup> – but no systematic empirical evidence has been gathered so far on when, under what conditions, interest groups actually exert influence. Whenever the question of influence is addressed – which is increasingly the case (see Bouwen 2002; Eising 2004) – access as a precondition for influence is assessed instead of influence, because influence appears too difficult to measure. At the same time, however, various indicators suggest that even in very prominent cases, institutional actors and the dynamics within may be more decisive for policy outcomes than lobbying activities (see Mazey and Richardson 1993, Greenwood 2003). Access does not guarantee that interests are taken up, and that information turns into influence. What if interest groups are not as influential as commonly

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<sup>1</sup> See, for instance, the various comments on the White Paper on European Governance (Joerges et al. 2001).

anticipated? Both hopes for interest groups to contribute to European democratic governance and fears of overly influential European interest groups would be exaggerated.

This paper's core interest is to examine the question of how much and what kind of influence interest groups actually exert on the European level. What are the conditions under which they can exert it, and what does this mean for a democratic system? The paper follows the assumption that influence may differ according to the degree of conflict the interest of interest groups meets when seeking influence, the type of interest sought, and the structural conditions of the respective decision-making process entered – and that these factors may also constitute crucial conditions for the degree of interest group influence as well as for its importance in terms of democracy theory.

The expectation is that these causal relations only show up when looking at the entire process of negotiation and interest representation, and when making position change a crucial element of exerted influence. Therefore, the paper offers an empirical analysis of four case studies. These cases display efforts to exert influence over European political decision-making, in the fields of transport and telecommunications.<sup>2</sup> These cases have in common that they all appear to strongly speak for interest group influence. However, when applying the method of process tracing and taking the development of negotiations and other factors into account, interest group influence appears much weaker.

After this introduction, the sections below are structured as follows:

First, I discuss the underlying question of the democratic legitimacy of interest representation. Then, some explanations of the definition of influence and the operationalisation of its assessment follow. Third, the four empirical case studies are presented. Fourth, the paper questions the apparent influence of interest groups in a look at procedural conditions in the cases. Finally, the concluding section interprets the evidence for influence in the four empirical case studies and links it to the question of democratic legitimacy.

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<sup>2</sup> The analysis is based on 45 expert interviews with public and private actors either involved in the cases or well informed about the sectors and the issues examined. Of these, 26 interviews were held with actors involved in the transport sector, and 19 with actors involved in the IT sector, with a semi-structured interview technique. These comprised six interviews with public actors of the Directorate General Information Society (DG INFSO) and of the European Parliament and eight interviews with public actors of the Directorate General Transport and Energy (DG TREN) and the relevant parliamentary committees. Nine of the interviews were telephone interviews with national Headquarters and public interest group members.

## 1. Interest groups and democracy

The question of whether interest group activities are decisive for the generation of policy outcomes feeds into a core debate of democracy theory. Various approaches of democracy theory attribute a large potential to interest groups to cure or at least to improve democracy. The concept of associative democracy, for instance, proposes a delegation of as many functions as possible from governments to voluntary organisations, provided that they are democratically self-governed (Hirst 1994: 19-22; Abromeit 1998; Saurugger 2003). Deliberative democracy theory maintains that a democratic decision emerges from deliberation amongst those affected by the decision or issue in question, i.e., members of civil society debate an issue and arrive at a solution that is acceptable for all members as the best for the common good. In this context, the concept of civil society plays a particular role for deliberative democracy as the space within which public reasoning takes place, be it organised in the form of interest groups, or unorganised (Cohen and Rogers 1995).

The normative ideas of deliberative and associative democracy are complemented by studies and models of state-interest group relations, where a strong impact of interest groups on decision-making is assumed. With regard to the alleged democratic deficit of the European level, the strengthening of associative input has also been – and is – looked at in more detail as a potential element to increase the democratic character of European governance, due to the difficulties connected with introducing substantive features of traditional forms of democracy to the Union (see Kohler-Koch and Eising 1999; Schmitter 2000: 59; Göhring 2002: 118-138). Interest groups also play a prominent role in the debate of governance versus government, with reference to “the diffusion of decision-making to informal and overlapping policy networks” (Hooghe and Marks 2004: 3).

The analysis of state-interest group relations in various forms, however, should also cause scepticism as regards the influential role of interest groups. The formerly paradigmatic concepts of pluralism and (neo) corporatism, for instance, feature forms of interest group involvement in decision-making processes and focus on the relationship between the groups and the state, and on the degree of representation offered by interest groups (Schmitter 1979). In these concepts, the state is the decisive actor in the relationship. In a simplified view, the state provides an arena for exchange and then selects whose interests to take up in the case of pluralism. In the case of neocorporatism, the state selects the groups to whom tasks are delegated. The enormous growth of interest representation in Brussels should be viewed positively by pluralists provided that the EU’s public actors maintain their decision-making autonomy and can decide which interests to take into account. Whether such autonomy is still in place in EU-level decision-making is not addressed by concepts applied to the EU level – analytical frameworks merely include implicit expectations about this issue but do not discuss these in terms of democracy theory. For instance, interest groups on the European level continue to be studied in policy network relations (Pappi and Henning 1999;

Peterson and Bomberg 1999) and increasingly within the theoretical framework of rational choice institutionalism (Bouwen 2002; Broscheid and Coen 2003; Beyers 2004; Eising 2004). Policy network analysis generally assumes a non-hierarchical relationship between network members (Mayntz 1993) but has been modified for the European level where a dominant position of public actors is recognised (see Mayntz 2001). Rational choice institutionalism implies from the outset that public and private actors interact in a hierarchical relationship, where public actors or the institutional rules for which they stand influence the behaviour of private actors. One European institutional actor itself – the European Commission – expresses the same view. In its debates, recently culminating in a chapter of the White Paper on European Governance (Commission 2001d), interest groups have gained a prominent place – not as negotiation partners and participants, but in a consultative role which leaves the final decision to the Commission.

Critical voices warn, however, that interest groups are too influential in decision-making processes and therefore constitute a danger for democratic governance. Eschenburg, for instance, already posed the question of whether interest groups exert too much power over political decision-making four decades ago and demonstrated his concern with various examples throughout the history of decision-making and incidents in the German political system (Eschenburg 1955). With reference to the EU level, Greven states that the major problem with a replacement of traditional representative government through interest group representation lies in the fact, firstly, that governance is informalised and therefore no longer accountable and transparent, and secondly, that representation becomes unequal because it leaves, for instance, less well organised and resourced citizens underrepresented (see Greven 1998, 2000, 2005). Authors such as Eschenburg for the national and Greven for the supranational level hence imply that the political system may be influenced by interest groups far more than vice versa.<sup>3</sup>

The prominence interest groups have in the various debates on democracy and democracy theory indicates that there is one common underlying assumption: interest groups are influential in political decision-making. Only if they are influential, can they contribute to or endanger democratic governance. For the European level, however, no systematic empirical evidence exists for the question of how much influence interest groups actually exert, and what kind of influence this is. The latter question is important since not every interest touches upon core political questions, and consequently, it could be assumed that not every type of interest is of concern for democracy theory. Certainly, an increasing stock of literature on EU interest representation has developed especially since the 1990s (see Mazey and Richardson 1993, 2001; Wallace and Young 1997; Greenwood 1997, 2003; Lahusen and

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<sup>3</sup> To be fair, it should be mentioned that authors favouring associative democracy are aware of this critique. They seek to solve this problem by installing various institutional mechanisms, such as lobbying registers or public support for NGOs. Such efforts do not weaken the basic problem of associative democracy, however.

Jauß 2001; Warleigh and Fairbrass 2002; Christiansen 2004; Kohler-Koch and Eising 2005) – suggesting that non-state actors are playing an important role for the shaping of European policymaking. This assumption is reinforced by the crucial role attributed to non-state actors by models of multilevel governance (Kohler-Koch and Eising 1999; Richardson 2000; Knill 2001; Mahoney 2004) or studies aimed at theorising EU interest representation (Bouwen 2002; Beyers 2004) or by the special attention the European Commission has given to civil society interests. Influence as a concept has received consideration in interest group research in the form of access studies. Authors hence focus on measuring access instead of influence as one of the conditions that must be fulfilled for private actors to gain influence (see Bouwen 2002; Beyers 2002; Eising 2004).

As indicative as those findings may be – they can only be indicators for the exertion of influence, but they cannot be used to investigate whether influence is actually exerted at all. Even if interest groups enjoy good access to decision-makers, it is possible that they are welcomed as deliverers of information, whereas final decisions do not include their interests. EU lobbying researchers may assume that the empirical evidence demonstrating influence of lobbying groups in other political systems, notably in the US, as well as the mere presence of lobby groups in Brussels, is a sufficient indicator to assume that the same holds true for EU lobbying. However, authors also mention that, for instance, the Commission strongly engages in structuring the landscape of organised interests with whom it interacts, going so far as to create interest groups itself (see Cowles 1998). They also admit that achievements claimed by interest groups, such as the initiation of the European Single Market by the European Roundtable of Industrialists, are probably overrated because their proposals pointed into a direction the European Commission wanted to go in anyway (see Apeldoorn 2002; Greenwood 2003). Finally, the lack of evidence for actual influence in the case study descriptions of researchers can in itself be interpreted as an indicator. Whether interest groups actually exert substantial influence, when they do so and why are therefore reasonable questions to be posed and answered.

## 2. Identifying interest group influence when we see it

The question of whether interest groups are influential certainly primarily depends on the applied definition of influence. In EU lobbying, influence generally is not defined at all. US lobbying studies are very divided about how to tackle the question of interest. A number of studies present a basic definition of influence, which is for interest groups to achieve the fulfilment of their interests – the end results (see Berry 1979: 183). As Steven Schier formulates: “Influence is the ability of a group to produce a desired outcome in government – whether that outcome involves stasis or change.” (Schier 2000: 158).

Defining influence along end results means that if interest groups are as influential as generally assumed, strong lobbying efforts of interest groups should be reflected in policy outcomes. Whenever they pursue strong lobbying, their interests should find entry into policy outcomes because it is otherwise inexplicable why strong lobbying is employed in the first place – lobbying actors apparently believe that lobbying leads to influence. Results, however, may not always be linkable to lobbying activities. Even if outcomes reflect a shift in the initial positions of decision-makers, interest groups and their activities are not necessarily the driving forces for this shift – sidelining, i.e. supportive activities of other actors or other circumstances of the negotiation process may have been more decisive. The interpretation of interest group influence might change when taking intervening variables throughout the negotiation process into consideration, and when examining the initial intentions of targeted decision-makers. Notably, the political developments that take place during the time of a negotiation process may be more decisive than the activities of interest groups – in other words, public actors follow their own political intentions and institutional pressures. Interest groups might either support these intentions and influence details, or they will fail. Hence, the main problem with the definition of interest by a comparison of initial intentions and outcomes is that it does not take procedural developments into account. Position changes can be observed, but why this change took place cannot be established. A lot of US as well as EU studies therefore prefer to theoretically assess the issue via formal modelling (Sloof 1998; van Winden 2002) or when empirically examining lobbying, to leave the question of influence aside (Baumgartner and Leech 1998) and focus on looking at individual elements, or preconditions, for influence (Woll 2005b): for instance, access (Bouwen 2002).

Another possibility of defining influence can be derived from Max Weber’s definition of power. According to Weber (1980 [1921]) power is the ability of an actor to force another actor, even against his/her own will, to pursue a certain course of action. Influence can be understood as a weaker form of power. An actor is being persuaded to pursue a certain course of action, even if she or he initially did not want to do it. When applying this definition, the question of whether or not persuasion has taken place is most likely to become visible in examining factors *leading to* policy outcomes and changes of decision-makers’ initial intentions. It focuses on the position- or mind change of influenced actors and hence, takes

the procedural aspect of influence into account. Such a mind-change oriented definition limits influence to changes that are clearly linked to interest group activities. This definition is favoured in this paper's context and will guide the analysis.

Analysis has to look at the activities of other actors which support the group's interests (sidelining activities) and at the political opportunity structure, understood as political developments and political/societal constellations during which the negotiation process took place, in order to deduce the impact of factors other than interest group action.

A problem with this operationalisation is that it yields most explanatory power to cases in which the initial intention of decision-makers and interest groups differ. In cases where both intentions are the same, it is more difficult to attribute influence on the policy outcome to a specific actor. While this is certainly a weakness, this definition in combination with a case study that traces an entire decision-making process may at least help to come closer to identifying influence in specific cases. If interest groups are influential, this should thus be reflected in specific policy outcomes, and it should be measurable by comparing interest group goals, interest groups' lobbying activities, decision-makers' interests and reactions to lobbying, and the eventual policy outcomes.

Apart from constituting a mind-change, influence should also be defined in terms of its content, since, as implied earlier, not every interest may play a relevant role in terms of shaping a decision-making process and decision-makers' opinions.

When taking the definition of influence as a mind-change leaning on Weber as a starting point and when taking further findings of policy-analysis and interest intermediation into account, there is a need to distinguish the degree of influence achieved according to the conditions under which this influence has been gained (see also Gerber 2004). When reviewing the core of EU interest group literature with the aim to generalise context factors of influence, three elements seem crucial: the **degree of conflict** between private actors and decision-makers, **structural conditions of influence**, and to the **type of influence** exerted.

#### *Degree of conflict*

Influence identified in policy outcomes is likely to differ according to the degree of conflict between private actors and between private actors and decision-makers at the outset of the negotiation process.

The first type of conflict has been addressed in various case studies on EU lobbying (see, in particular, Pijnenburg 1998). The degree to which interest groups form advocacy coalitions with other organisations that share their interest or the degree to which interest groups have to fight their cause against a wide range of opposed interests is likely to influence the strength of an opinion voiced to alter a legislative act.



The second problematique, the importance of the degree of conflict between private actors and decision-makers, has especially been addressed by US scholars. Bauer et al. (1963), for instance, analysed the role of external pressure on US congressmen in the area of foreign trade policy. Much to their own surprise and after a very thorough analysis of lobbying interrelations, the scholars came up with the observation that lobbyists did not exert much influence at all in the area they had looked at, or that their influence was at least not distinguishable from pure luck or the previously established opinion of the politicians (Bauer et al. 1963: 396-99). They argued that lobbyists became a “service bureaux” for congressmen rather than actively steering an issue. This was put down to the fact that the study amongst a large number of interest groups showed weaknesses in structure and functioning, favouring a tendency of lobbyists to mainly support those politicians that were already supportive of their view rather than lobbying opposing congressmen as well (Bauer et al. 1963: 351-357; 333-349).

This argument was contested by Austen-Smith and Wright (1994). They approached the subject game-theoretically and argued that lobbyists could very well benefit from lobbying opposing congressmen as well, thus rendering lobbying of opposing politicians more rational than Bauer et al. (1963) would have acknowledged.

When using these findings to formulate expectations about conditions for influence, one likely case of influence exertion is when decision-makers pursue a strong interest of their own that is favourable to the interests of the interest groups. Resulting from that should be a larger willingness to accept interest group arguments. In that case, there is consensus and shaping positions is likely to be easy for interest groups.

Alternatively, influence may be exerted when decision-makers are disinterested in the policy outcome. They may already be satisfied if an outcome as such is achieved, or they have a preference for a certain policy outcome but do not care about the particular issue brought up by the influence-seeking interest groups. In that case, interest groups meet a weak degree of conflict when seeking to influence decision-making. Compromise should be especially likely when core interests of interest groups do not touch upon core interests of decision-makers. Finally, a strong counter-interest of decision-makers may exist. In that case, the exertion of influence is likely to be very difficult. Influence in that case should be unlikely, or strongly depend on structural conditions of influence.

One possible option that precedes the stage where conflict becomes obvious, is the potential agenda-setting power of interest groups. This issue is primarily addressed by US scholars (Baumgartner and Leech 1998) and it remains to be tested in how far European interest groups manage to get involved at the level and the stage at which the European agenda is set – due to the complex system composed of various federal-state and centralised member states, the ability of interest groups to set the agenda appears weaker. However, should EU interest groups manage to influence positions and agendas before conflict can arise, this

achievement could also be understood as influence in connection to the factor conflict, because the degree of conflict is determined at the very outset.

#### *Structural conditions of influence*

Conditions of structure play a decisive role for the degree of influence exercisable by interest groups. The political system of the European Union has been reproached for a democratic deficit – especially of a lack of accountability, transparency of decisions and of participatory opportunities. Viewed in terms of an interest group's interests, governmental actors may be the only actors capable of making legally binding decisions and as such, they are accountable - but their scope of influence granting depends very much on the decision-making procedure. First of all, the key decision-making institution – the European Commission – is not elected and as such not dependent on constituency interests. Second, the willingness to include an interest group's interests by one part of an institution does not guarantee influence of private actors on the overall process, due to the in-built checks and balances. Additionally, institutions can blame other involved institutional actors to have blocked the interest group input. These constellations take threatening power away from interest groups and thus weaken their position in negotiations – they can argue but they cannot bargain (see Woll 2005b).

This condition is likely to become relevant when the degree of conflict vis-à-vis various public actors is high. In non-transparent decision-making processes or in processes where constituency interests do not have to be taken into account, interest groups lack a strong negotiation position.

#### *Type of influence*

Depending on the type of interest groups put forward, the degree of conflict with decision-makers may be higher or lower – the type of influence hence may play a role for the possibilities to gain influence. With “type of interest”, the degree to which the political core interest of the decision-making institutions in a draft legislative act is touched. The strongest conflictual potential may arise when the interest group is interested in changing the core of a legislative act (“directional influence”). Altering the core content of a legislative act is substantial contentious influence and would constitute a type of interest that can be considered problematic in a democracy.

However, interest may also be exerted when the interest of interest groups concentrates on changing details of a legislative act that do not run counter to any other stakeholder interest and do not touch the core contents of the legislation – and thus especially do not run counter to the *political* interests of the decision-makers (“technical influence”). In this case, interest groups may invoke a mind-change of decision-makers. However, this mind-change does not

touch upon the preference for the policy outcome. Finally, interest groups may influence the initial getting on the agenda of an issue (“agenda-setting influence”). In this case, no altering of fixed positions is necessary, but positions have been initiated by interest groups.

When taking all these factors into account, a number of expectations for the ability to gain influence can be formulated. A high likeliness of lobbying influence may emerge in the case of an agenda-setting ability or in a case where no conflict over an issue exists, either because the interest is in line with the political intentions of the initial perspective and/or the only change requested is of a technical nature. In this case, the structural conditions in terms of transparency or lack of transparency of the decision-making process, is of no importance.

Lobbying influence may also easily be gained when confronted with a weak degree of conflict. This may be the case when interests of an interest group only conflict with technical issues but do not touch upon the core interests of the decision-makers, or when they only slightly question the political direction of a legislative act. Transparent decision-making structures would serve as a supporting factor in this case, because decision-makers would be accountable to the interested followers of the process. If these conditions are given and the degree of conflict is strong but is strictly technical, influence should also be likely.

A low likeliness of influence-gaining, when applying the above logic, should exist in cases where the influence is directional – even if only weak – and non-transparent decision-making structures facilitate a blaming of other actors for the decision-makers, so that there is no need to consider the input of interest groups. A strong degree of conflict in cases of directional influence-seeking may be an especially unlikely case of interest group influence, independently of the question whether decision-making procedures are transparent or not.

Only in one case, however, is the exertion of influence important with regard to the democratic character of a decision-making process: when interest groups manage to alter the core political interest of decision-makers – when they manage to exert directional influence.

These three factors therefore serve as the structuring framework for analysis of the conditions of influence in the following. Additionally, the way interest groups cope with these conditions will be assessed. While the above outlined basic conditions can be expected to play a crucial role and to have an impact on the influence interest groups can gain at all, within these limitations, case-inherent conditions and interest group-related conditions may yield certain types and certain scopes of influence. Whether and under what conditions this may be the case is analysed in the following empirical case studies.

### 3. Interest group influence in transport and IT

Before going into the assessment of the cases, some more information on their selection and character of the cases is necessary. The cases exclusively cover lobbying in the sectors of Information Communication Technology (ICT) and Transport. They were selected on the basis of information derived from initial field interviews with political consultants who served as experts. In all four cases, interest groups had an interest in making an impact on a legislative act. Other selection criteria consider general findings in the literature on EU lobbying. Claims are, for instance, that lobbying is generally only successful in typical, low-politics decision-making whereas high politics issues are exceptional cases where lobbying does not make a difference (Greenwood 2003); that business interests are especially successful due to the financial resources they can employ for lobbying (Schmitter 2000); that specific institutions, such as the European Parliament and individual committees therein, are especially public interest group-friendly. The selected policy fields are considered sectors with issues of typical and largely low-politics decision-making. In order to do justice to the further claims of literature, cases that concerned a diversity of interest groups were selected within these sectors, with expected differing strengths and backgrounds.

The transport cases cover the oil industry's lobbying in the consequences of the sinking of the oil tanker Erika (the "Erika case"), the lobbying of the *International Council of Maritime Industry Associations* (ICOMIA) on the so-called Recreational Craft Directive, in the field of maritime transport; and the Climate Network Europe's lobbying in the wake of the ratification process of the Kyoto protocol on the EU level (the "climate case"). The ICT case deals with the so-called telecommunications package which was adopted in 2001. The examined case concerns the lobbying of the European telecommunications hardware industry for an opt-in solution in electronic marketing (the "opt in/opt out case"). The following table summarises briefly the interest groups under investigation, their aims as well as the decision-makers' aims, lobbying activities and the policy outcome (see table 1).

**Table 1: Case studies on interest group influence**

<b>Case</b>	<b>Interest group</b>	<b>Lobby aim</b>	<b>Decision-maker intention</b>	<b>Activities</b>	<b>Outcome</b>
Erika	OCIMF	International regulation, maintain single hulls	Maritime safety, no matter how	Strategic lobbying especially of the EP via political consultants	Shift of legislation to international level; strict time frame for single hulls
Opt in/out	EICTA	Opt in	Consumer protection without harming business, telecoms liberalisation	Letters to COM/EP	“Soft” opt in
Climate control	CNE	Ratification	Ratification through support of business and environmental interests	Participation in COM-Working groups	Ratification
Recreational craft directive	ICOMIA	Standardisation	Harmonisation, otherwise indifferent	Membership in CEN	Standardisation in favour of ICOMIA

The background of these policy outcomes will be examined in the remaining sections of this paper. The analysis has been conducted on the basis of qualitative interviews, with the method of process tracing (Bennett and George 1997). In the following sections, I will assess these cases and the influence exerted by describing the case contents, and identifying the degree of conflict, the structural conditions and the type of influence sought.

## The Erika Case

The “Erika case” deals with the *Oil Companies International Maritime Forum* (OCIMF) and its lobbying of planned legislation to increase maritime safety arising from the accident of the tanker Erika in 1999.

OCIMF’s lobbying targeted two proposals: the fast phasing-out of single hull tankers, which would have led to a potential shortage of ships for hire, and the planned establishment of a European compensation fund complementary to an already existing American one – which would have caused additional costs to the oil industry. In this case, influence is assessed under the condition of a high degree of conflict between the examined private actors and public actors, and interests that touch upon core political intentions of decision-makers.

### *Degree of conflict*

In the Erika case, the degree of conflict between OCIMF and the involved decision-makers was high. The Erika accident posed a particular problem for the responsible DG TREN of the European Commission, because it was working hard on promoting sea transport due to the overuse of rail, road and air transport (Commission of the European Communities 2001f: 13). DG TREN had just launched a White Paper in which it announced the promotion of increased levels of maritime transport, due to an overuse of other modes of transport (Commission of the European Communities 2001b). The Erika accident threatened to have a counterproductive effect on these efforts and therefore necessitated the taking of a fast and tough stance on maritime pollution and quick measures. The accident thus resulted in a strong political will at the level of the European institutions to design a legislative framework ensuring maritime safety. The most affected OCIMF member – TotalfinaElf, whose oil had been on the tanker – tried to shape the French government’s as well as the French public’s opinion by cleaning beaches and speaking to public authorities and members of parliament. However, the public interest campaigning worked far better on this level and highly politicised the issue. An additional obstacle at the EU level was that the director of DG TREN was French, and apparently succumbed to the pressure the French government was under to secure legislation for the safety of maritime transport. In the further course of the process, due to the political developments in the course of the Erika case and the rise from this low-politics area to an issue of high political priority, within the Commission as well as within Parliament, opportunities for exerting influence and information had changed due to changed interests of the institutions.

However, the conflict with other interest groups was rather low, or did not result in counter-active lobbying. Environmental organisations, mainly due to the favourable position of the Commission, did not see a need to get involved and concentrated on other cases instead. Sidelining activities were essentially initiated by activities of the ship owners’ association European C Ships Association (ECSA). Boat builders, who would have had an economic

interest in the obligation to make ships safer due to the need to consequently build new ships did not get involved out of fear to offend their customers.

If any type of interest should be analysed more closely in terms of a potential agenda-setting power, these are environmental interests in this case. Their interests were so strongly promoted by the European Commission as well as by the French government that the assumption lies near. However, this was not the case – environmental interest groups at the national level used the issue to promote strong campaigns against maritime oil transports and for maritime safety – but no coordination with the EU level had taken place at that stage. On the contrary, the European-level organisation completely kept out of the issue, satisfied with a broad general similar direction of interest of the Commission.

#### *Structural conditions*

Structural conditions were unfavourable for OCIMF. Heavy political pressure led the Commission to move much faster than is usually the case when it comes to most other issues. Shortly after the accident, a dossier was produced within DG Transport & Energy (TREN) in January 2000, and after a late consultation meeting with industrial representatives, two weeks were given for comments. This was an unusually short time frame for consultation and led OCIMF to concentrate on lobbying the European Parliament – where very specific interests of the MEPs proved to be high obstacles. Eventually, the so-called Erika I package was introduced and shortly after, the Erika II package. The packages aimed at increasing maritime safety with various measures outlined in six proposals.

#### *Type of interest*

As for the type of interest OCIMF represented, these essentially touched upon political questions. In the case of the first proposal of concern, to the phasing out of single hull tankers, representatives of industry found themselves faced with a financial dilemma, provided the Commission's proposal of phasing out all single hull tankers by the year 2015 was successful. Whereas the aim of phasing out such tankers was understandable from a political point of view (the Erika had been a single hull tanker, and this was regarded as a possible cause for the amount of oil leaking into the sea), industry deemed it impossible to sufficiently increase the number of double-hull tankers by that time and to thus keep up the oil transportation.

The other controversial proposal concerned the planned *Fund for the Compensation of the Oil Pollution Damage in European Waters* COPE. Here again, the question was a financial one. The Commission aimed at increasing the amount of resources in the fund and to establish a European fund, in addition to the existing international one (Commission of the European Communities 2000a). The oil industry claimed that, whilst the need for the fund was uncontested, the ship owners should be held liable as well and should pay a share of the

fund. Additionally, both the oil industry and ship owners wanted to shift the regulation of the international level, in order to ensure a common international regime.

In the course of the decision-making process, the European Parliament in particular sought to set an example of its power and to issue a warning to the chemical industry which it deemed as dangerous in transporting goods at sea as the oil industry. The EP therefore extended the directive in its amendments in ways that were desired neither by industry nor by environmental interest groups. While this particular issue did not pass through the Council and the second Parliamentary hearing, the strong political will present in all institutions could not be overcome; lobbying could only aim at limiting the damage. In this case, OCIMF appears to have embraced the Commission's overall direction with the regulatory measures in order to achieve more favourable legislation in specific details. The directives were going to come, so the goal was to move them to the international level in order to ensure that competitors would have to deal with the costs as well.

#### *Policy outcome and conclusion*

Eventually, the Commission's legislation to increase the liability of ship owners was amended in favour of OCIMF's arguments, and the entire legislative process within the Commission was frozen in order to wait for an international decision – as had been proposed by OCIMF and other interest groups. The establishment of a European fund was abolished. Instead, the international fund was increased. As regards the question of singling out single hull tankers, the Parliament accepted leaving the decision to the *International Maritime Organization* (IMO). This led to an international regulation that was adopted at the European level within the Erika I package.

When looking at this case from the perspective of democracy theory, the issue at stake certainly had the potential to feed worries about the influence of corporate interests through powerful organisations on the decision-making process. And indeed, OCIMF appears to have been influential. However, the influence that was actually exerted only touched upon technical questions. It did not change the core of the legislative acts and would, on that basis, not pose an issue of importance to democracy theory.

### **Opt in / Opt out**

The second analysed case fits the scenario of a low degree of conflict between the examined private and public actors, technical influence-seeking with political implications and unproblematic structural conditions. The "Opt in/opt out case" – concerns the Euro group European Information, Communications and Consumer Electronics Technology Industry Association (EICTA). This case deals with interest group lobbying around the



regulation of marketing in the context of information technology. It was part of a regulations package dealing with data protection and essentially affected marketing companies, consumers and hardware producers.

#### *Degree of conflict*

The drafted legislation should on the one hand protect the customer, on the other hand, it should enable a sufficient amount of surveillance over Internet activities and, certainly, a harmful effect on industry was not intended. As for conflict between various private actors, marketing companies had an interest in being able to send unsolicited advertisement to consumers, with consumers having to opt out. Consumers' organisations favoured the opt-in option. Similarly, hardware producers were in favour of an opt-in legislation, because they feared that large amounts of unsolicited advertisement would exceed the hardware products' capacities. The *opt out* scheme was favoured by those who were dependent on marketing, including large parts of industry represented via the *European Federation for Direct and Interactive Marketing Business* (FEDMA). They argued in essence that an opt-in obligation would increase costs, because initially, the sellers would have to employ a larger amount of resources in order to persuade the customer to opt in, and in order to reach the customer who was interested in his products (thus sending more advertisements blindly). They would consequently pass these costs on to the consumer (Gahil 2001: 2).

Consumer organisations rather favoured the *opt in* scheme, pointing at the insecurity of data use and the distrust that is generated through over-exposure to advertising due to an *opt out* scheme, which would also eventually harm business (Gahil 2001: 10). On the one hand, the amount of email advertisements received on an *opt out* basis could block the available storage space of consumers and it would take a significant amount of time deleting and moreover, 'opting out' of unsolicited mail. On the other hand, distrust was generated through the common practice of a number of sellers accepting the opting out of a potential customer, but passing the email address on to other sellers as a so-called 'confirmed live' address (EuroCauce 2002).

In terms of the degree of conflict between the examined interest group and decision-makers, at least with the European Commission, a consensus could be observed. With regard to the particular proposal that posed concerns to the hardware industry: the discussion about regulating email advertising with an opt-in or an opt-out scheme, and the requirements of data storage connected with the control over criminal action. In this case, EICTA supported the European Commission's position.

#### *Type of interest*

The interests of importance in this case were primarily technical, but since they touched upon consumer issues, the desired alterations of the legislative act also had political

implications. The telecommunications package was established to create a larger convergence of the communications sector and to promote its liberalisation. In this context, a focus was also laid on data privacy. A regulation with the aim of ensuring data privacy had been issued at the EU-level, mainly due to the enhanced possibilities of criminal use of the Internet. A balance was sought between the need to tackle the issue of cyber crime and ensuring the privacy of consumers' data. The problem to be solved was thus situated between confidence and liberty of consumers, competition issues for the marketing industry on the one hand, and on the need to control the Internet to some extent.

*Opt-in* versus *opt out* refers to two possible ways of protecting the privacy and the use of personal data of consumers. The *opt in* scheme requires the consumer to explicitly state that he/she wishes his/her information to be used in order to receive advertisements. The general hypothesis is thus that the consumer in general does not want his information to be used and to receive advertisements for products.

The *opt out* scheme assumes the consumer to generally desire to be informed, and for his personal information to be used. With the data privacy directive and an opt-out scheme, these storage requirements were likely to exceed the technological capabilities of hardware. Opinions about which scheme to apply consequently differed largely.

The problems for the hardware industry connected with the decision to adopt one scheme or another scheme mainly concerned the question of how to control illegal activities. In order to provide for a sufficient amount of data privacy but also to ensure a sufficient amount of control, a requirement for Internet service providers to store a substantial amount of data was debated, which, if put into force, could pose problems for the technical capabilities.

#### *Structural conditions*

Structural conditions of the directive can be regarded as very traditional for EU decision-making processes. The opt-in/opt-out issue was handled in a straightforward co-decision procedure, with room for debate between public and private actors, especially within the Commission and Parliament, and closely monitored via the European Parliament's "legislative observatory". While controversies between the key institutions existed, these did not make the process non-transparent. The draft proposal presented by the European Commission, adopted in July 2000 and subject to a co-decision procedure, entailed a proposition of banning unsolicited commercial email (UCE) altogether, with an opt-in clause, and thus restricting the electronic marketing possibilities of business (European Parliament 2002b). The final decision was in line with the industrial demands that had been put forward. Eventually, accompanied by strong lobbying efforts of the opposed direct marketing industry, the Parliament voted for an opt-out regulation in its amendments scheduled in the first

reading and for a so-called 'soft opt-in' solution<sup>4</sup> in its second reading. Finally, in the third reading, Parliament agreed with the opt-in solution favoured by the Commission and the Council (Euractiv.com 2002). Hence, EICTA was either successful or aided by the fact that the institutional preferences ended up being in line with the association's interests.

#### *Policy outcome and conclusion*

EICTA's positively viewed position in relation to the other topics, as well as the closeness of the hardware companies' positions to consumers demands, may have helped determine the fact that the final decision was in line with the industrial demands that had been put forward. However, EICTA itself took a reactive stand. The development of the issue was followed, and letters were sent from the Headquarters at the individual stages. Lobbying efforts can thus be seen as successful with regard to the opt-in scheme, and as partially successful with regard to the data storage question, because the problem was only postponed. In terms of what kind of influence was exerted, and what conditions applied for the exertion of influence, however, this case also shows a close connection between a low degree of conflict with at least one key institution, an interest that does not oppose key political intentions of decision-makers and the interest group satisfaction with the outcome. In the case of the opt-in/opt-out directive, the influence the group claims to have had would not qualify for a definition of influence related to the Weberian power definition. In this case, the interest group only acted supportive and may have merely used the positive outcome to market itself vis-à-vis its members.

## **The Climate Case**

The next case study is concerned with the lobbying of the Climate Network Europe (CNE) for the European Climate Control Package, a proposal to enable the European Union's ratification of the Kyoto Climate Protocol. This case stands for a diffuse degree of conflict between various partners, a directional interest of the examined private actors that is in line with those of public actors and very unclear structural conditions. The European Climate Change Programme (ECCP) was a package of measures developed by the European Commission in 2000 in response to the international Kyoto Protocol from 1997, based on a 1999 Commission communication *Preparing for implementation of the Kyoto Protocol* (COM (1999) 230).

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<sup>4</sup> Soft opt-in means to allow sellers to email to their established database but to prevent them from targeting other potential customers. Companies with the sufficient amount of resources could simply buy established lists.

*Degree of conflict*

In the environmental/transport case, the question of whose interests stand in conflict is less clear than in the two previous cases. The degree of conflict in this case seems to essentially play a role between private actors, whereas the Commission used the ECCP to involve stakeholders without actually engaging in dialogue with them. Additionally, NGOs differed within their own category with regard to the question of emissions trading. Some of the German NGOs particularly opposed emissions trading, whereas the European co-ordinating body CNE accepted the scheme. Differences also occurred with regard to the regulatory form of measures taken. Thus, the industrialist representatives preferred voluntary agreements; the NGOs demanded binding measures.

For CNE, the most important aim was that the ECCP would get passed and that the ratification of the Kyoto Protocol was therefore possible. The active involvement at the European level was in the end seen as important for the organisation internally in order to learn 'how the Commission handles the process' (OVE official). With a number of business interests also being interested in the ratification of the protocol and with the final policy decision only being a preparatory decision for the ratification of the protocol, the outcome can be regarded as a combination of lack of importance for very powerful interests, similar interests of a number of business interests and NGOs, and of the interest of the European Commission to achieve the European ratification of the Kyoto Protocol.

Business actors mainly used the ECCP in order to monitor potential measures that would be imposed upon them. They kept up with the process via associations, via the working groups and via frequent contacts with various officials at different levels in the European Commission, and they used environmental experts for the follow-up of concrete measures. Oil companies mainly sought to find a consensus within their Euro groups, such as EUROPIA, and to pass this consensus view on to the Commission as the view of downstream oil industry, including both smaller oil associations like the Spanish Repso, Sepsa, and big and medium companies, such as TotalfinaElf, Shell and BP. The oil companies especially had the problem of entailing US-American members as well, who had different views than their European counterparts due to the different US-American governmental stand on the climate protocol.

*Structural conditions*

The ECCP was the preparation stage of the Commission in order to achieve a proposal for the ratification of the Kyoto Protocol. As such, the usual procedures of European decision-making did not apply at this stage, but the interest groups exclusively dealt with the European Commission. The main purpose of the ECCP was to come up with cost-effective measures to reduce greenhouse gas (GHG) emissions, enabling the European Union to fulfil the Kyoto requirements. It was to consist of a steering committee and a number of working

groups (Commission of the European Communities 2000a). These working groups were to concentrate initially on the topics of energy, traffic, industry and the flexible mechanisms proposed in the Kyoto protocol, taking up a number of proposed joint and co-ordinated policies and measures in the area of climate change. Furthermore, the Commission demanded, amongst other activities, the development of an EC-wide political framework for emissions trading as well as the development of a framework for self-regulation for industry. The Commission eventually subdivided the dialogue into seven different working groups.

Most public and private non-governmental actors became officially involved in the process at the early stage of the Green Paper, commenting on the first proposals by the European Commission on the invitation of the institution.

#### *Type of interest*

The ECCP process developed as a debate of counter-active actors (or agents) with a multitude of interests, which re-arranged into different alliances, and which were subject to a strong political determination of the involved public actors. Business interests involved in the process consisted of emissions producers, such as oil firms, electrical or transport companies. Furthermore, it consisted of emission-reducing business – those proposing alternative ways of producing energy. These business agents could expect to profit from decisions in line with public interest group demands. Public interest organisations constituted a third party of affected stakeholders, representing environmental interests. Finally, energy users were involved, with differing positions. Interests were hence strongly political and aimed clearly at exerting influence on the direction the legislation was to take.

#### *Policy outcome and conclusion*

As a consequence of the vague goals of the process, the outcome of the consultation process remained vague as well. The ratification of the Kyoto Protocol was indeed facilitated by the process, whereas detailed outcomes remain difficult to attribute to the Commission or to private actors. Due to the early stage of the process, especially the structural conditions appear to have played a role for the ability of interest groups to exert interests. The size of the consultation process as well as the status of the final input by the groups as merely consultative enabled the Commission to decide autonomously which proposals it would take up and how to present them to the member states as well as, at a later stage, how to take them up in an evolving legislative act on behalf of the European Union. The lack of transparency of the procedural structure of the ECCP can be seen as the crucial factor in the climate case – which, displays potential technical influence, and additionally, failure in taking directional influence.

## Standardisation and Interest Groups

Lobbying towards standardisation of sports boats' sound and noise emissions is the issue of the final case study. The regulation at stake – the Recreational Craft Directive (RCD)<sup>5</sup> – was initiated in 1990. This case essentially stands for a technical interest that meets a non-existent degree of conflict with public actors and transparent structural conditions.

### *Degree of conflict*

In terms of conflict between public actors and private actors, the conflict was very low. This directive was basically in the interest of, and written up by, the boating industry's association *International Council of Maritime Industry Associations* (ICOMIA). ICOMIA represents individual boating associations and small enterprises in the boating industry, mostly SMEs. The sector essentially consists of small enterprises in the individual countries, and it is subject to a strong North-South and East-West divide; with the West being the American continent, and large differences between the US and the EU. The RCD was of special interest to engine producers,<sup>6</sup> organised in ICOMIA's subgroup *Maritime Engine Committee* (IMEC). The European Commission was in favour of coming to a harmonisation in that sector, in order to ensure full competitiveness across borders.

### *Type of interest*

In this case, purely technical interests were involved. The harmonisation of noise and sound emissions was essentially an interest of larger firms within the boating industry. A self-designed reference system for noise and sound emissions would make them more competitive vis-à-vis smaller but perhaps more individual boat builders. The Commission, on the other hand, was relatively indifferent about standardisation in this area. The general political interest of the Commission was to achieve harmonisation in technical issues – but the details of such harmonisation were of minor importance, and were entirely left to the Commission's standardisation body, the European Committee for Standardisation/ European Committee for Electrotechnical Standardisation (CEN/CENELEC).

### *Structural conditions*

Structural conditions were extremely favourable for the interest group under investigation. The recreational craft directive was written by CEN, whose working group in charge

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<sup>5</sup> Standardisation measures are generally taken in order to facilitate trade and to decrease trade barriers.

<sup>6</sup> The effects the directive was going to have mainly concerned engine builders, since different conditions existed for those who produced so-called *outboard* and *inboard* engines. In essence, the directive finally proposed included all main vehicles except for canoes, surfboards and 'craft specifically intended to be crewed and to carry passengers for commercial purposes' (Commission of the European Communities 2000b).

essentially consists of members of the largely of ICOMIA members. The strategy to win influence was therefore obvious. The ICOMIA sub-group was also part of the officially mandated CEN working group CEN BT 69 with its secretariat in Stockholm. CEN BT 69 was officially a working group of the International Standardization Organization (ISO), but unofficially also worked for CEN, since the same participants met. Both levels could thus be covered at the same time. CEN, as a member of the ISO committee, supported the work financially. The outcomes were controlled through a vote of all CEN members with regard to the work of the committee. The influence of ICOMIA and ICOMIA's members was significant, because the members were already co-ordinated in national groups, and they possessed a large degree of experience from over 12 years of existence.

*Policy outcome and conclusion*

As for the policy outcome, it is little surprising with the standardisation-body membership of ICOMIA that the initial ICOMIA proposals were more or less accepted and included in the parliamentary amendments. Only a number of them, including the strict rules on the reference boat system, were rejected in the Commission's comments following these proposals. Hence, this case seems to entail the strongest indicator for influence exertion and even for agenda-setting by interest groups. The important point in this case however is the type of interest. The technical interests put forward by ICOMIA touched upon the very specific branch of boat builders but beyond that, did not have political consequences opposing any general direction of Commission activities. If cases of strong influence exertion can generally be detected as limited to technical influence, interest group influence may not play a role for democracy theory at the EU level at all.

#### 4. Conclusions: Interest groups and the democratic deficit

Overall, this empirical analysis set out to investigate under what conditions interest groups actually exert what kind of influence on the European level, and how the findings are to be evaluated in the light of democracy theory. When taking a cross-comparative assessment of influence exertion in the four examined cases, all four cases display the power of factors conditioning interest group input – and especially, the importance of the core political interests of decision-makers. Interest group influence in these four cases is limited to technical details and to directional influence when not opposing political intentions of decision-makers. The degree of conflict and structural conditions hence appear especially decisive. Altogether, the cases seem to demonstrate a remaining political autonomy of public actors in EU decision-making processes. Influence was only obtained when technical issues were at stake that did not touch or that were in line with core political intentions of legislative acts. The cases outlined also show that technical and directional intentions were not separable from the outset, and differing surrounding conditions determined each of the initial situations. The cases entailed opposing and sidelining political intentions on the part of both interest groups and public actors. The pattern that emerges when comparing four cases with differing conditions is a dominance of political intentions of decision-makers. As a conclusion, two factors have emerged as especially important with regard to the influence groups managed to gain: the interest of public actors and structural conditions. When distinguishing between technical and directional influence, as has been the case in the examination, directional influence seems highly unlikely in the EU.

At a superficial sight, this should be favourable in the light of the initially outlined debates in democracy theory (Eschenburg 1955; Greven 1998): political autonomy rests with elected or appointed public actors. The question that has to be asked however, is *why* interest groups are apparently in general unable to change the political direction of European decision-making. This article does not provide the material necessary to answer this question. However, a new hypothesis can be generated on the basis of the knowledge of how decision-making works in the European Union, the importance of structural conditions and especially of the lack of accountability of EU institutions and taking into account the apparently much greater power of American interest groups vis-à-vis the US Congress as suggested by the US interest group literature: the weak directional power of lobbyists at the European level even in cases in which they are well equipped may result from the current character of the European political system as a system with very weak electoral and indirect control. Lobbyists are not able to threaten effectively. In most member states, even MEPs are not directly responsible to a direct constituency that will vote them in or out of office, but they are elected via national party lists. This renders it difficult for lobbyists to exert any serious pressure with possible consequences on the institutional actors. In this sense, a hypothesis emerges that may sound paradoxical to those that favour democratic and pluralist solutions. Given that lobbyists in general are representing very specialist interests,



and political scientists in general seem to favour controlled possibilities for them to voice their interests (see Rousseau (1964) [1755]: 245), the current system of the EU should suit them rather well. In this logic, the more participatory a democratic system, the more likely is a capture of political actors by lobbyists. The less participatory, the less likely is a capture, and lobbying may thus be a healthier contributor to political decision-making than in a more participatory system.

Such a remark necessitates a reflective definition of participatory democracy, for which this article's conclusions are not the adequate place. However, the EU-system, with its lack of rigorously democratic checks and balances,<sup>7</sup> can still be seen as relatively immune against outside pressure (from voters *and* from specific interests). Institutional officials can select whom to listen to – which may not seem any closer to a truly democratic solution than a capture of politicians by lobbyists, but which leaves the power to the governmental actors. In a more democratic system, with a dependency of governmental actors on votes, the lobbyists can be expected to become stronger. This is obviously the case in the US, but also in individual nation-states.<sup>8</sup>

This may be understood as a central problem of democracy: accountable structures together with participatory opportunities essentially aid those who can make the most professional and strategic use of public-private interaction – and they thereby facilitate the capture of decision-makers by special interest groups. These are primarily lobbyists and interest groups who possess the resources and the know-how to engage strongly in decision-making. Although this study aims by no means to suggest a less democratic structure of governance in order to solve potential problems with overly influential lobbyists, this weakness of democratic cultures deserves to be pointed out, and it should be considered as a possibly unsolvable problem inherent in the freedom of speech, association and in governance.

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<sup>7</sup> This of course, is also up for discussion, depending on the way democracy and democratic tools are defined – a subject for further study.

<sup>8</sup> Although here as well, a debate about the degree of democracy in these systems can be generated.

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