

LOBBYING IN BRUSSELS

BREAKING THE EXCESSIVE POWER OF CORPORATIONS



OGB



WIEN

GERECHTIGKEIT MUSS SEIN



ACTIVE INVOLVEMENT IN BRUSSELS FOR THE INTERESTS OF EMPLOYEES

It is an undisputable fact: Brussels not only is the “capital” of the European Union, it also is the centre of lobbyism within the EU. Right there, politics is made which has an impact on about 500 million people living in Europe. It is therefore no surprise that different interest groups try to influence politics in their favour. But only a reputable interest group can help put the concerns of the people at the fore of European politics.

However, especially in this regard something is going in the wrong direction in the European Union. Large corporations and the financial sector, in particular, set the tone in Brussels. This is reflected in the predominant number of business lobbyists, and in some political decisions. Scandals such as the manipulation of emission values in diesel cars (“Dieselgate”) or the dubious tax deals of large corporations (e.g. “Lux Leaks” and “Paradise Papers”) are examples of the aforementioned practices. Citizens’, consumers’ and the environment’s welfare is often neglected, though.

It is necessary to limit the impact of large corporations’ lobbyists within the EU in order to improve EU legislation in the interest of the people. The first step towards limiting the power of large corporations is transparency. For years the Chamber of Labour (AK) has been standing up for transparency and against the predominance of business interests in Brussels. Employees and consumers must have a powerful voice in the EU as well.

With the brochure at hand we want to shed light on EU lobbyism, propose necessary reform measures and actively involve ourselves and stand up for the interests of employees in the European Union.

A handwritten signature in blue ink that reads "Renate Anderl". The signature is fluid and cursive.

Renate Anderl,
President of the
Austrian Chamber of Labour (AK)

LOBBYING IN BRUSSELS –
BREAKING THE EXCESSIVE POWER
OF CORPORATIONS

March 2019

Find expert opinions, events and the latest news online!

The screenshot displays the AK EUROPA website interface. At the top, the logo for AK EUROPA (Austrian Federal Chamber of Labour Brussels Office) is visible. The main banner features the headline "RAISE YOUR VOICE FOR HOUSING FOR ALL" over an image of a desk with a calculator and keys. Below the banner, there are three main sections:

- Newsletter sign-up:** A form with fields for "Your Email", "Last name", and "First Name", and a "Send" button. A small note says "Ich bin kein Roboter".
- Events:** A section titled "Trade unions: world?" with a "Find out more" link.
- News:** A featured article titled "Energy poverty: Time to act at European level" dated 27.04.2019, categorized under "Economic, Transport & Environment". To the right is a list of news items:

28.04.2019	Digital Work	AK EUROPA: Trade unions fit for the...
28.04.2019	Consumers	The trouble with charging cables
26.04.2019	EU General	Jean-Claude Juncker's farewell in the...
26.04.2019	Transport & Environment	Fridays for Future: Climate protests...
12.04.2019	Transport & Environment	Mobility Package: Vote in European...

At the bottom, a "Publications" section shows a carousel of four document covers with their respective dates: 11.03.2019, 07.03.2019, 04.03.2019, and 21.02.2019.

Weekly news directly from Brussels - AK EUROPA, the Brussels office of the Austrian Federal Chamber of Labour, publishes news, events and position papers on its new website.

www.akeuropa.eu

CONTENT

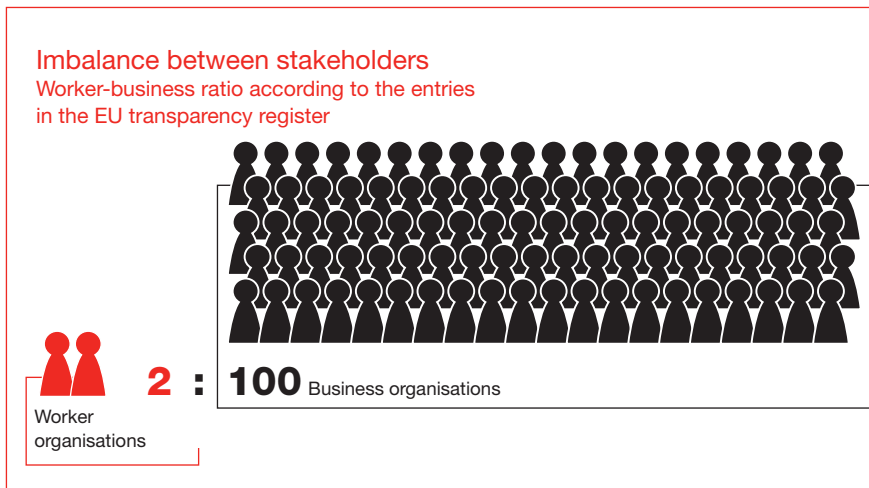
Introduction	4
A. Basic information on lobbying at EU level	6
Developing the EU Transparency Register	6
Lobbying on EU level today	7
How much money is spent for lobbying on EU level?	8
High numbers of personnel deployed for lobbying	10
A reform of lobbying register necessary	12
B. Methods used by corporations to exert influence	14
How corporations exert influence	14
Personal meetings	14
Participation in expert meetings	16
Influencing MEPs	18
The revolving door effect	20
C. Corporations capture EU legislation	23
Extensive lobbying of the banking sector	24
The Big Four – the great power of the business consultancy firms	25
Dieselgate: the automobile industry in the driver’s seat	26
How corporations intervene in EU trade agreements	28
Aggressive lobbying by the digital economy	30
D. EU politicians have an obligation to the public interest	32
E. Following lobbying – link collection	34

FIGHT AGAINST THE EXCESSIVE POWER OF BUSINESS LOBBIES WITHIN THE EU

They work for large corporations, business associations, trade unions and environmental or consumer protection organisations: Almost 12,000 lobbying organisations are registered in Brussels in the so-called EU Transparency Register who, together with their around 50,000 employees, try to influence EU politics in their favour. More than half of these organisations exclusively represent business interests. Therefore, large corporations, the financial sector and business associations dominate the European political stage.

By comparison, employees are strongly under-represented: for every 100 organisations representing business interests, there are only around two organisations representing employees' interests.

With this preponderance, business is heard much better by EU politicians. Targeted lobbying often succeeds in enforcing the political agenda of these individual interests. This is not least also a significant reason why until this very day the EU has only introduced entirely insufficient meas-



Source: EU transparency register (request of 10 December 2018) © Julia Stern

ures to efficiently combat cross-border wages and social dumping, to establish real tax justice or to curb financial markets (e.g. by implementing a tax on financial transactions). The concerns of employee associations, consumer associations or environmental organisations, which are fitted with a broad social mandate, are considered far too little in decision-making. Any steps in the direction of a social Europe are not least blocked by lobbies of large corporations.

In contrast to other interest groups business lobbyists prefer to act in the background. Their lobbying activities are to be kept out of the public eye as much as possible. Politics taking place behind closed doors runs counter, however, to the democratic achievements of transparency and rule-based decision-making processes. The arbitrary influence of individual interests jeopardises democracy, which is bound to balancing social interests.

As part of the Trade Union movement and side by side with the **Austrian Trade Union Confederation (ÖGB)** AK fights together with other **allies such as ALTER-EU** (Alliance for Lobbying Transparency and Ethics Regulation) **AK fights** for the **democratisation of the EU** and **against the preponderance of business lobbies**. With the brochure at hand we continue our long-time work against non-transparent lobbying and the excessive influence of business on European politics. In the first chapter of this brochure we show the balance of power in lobbying at EU level. Information about this can be found in the EU transparency register.

In the second chapter of this brochure we shed light on the many ways companies try to influence legislation at EU level. Based on all the collected facts and examples, we then make proposals for necessary reforms.

In the end, the excessive influence of business on politics is shown by the fact that large corporations often prevail over public interest. The third chapter explains how business manages in practise to capture EU legislation in various policy areas. At the end of this brochure we give an overview of our core demands.

A. BASIC INFORMATION ON LOBBYISM AT EU LEVEL

The dimension of lobbying in Brussels vis-à-vis EU institutions was unknown for a long time. Only during the 1990s did awareness slowly develop of the extent to which individual lobbyists influence the European Parliament, the Council and the European Commission.

Developing the EU Transparency Register

In 1993 the Commission discussed lobbying for the first time. In a first assessment EU officials estimated that about 3,000 interest groups with some 10,000 employees were active in lobbying in Brussels at that time¹. However, there were no detailed numbers which could reflect the dimension of lobbying.

This changed gradually with the introduction of the EU transparency register by the European Commission in 2008. All organisations who lobby the European Commission could register there. Registration was, however, on a voluntary basis and was not mandatory. This fact alone shows how powerful the business lobby has become over the years: it was successful in preventing all interest groups from having to register on an obligatory basis. This is the reason why the EU transparency register only partially shed light on the dimension of EU lobbying.

The continuing pressure from trade unions and civil society, however, brought about progress regarding transparency in lobbying: in 2011, the European Parliament joined the register. Although the register is still not mandatory, the EU Parliament and the EU Commission have introduced rules which should bring about more registrations: for accreditation (access card) to the EU Parliament registration in the transparency register is a pre-requisite. And getting an appointment with a member of the EU Commission, a cabinet member or a director-general is also only possible after having registered.

Lobbying on EU level today

The stricter basic conditions regarding registration have shown effect: between the end of 2011 and the end of 2018 the number of registered organisations increased from approx. 2,700 to almost 12,000 interest groups.² Although the data contained in the register are to be interpreted cautiously due to incorrect entries, clear conclusions can be drawn:

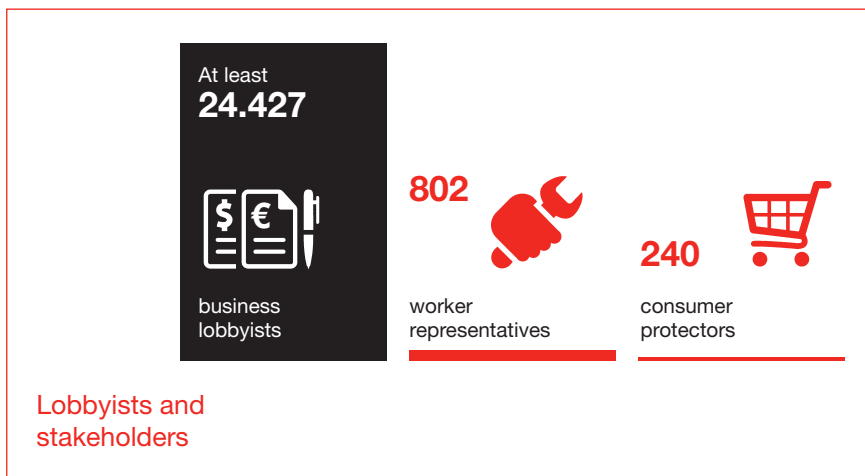
According to the register, some **50,000 persons** work as lobbyists or interest group representatives in Brussels. The majority are representatives of businesses or corporations (from the categories: in-house lobbyists, trade/ business/professional associations, law firms or consultant agencies): therefore almost 7,000 organisations with around 24,400 lobbyists represent business interests. Additionally, many other business representatives are registered under the category „Non-governmental organisation“. This brings about **uncertainty regarding the true number of corporate lobbyists**.

More than 3,100 organisations with some 14,500 lobbyists are registered as NGO representatives. However, business lobbyists such as the European Chamber of Commerce in Hong Kong, in Vietnam and in Korea, the European Landowners' Organization and the European Association of Business and Commerce are also registered under this category.

A certain amount of scepticism is also necessary regarding the category „Think tanks and research and academic institutes“, which comprises another 920 institutes with around 6,700 lobbyists according to the transparency register: the New Financial, for instance, registered under this category, focuses on how larger and better capital markets can be created in Europe. The Kangaroo group has as one of their main goals, e.g. the implementation of an internal market and of a stable euro. Political foundations are also represented in this category. The share of business lobbyists in all interest groups therefore seems to be well over 50%.

1) Official Journal of the European Community No. C 63/2 of 5.3.1993

2) EU transparency register (last accessed 10 December 2018), <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3586>



Source: EU transparency register (request of 10 December 2018) © Julia Stern

Compared to these numbers, the register lists a mere 151 employees' representatives with about 800 members of staff who represent the interests of employees (i.e. a share of less than 1.3% of all registered interest groups) and 43 organisations with around 240 persons (0.6%) who represent the interests of consumers to EU institutions in Brussels.

How much money is spent for lobbying on EU level?

Based on the available data from the transparency register, a **minimum of 1.8 billion euros** is annually spent on influencing EU decision-makers. As mentioned above, these numbers must be viewed with caution, however, because some organisations have entered incorrect data into the Register.

The non-governmental organisation LobbyControl analysed which organisations and companies spend the most on lobbying.³ The following table shows that the representatives with the largest

3) LobbyControl, Lobbyreport 2019.

Companies and organisations with the highest lobbying-budgets

Organisation Name	lobbying expenses (in Euro)
1 European Chemical Industry Council	12,000,000
2 FTI Consulting Belgium	6,750,000 – 6,999,999
3 Fleishman-Hillard	6,750,000 – 6,999,999
4 Insurance Europe	6,500,000 – 6,749,000
5 Burson Cohn & Wolfe (ehemals Burson-Marsteller)	6,250,000 – 6,499,999
6 EUROCITIES	6,000,000 – 6,249,999
7 Google	6,000,000 – 6,249,999
8 European Federation of Pharmaceutical Industries and Associations	5,503,206
9 Interel European Affairs	5,000,000 – 5,249,999
10 Microsoft Corporation	5,000,000 – 5,249,999
11 Teneo Brussels	4,750,000 – 4,999,999
12 Association for Financial Markets in Europe	4,250,000 – 4,499,999
13 Verband Deutscher Maschinen- und Anlagenbau e.V.	4,250,000 – 4,499,999
14 Verband der Chemischen Industrie e.V.	4,250,000 – 4,499,999
15 BUSINESSEUROPE	4,000,000 – 4,249,999

Source: EU Lobbyreport 2019 from LobbyControl - initiative for transparency and democracy
<https://www.lobbycontrol.de/wp-content/uploads/EU-Lobbyreport2019.pdf>

budgets are solely business and professional associations and corporations. The undisputed leader is the European Chemical Industry Council with financial means of euros 12 million for lobbying per year. In contrast, the largest consumer organisation BEUC has a budget of a little less than euros 2.75 million. The European Trade Union Confederation (ETUC), on the other hand, has a budget of around euros 1.25 million available for EU representation of interests.

High numbers of personnel deployed for lobbying

It is not only the total number of representatives of interests registered in the EU transparency register which shows the power of corporate lobbyists.

Many organisations also obtain accreditation for their employees for the EU Parliament, i.e. the lobbyists receive an access card for the European Parliament and therefore can take part in committee meetings and conferences, and thus meet MEPs. An in-depth analysis of the transparency register data shows that the 20 companies and organisations with the most staff members alone employ 751 lobbyists. This is exactly the number of MEPs in 2018.

The three organisations with the most accredited persons are solely consulting agencies which have specialised in business lobbying vis-à-vis EU decision-makers. Their clients include Audi, Bayer, Shell, Coca Cola, Siemens, Amazon and booking.com. The three consulting agencies alone have almost 150 persons accredited for the European Parliament. The ETUC as the most important European employees' representative is ranked at number 71 regarding personnel accredited for the EU Parliament. The ETUC only has 10 persons accredited in the European Parliament.



Lobby Planet Brussels

Lobby Planet Brussels offers exciting insights to Europe's lobbying capital. Apart from french fries, pralines and Manneken Pis we are talking in Brussels metropole especially about power, millions of Euros and opinion making in EU politics. The majority of lobbyists in Brussels is working for corporations. Lobby Planet takes you on a tour through the European quarter and is following their tracks.

Source: <https://corporateeurope.org/en/lobbyplanet>

Companies and organisations with the most lobbyists

Organisation Name	number of persons dealing with lobbying	accredited at the EU-Parliament
Fleishman-Hillard	53	57
Burson-Marsteller (B-M)	48	47
FTI Consulting Belgium	72	37
FIPRA International Limited (FIPRA)	41	32
APCO Worldwide	34	31
Kreab	50	29
Interel European Affairs	29	26
Insurance Europe (Insurance Europe)	35	26
Teneo cabinet DN (Teneo cabinet DN)	30	26
European Chemical Industry Council (Cefic)	76	26
Bureau Européen des Unions de Consommateurs (BEUC)	34	25
BUSINESSEUROPE	30	25
Verbraucherzentrale Bundesverband (vzbv)	43	25
EUTOP Europe GmbH (EUTOP)	29	23
G Plus Ltd (GPLUS)	31	22
Weber Shandwick	29	19
Dods Group PLC	22	19
Eurelectric aisbl (Eurelectric)	19	18
EUROCITIES	22	18
Brunswick Group LLP	24	18
Total	751	554

Source: EU transparency register (request of 10 December 2018)

A reform of lobbying register necessary

Although some progress has been made regarding the disclosure of lobbying vis-à-vis EU decision-makers, there still is a **significant need for reform** of the EU transparency register:

- Registration in the transparency register still is on a voluntary basis for lobbyists. Although the regulations for EU lobbyists have been tightened up, there are still organisations which are not registered yet. The non-governmental organisation ALTER-EU has done some research on which law firms have still not registered yet although they lobby the EU2: these include White & Case LLP and K&L Gates (lobbying for trade agreements), Bird & Bird (interventions regarding data protection) and Hogan Lovells (lobbying on e.g. the chemicals regulation REACH).
- The Council of the EU, in which the national governments are represented, has still not joined the transparency register. It therefore is not known with whom Council officials and representatives of the member states meet.
- There is still no information on which lobbyists meet MEPs on a regular basis and what they discuss.
- Many data sets contain gaps and false information. There obviously is a lack of expert personnel who check the data given by the interest groups. Moreover, there should also be the possibility to impose sanctions if incorrect data were entered deliberately.

Since 2016, the Commission, the European Parliament and for the first time also the Council have been negotiating a reform of the transparency register. At the beginning disappointment prevailed, since the Commission's proposal still did not make it mandatory for lobbyists to register. However, there is some progress since the Council should now also become part of the transparency register. For the first time, this could bring clearer insight on how much the representatives in the Council are influ-

enced by lobbyists. No information was available at the end of the editorial deadline, though, regarding the transparency plans of the Council in detail.

There are, however, improvements regarding lobbying transparency in the European Parliament. At the beginning of 2019, the **European Parliament** adopted a **legislative footprint**: MEPs working on EU regulations must therefore publish their meetings with lobbyists. This measure is a long-term request of AK.

Furthermore, one should not forget that more transparency solves only one of the many problems with lobbying. The objective must be that in future all interests are equally taken into account into the EU legislative process. Only in this way will we manage to further develop the EU in the interests of its citizens.

4) cf. ALTER-EU, Lobbying Law Firms - Unfinished Business (2016).
https://www.alter-eu.org/sites/default/files/documents/Lawfirmsstudy31052016_0.pdf

B. METHODS USED BY CORPORATIONS TO EXERT INFLUENCE

How corporations exert influence

Companies know a number of ways to influence EU legislation. Lobbying Commissioners, MEPs or officials is just one side of the coin. The other side is that the European Commission and the European Parliament alike have created forums that they use to actively involve lobbyists in policy-making. This has resulted in **deeply intertwined relationships between EU decision-makers and companies** that often lead to a change of sides: when their political career comes to an end, EU Commissioners like to work as lobbyists in the area they used to be politically responsible for. Or lobbyists change sides and start to work for EU institutions. The following section will detail the possibilities available to lobbyists to exert influence on an EU level, and how they make use of these possibilities.

Personal meetings

Personal meetings with Commissioners, EU officials and MEPs are one of the most well-known methods of shaping legislative content. By holding one-to-one meetings with EU decision-makers, lobbyists can also make much more of an impression and establish a significantly better rapport than would be possible by sending letters or position papers, for example.

There are also different ways of arranging such a meeting. The easiest is to make an appointment with the MEP or official. A more advanced method is to send invitations, for instance to expert group meetings (to which representatives of a number of involved companies are invited; one example thereof is „club meetings“) or to discussion events.

Since December 2014 Commissioners, their closest staff members and directors-general have disclosed their meetings with lobbyists. The long-standing public criticism of opaque contacts between the Commission and business representatives has paid off. Nonetheless, this data, too, demonstrates the imbalance of lobbying at EU level: according to the

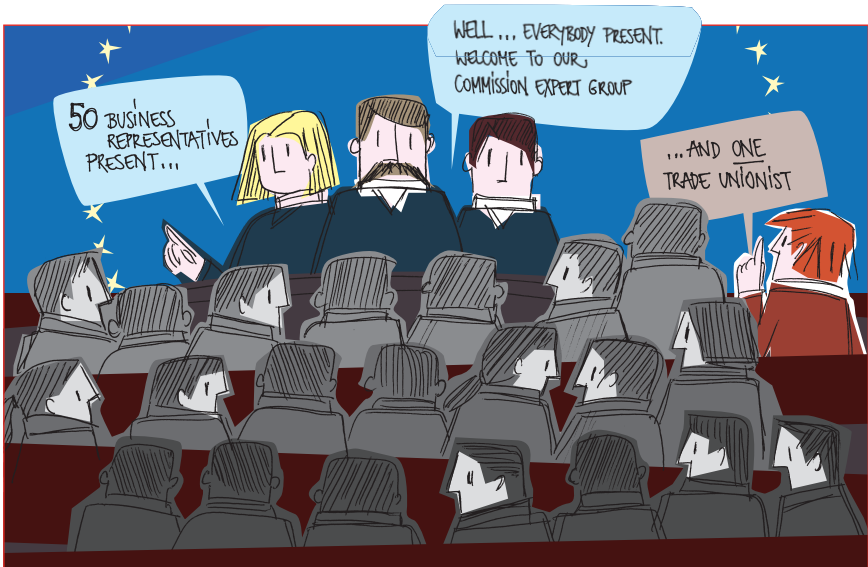
Commission's own data, **75% of the meetings** that have taken place since 2014 were **with business representatives**. BusinessEurope, an umbrella organisation for European employers, heads the list with 206 meetings, followed by Google with 203 meetings⁵.

Although Commission president Juncker has created the prospect of a balance regarding any meetings, the Commission's doors are considerably more often open to business representatives than to employee organisations or other civil society organisations. It is EU politicians and Commission officials who have the power to actively counter the preponderance of business and ensure a balance in their meetings with lobbyists. For it is of decisive importance for political decision-making whether some arguments are repeatedly heard and others perhaps not at all.

What needs to be done?

- EU Commissioners, their closest staff members as well as senior EU officials must make sure that their meetings with lobbyists are balanced.
- The Commission has administrative staff who are responsible for drafting legislative proposals. This makes them a popular target for lobbyists. For this reason, the Commission's obligation to disclose meetings with lobbyists must be expanded to include this group.

5) <https://www.integritywatch.eu/> [last accessed 10 December 2018].



© Julia Stern

Participation in expert meetings

Another, less-known way to influence EU decision-making is to take part in the European Commission's expert groups. Although it often seems to the public as if Brussels has an excessive number of officials, this is not borne out by the facts. Compared to national bureaucracies, the European Commission, which employs some 32,000 staff members, is not that well-staffed.

To make up for the lack of expertise, the Commission avails itself of external experts. It is due to public pressure that the European Commission created an online register in 2009 that includes all of these groups and their members. The register shows that currently **743 expert groups comprising 24,868 members**⁶ advise the Commission on preparing legislative proposals. But the register exhibits shortcomings regarding the transparency and quality of its publications: what is needed is swift publication of agendas, the minutes of meetings and minority opinions as well.

Moreover, a look in the register clearly shows that the expert groups are dominated by business, industry and finance: for example, **80-100% of members of the expert groups on financial services were experts from the financial sector**⁷. The expert group „Regulatory obstacles to financial innovation“ is mostly made up of representatives from the banking sector and extended financial market sector. Eleven of the fifteen members originate from this field, with the remaining four members employed by universities.⁸

If companies dominate the Commission’s expert groups then they can already secure their influence when EU legislation is created and co-draft proposals to their advantage.

However, the European Commission does not only use expert groups but **also awards relevant consulting contracts to corporations**. A study carried out by Corporate Europe Observatory⁹ on the „Big Four“ of the tax advisory firms (Deloitte, Ernst & Young, KPMG and PricewaterhouseCoopers) showed that every year the European Commission awards these companies contracts worth millions of euros to produce tax-related studies. Thus the European Commission consults tax advisers for expertise on tax measures against which the same advisers lobby on behalf of their clients. This is a very obvious conflict of interest that must be remedied by the European Commission. It could for example also consult university or independent research institutes with relevant expert knowledge on such issues. This would prevent business and its lobbyists from writing their own laws. Business can only monopolise legislation if politicians and public servants are willing participants.

6) Search at the Register of Commission Expert Groups: <http://ec.europa.eu/transparency/regexpert/index.cfm?do=search.result> (As of: 11 December 2018).

7) Yiorgos Vassalos, European Commission’s expert groups: Damocles’ sword over democracy, *Juridikum* 1/2013, 87 (91).

8) <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3586> [last accessed 11 October 2018].

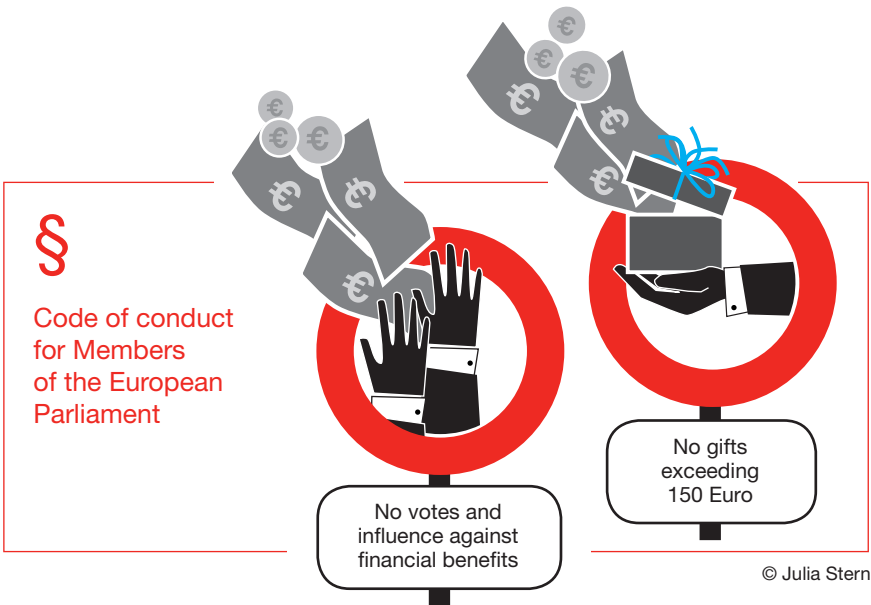
9) <https://corporateeurope.org/power-lobbies/2018/07/accounting-influence>

What needs to be done?

- The Commission must ensure a balance when appointing members of expert groups. Employee representatives and representatives of environmental interests and of civil society must also be given the same opportunities to voice their opinions.
- The European Commission must fulfil its responsibility to the public interest and introduce a new culture regarding its relationship with interest representatives. This includes commissioning independent research institutes to provide it with expertise.

Influencing MEPs

Since the European Parliament has gradually been granted greater co-decision powers, the lobbying of MEPs and their staff members has become more intensive, more professional and also more aggressive. It is estimated that **80% of all amendments**¹⁰ to EU legislative initiatives tabled by MEPs are based on proposals **by lobbyists**. It is part of everyday political life at the European Parliament that lobbyists make amendment propos-



als. To date there has been no transparency about the path taken by these amendments. The legislative footprint introduced at the beginning of 2019 should cast light into this darkness.

European Parliament hearings or cross group meetings of MEPs with interest representatives (EP intergroups) are further ways to exert influence.

Furthermore, MEPs must adhere to the European Parliament's code of conduct. This expressly forbids MEPs from voting or exerting influence in the European Parliament in return for financial benefits. They are also not allowed to accept gifts worth over euro 150.

Unlike EU Commissioners, **MEPs are allowed to have paid outside jobs**, but they must declare them. Only those activities that are clearly lobbying are forbidden. While it is certainly not the case that every outside activity poses a problem, in practice jobs that do not bear the title of „lobbyist“ have also been shown to potentially involve a conflict of interest. In particular, highly paid work or work for lobby organisations that are registered in the EU transparency register should be viewed with scepticism.

According to Transparency International's list of MEPs' outside jobs, released as recently as July 2018, Renato Soru (S&D) and Antanas Guoga (Liberals) are the top earners. Since the start of their tenure as an MEP in July 2014, both have earned over an extra euro 1.5 million: Soru as the director of telecommunications company Tiscali and Guoga through cryptocurrency banking activities.¹¹ In general, the question arises of how MEPs with such an additional income can conscientiously fulfil their mandate. We therefore welcome MEPs fully dedicating themselves to their duties instead.

10) Doris Dialer/Margarethe Richter, „Cash-For-Amendments“-Skandal: Europaabgeordnete unter Generalverdacht, in: Dialer/Richter, Lobbying in der Europäischen Union (2014), 235, 236

11) <https://transparency.eu/mep-income/> [last accessed 18 December 2018].

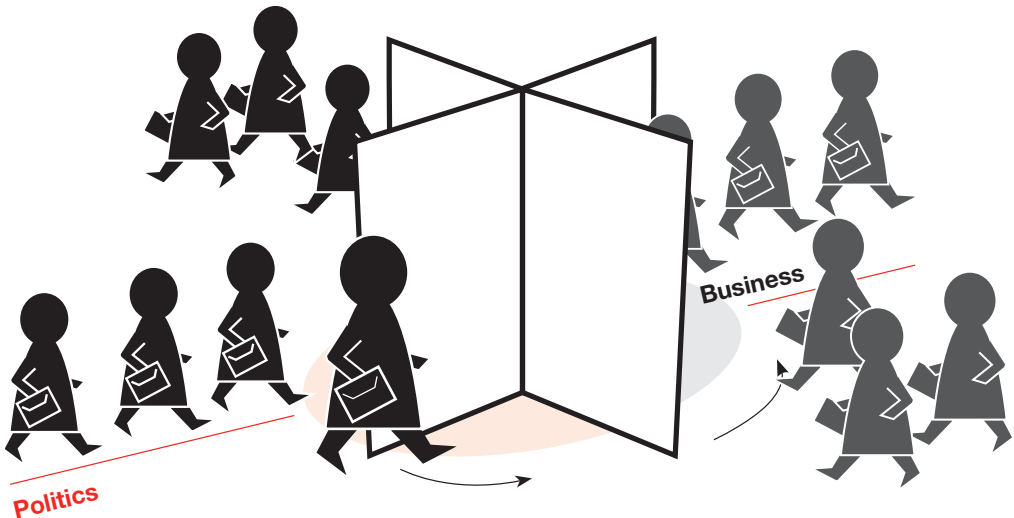
What needs to be done?

- It is important to make procedures in the European Parliament transparent and to disclose the interests behind a motion. A legislative footprint means that this will now happen for the first time.
- MEPs should be banned from pursuing paid outside activities as well as other outside activities that could result in a conflict of interest. This should be monitored by independent committees.

The revolving door effect

The revolving door effect refers to the fact that Commission, European Parliament and Council representatives are offered **lucrative jobs** by corporations involved in lobbying that they happily accept following their time working for the EU institutions.

It is not unusual for **former Commissioners** to establish a foothold in those business areas for which they formerly bore political responsibility.



For example, long-standing EU Commissioner Martin Bangemann joined the Spanish corporation Telefónica. Prior to that, he liberalised the telecommunications markets in the EU. Former Commission president José Manuel Barroso has been working as an adviser for the investment bank Goldman Sachs since 2016. And Neelie Kroes, former Commissioner for competition and digital agenda, acts as an adviser to the likes of online journey provider Uber.¹²

In formal terms, the Commissioners have complied with the rules: following a cooling-off period, which currently stands at two years, former Commissioners are allowed to work for whomever and wherever they wish. Prior to that, they require the Commission's agreement. In the first two years, former Commissioners are prohibited from accepting a lobby job in their policy field. To date, the EU Commission has only issued one ban: former internal market Commissioner Charlie McCreevy was not allowed to take on a position at the newly founded and now liquidated bank NBNK Investments. One week after the deadline expired, however, he signed a contract with another bank (BNY Mellon Clearing).¹³

Only prohibiting Commissioners from carrying out lobbying activities in the policy areas in which they formerly worked does not go far enough. Due to their work they also have excellent contacts in other areas, which could also potentially lead to conflicts of interest. As a result, the lobbying ban should apply to all EU areas and institutions in general. Furthermore, the cooling-off period should comprise three years. During this length of time, the influence of former Commissioners wanes and they become less attractive on the lobbying market.

In contrast to EU Commissioners and officials, a cooling-off period has not yet been introduced for MEPs. When MEPs switch to a lobby job, they merely lose their lifetime access pass to the parliament building.

But the revolving door can also go in the other direction: specialists from companies are hired by the European Commission in particular and are then viewed by the corporations as welcome contact partners in this EU institution.

12) see https://lobbypedia.de/wiki/Seitenwechsler_auf_EU-Ebene [in German, last accessed 18 December 2018]

13) https://lobbypedia.de/wiki/Charles_McCreevy [last accessed 18 December 2018].

The revolving door ensures a direct line to politics. Politicians and officials have inside knowledge, contact with staff members of the European institutions as well as with decision-makers, and are familiar with political processes and habits. The new employers hope that the former politicians and officials will use their political contacts to generate profit for the company.

Employee organisations or other civil society organisations do not offer such incentives. These uneven conditions perpetuate the imbalance in favour of the influence of business, an imbalance that is then compounded by the revolving door effect.

What needs to be done?

- The cooling-off period and thus the prohibition of lobbying work for former members of the European Commission should be extended to three years. This rule should also apply to the president of the European Council.
- The ban on pursuing lobbying activities during the cooling-off period should not only apply to one's own policy area, but be extended to all areas.
- Former MEPs should be obliged to report any new employment for the 2-3 years after they have left the European Parliament so as to provide insight into possible conflicts of interest with their previous work as an MEP.
- Independent committees should decide whether a new position presents a conflict of interest.

C. CORPORATIONS CAPTURE EU LEGISLATION

The huge dimension that business lobbying has assumed in recent years is demonstrated by two studies carried out in 2018 in cooperation with the Chamber of Labour: the study conducted by the Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) focuses on “Corporate Capture”¹⁴ in eight policy areas ranging from the banking sector to the pharmaceutical industry and the arms industry. Corporate Europe Observatory’s study sheds light on the influence of the “Big Four” auditors on EU tax avoidance legislation¹⁵. These studies illustrate just how large the business lobby’s influence on the three most important EU institutions – the European Commission, the Council and the European Parliament – already is and which concrete legislative proposals the business lobby has influenced in its favour.



Corporate Capture in Europe

How Big Business dominates policy-making and threatens our rights: From Dieselgate to TTIP – How corporations influence Brussels and the member states – and what we can do against it.

Source:

<https://www.alter-eu.org/documents/2018/09/corporate-capture-in-europe>

-
- 14) cf. ALTER-EU, Kenneth Haar, Paul de Clerck, Myriam Douo, Jasper van Teeffelen, Rachel Tansey, Léa Caillère Falguyrac, Bram Vranken and Nina Katzemich in: Corporate Capture in Europe (2018), [last accessed 23 November 2018].
- 15) Corporate Europe Observatory (CEO): Accounting for influence. How the big Big Four are embedded in EU policy-making on tax avoidance, Brussels 2018, [last accessed 23 November 2018].

Extensive lobbying of the banking sector

As far back as during the financial crisis, the banking corporations showed that they spared neither trouble nor expense to assert their interests.¹⁶ An armada of some 1,700 lobbyists was sent to Brussels to enforce their interests. Intervening in EU policy was worth euro 120 million a year to the financial sector. To this very day, the financial sector devotes a great deal of staff and funds to influencing EU legislation.

The financial sector is remarkably dominant in the Commission's expert groups: 80% of members of the advisory groups on financial topics come from this sector. Other interest representatives, for example from the consumer protection or employee sectors, are usually not represented in these groups.

It is especially common for former EU decision-makers to switch sides to work in the banking sector. In terms of EU Commissioners alone, approximately a dozen former politicians have taken up lucrative jobs in banking in recent years. These include former Commission presidents José Manuel Barroso and Romano Prodi.

The financial lobby's intervention has paid off in more ways than one: during the financial crisis, it was often said that banks must become smaller, as this would limit the negative effects of crises on national economies. Banking lobbyists were able to change opinions in expert groups: Europe was "overbanked" and small banks should be merged with larger banks. This point of view finally prevailed when it came to EU banking regulation. A further example is the capital requirements for banks. Following intervention by the financial sector, the way capital is calculated was changed. All of a sudden, Deutsche Bank is now euro 28 billion better off than before.

16) Alice Wagner, Frank Ey: Lobbying in Brussels - breaking the excessive power of corporations, publication of AK Vienna (2015).

17) cf. Accounting for influence - How the Big Four are embedded in EU policy-making on tax avoidance, Corporate Europe Observatory, July 2018.

The Big Four – the great power of the business consultancy firms

The topic of influence on EU economic policy repeatedly features the term the “Big Four”. This is the name given to the four auditing corporations Deloitte, Ernst & Young (EY), KPMG and PricewaterhouseCoopers (PwC). The Big Four are highly influential in the area of EU tax policy, among other areas, with the aim of supporting lower corporate tax payments.¹⁷

In some cases, odd developments can be observed: every year the European Commission pays the four companies huge sums to advise it in the fight to curb tax avoidance strategies. In 2018 alone the Commission paid the four auditors euro 10.5 million to conduct tax and customs studies. Meanwhile, however, the Big Four endeavour to keep numerous clients’ tax obligations to as low a level as possible.

The Big Four have excellent lobbying networks and belong to a string of associations such as the European Business Initiative on Taxation, the European Contact Group and the American Chamber of Commerce to the European Union. Furthermore, Deloitte, PwC, EY as well as KPMG have representatives in advisory groups which are supposed to support the Commission in combating tax avoidance.



Source: <https://corporateeurope.org/sites/default/files/tax-avoidance-industry-lobby-low-res.pdf>

The revolving door is also frequently in service at the Big Four: former EU finance Commissioner Jonathan Hill, for example, went on to take a job at Deloitte. A former Commission director followed suit and also joined Deloitte. A number of national tax and finance attachés subsequently took up positions at PwC, Deloitte, EY and KPMG.

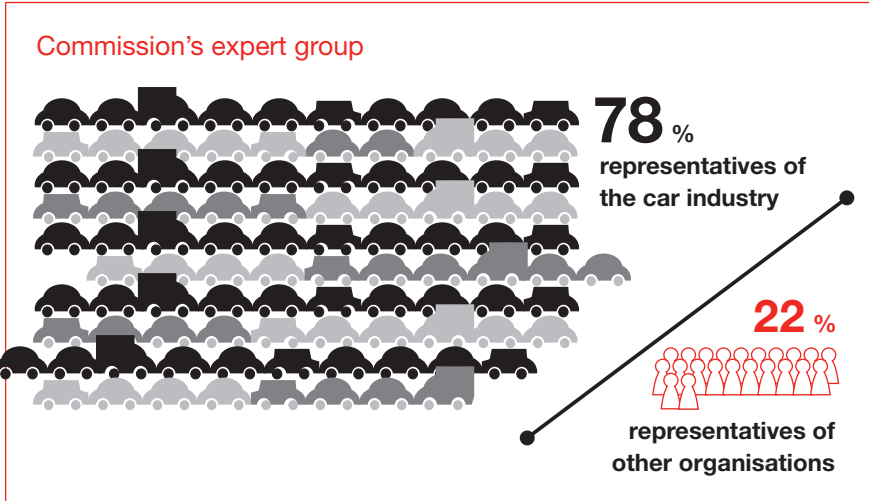
At any rate, the four auditors' lobbying strategy was successful: a legislative proposal for new transparency rules for tax advisers was watered down and a proposal to combat companies moving profits to other (lower taxed) countries ("public country-by-country reporting") was weakened to such an extent that companies can now keep "commercially sensitive" data secret.

Dieselgate: the automobile industry in the driver's seat

The Dieselgate scandal erupted in the autumn of 2015, when the US Environmental Protection Agency announced that Volkswagen had cheated with regards to the pollutants emitted by its diesel cars. The permitted emissions standards were only reached in tests. During normal operation, the cars emitted nitrogen oxides at levels up to 40 times higher. It later transpired that other car companies such as Fiat, Renault, Mercedes and Opel had also used the same tricks.

How is it possible for the automobile industry to capture European legislation? Up to three quarters of the Commission's expert group responsible for developing proposals to regulate the sector is made up of representatives of the automobile industry. 78% of the members of the group responsible for looking into the actual levels of car pollutant emissions came from the sector. For years, they were able to delay the introduction of more realistic tests.

But the automobile industry does not just have allies at the European Commission. Germany, in particular, works to advance the industry's interests. The magic word is jobs, jobs, jobs. For the sector's wishes to be represented at EU level, all that is needed is for the German BMW or VW boss to call the Federal Chancellor to remind her of the industry's significance for the German economy.



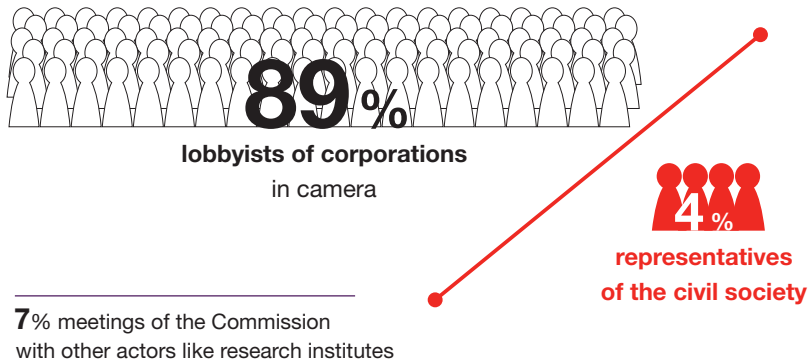
Source: https://www.alter-eu.org/sites/default/files/documents/corporate_capture_web_1.pdf, S. 102
 © Julia Stern

Every year some 75,000 people in Europe die as a result of poor air quality. Given this figure and the detrimental effects pollutant emissions have on the climate, the European Commission must act. To develop sustainable mobility concepts for the future, the Commission must not only consult representatives of the automobile industry, but increasingly involve representatives from all different sectors of society in policy-making.

How corporations intervene in EU trade agreements

Whether it is the trade agreement between the EU and Canada (CETA), Japan (JEFTA) or the trade agreement concluded with the US (TTIP) after many years of negotiation: they all bear the signature of big business. Commissioners and officials especially like to meet with business representatives to discuss trade agreements between the EU and other countries. Between January 2014 and January 2017 senior officials from the Directorate-General for Trade held 213 meetings with lobbyists to discuss the EU-Japan trade agreement (JEFTA). In 190 instances (89% of all meetings) business lobbyists were present. In only 9 instances (4% of

Who the negotiators of the EU-Japan trade agreement met



Source: https://www.arbeiterkammer.at/interessenvertretung/eu/internationalerhandel/handelsabkommen_auf_dem_priefstand/JEFTA_Mythen_und_Fakten.html © Julia Stern

the meetings) did the Commission meet with non-governmental organisations, consumer associations and other organisations that represent the public interest. Not a single meeting took place with trade unions or small and medium-sized enterprise associations. The remaining 7% of meetings were with public institutions and think tanks.¹⁸

The substantial influence wielded by business was especially evident in the TTIP negotiations. As early as during preparations for the negotiations in 2012/2013, 92% of all of the Commission's contact to lobbyists was to business lobbyists. Even once the negotiations had started, EU Commission officials met in three out of four cases (75%) with business representatives to discuss the content of TTIP.

When developing new political measures, the European Commission regularly asks interested parties for their opinion (consultations). This is also repeatedly the case with EU trade agreements. During the TTIP consultation in 2012, the Commission strongly encouraged business associations such as the pesticide lobby European Crop Protection Agency (ECPA) to

participate and raise their concerns. Trade unions, environmental protection organisations and consumer associations were not expressly invited. The Commission merely sent these organisations a standard confirmation of receipt for their contributions to the consultation. Business representatives, on the other hand, enjoyed special treatment: for example, the Commission actively invited the European Association of Automotive Suppliers (CLEPA) to engage in further discussions on the content of their suggestions.¹⁹

The consultations on investment protection posed a further obstacle to the equal involvement of all societal interests in shaping EU trade agreements. As a result of strong public opposition to the planned enshrinement in TTIP of special rights to sue for investors, the European Commission ran a consultation in 2014. This consultation was as highly technical as a further consultation on the Multilateral Investment Court.²⁰

Although the answers were thoroughly negative especially in the first case – 97% of participants rejected privileged rights to sue for investors²¹ – the Commission stuck to its proposals, with the justification that the consultation was not a referendum on investor protection. This example clearly indicates how the Commission tries to present extremely political issues in a technically complicated way. By doing so it backs business interests that run counter to employee, consumer and environmental interests.

18) <https://corporateeurope.org/international-trade/2018/05/jefta-exclusive-trade-between-eu-negotiators-and-big-business>, [last accessed 11 October 2018].

19) Corporate Europe Observatory: TTIP – a corporate lobbying paradise, July 2015, <https://corporateeurope.org/pt/node/2105> [last accessed 18 December 2018].

20) Friends of the Earth Europe: Assessment of the public consultation on the proposed Multilateral Investment Court, November 2017, http://www.foeeurope.org/sites/default/files/eu-us_trade_deal/2017/mini_briefing_consultation-final.pdf [last accessed 18 December 2018].

21) Corporate Europe Observatory: Investor rights: the many voices ignored by the Commission, March 2015 <https://corporateeurope.org/en/international-trade/2015/02/ttip-investor-rights-many-voices-ignored-commission>.

Aggressive lobbying by the digital economy

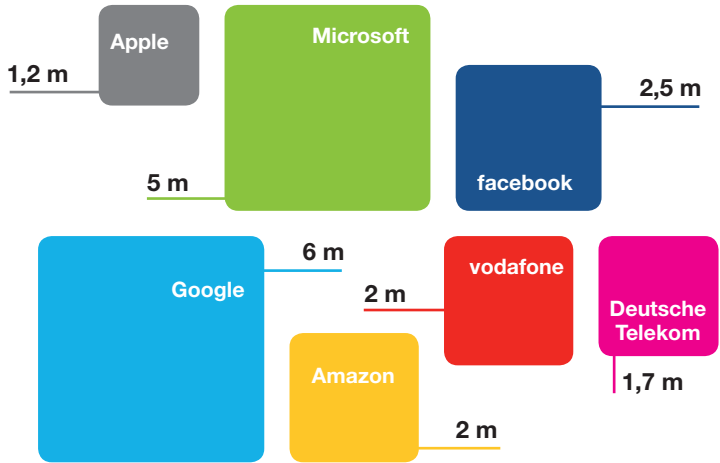
The success of Amazon, Google, Facebook and the like are proof: the digital economy is booming. By supporting this sector, politicians hope for not only high economic growth, but also increased influence for Europe in the world. The capital is personal data which provides information about people's consumer habits as well as their leisure activities or state of health.

Businesses' commercial interest in data rapidly comes into conflict, however, with fundamental rights such as the protection of privacy or of personal data. When the European Commission plans to adopt EU data protection legislation, it is subject to aggressive lobbying by the digital economy. One of those to report this was the competent Commissioner Viviane Reding during the discussions about the General Data Protection Regulation. An unbelievable 3,999 amendments tabled by MEPs are also considered to be a direct consequence of lobbying regarding the regulation. Many of the amendments opposed increased data protection.

These huge efforts are not surprising considering the substantial amount of money the sector spends on lobbying activities: according to the EU transparency register, Google alone spent around euro 6 million for EU lobbying in 2017. Microsoft (around euro 5 million), Facebook (around euro 2.5 million), Amazon (around euro 2 million), Vodafone (around euro 2 million), Apple (around euro 1.2 million) and Deutsche Telekom (around euro 1.7 million) also appear in the Register with high levels of lobbying expenditure.

Most companies, however, not only lobby by themselves, but are also members of relevant associations that pursue identical interests. Microsoft, for instance, is a member of 30 associations or think tanks, with Google being a member of 24 and Amazon of 12. This provides the digital economy with various possibilities to spread in different contexts the same messages about the danger that data protection efforts pose to the EU's ability to compete and innovate. This quickly gives rise to the impression that these opinions are met with extensive support. Even if the sector does not manage to assert its will at all levels it does succeed in watering down proposals and weakening data protection.

Digital economy,
money spent for lobbying in Euro



Source: EU transparency register (request of 10 December 2018) © Julia Stern

D. EU POLITICIANS HAVE AN OBLIGATION TO THE PUBLIC INTEREST

The examples and facts that we have brought together in this brochure demonstrate just how far-reaching the influence of business on the political decision-making process is. Substantial financial and human resources are invested into influencing policy-making. The strategies used range from personal meetings with EU decision-makers to corporations extending lucrative job offers to EU decision-makers and even the use of aggressive rhetoric and membership in European Commission advisory groups. As a result, corporate interests very often prevail at the expense of the public interest, which in turn plays into the hands of populist forces.

Continual public pressure, in particular from trade unions and civil society, can result in successfully influencing political decisions for the benefit of employees and consumers. We must repeatedly remind EU politicians that they do not have an obligation to corporations but the people. In order to one day break the dominant influence that companies exercise on European rules, there is a clear need for a number of different measures. In addition to the objectives of a fundamental strengthening of the EU's democratic culture and of a corresponding awareness among EU citizens – objectives that can only be achieved in the long term – the following short-term measures can be taken in any case:

- Trade unions and civil society as well as underrepresented interest groups must be much more strongly involved in decision-making. The Commission must strive for a balance in its meetings with interest representatives, and when forming expert groups.
- Increasing the number of officials can substantially reduce dependency on external experts.
- Outside jobs or changing sides should be subject to independent monitoring.

- MEPs should be banned from pursuing outside activities that could lead to a conflict of interest.
- Only a compulsory transparency register can ensure that all companies or organisations that lobby vis-à-vis EU institutions are recorded.
- The Council of the EU should also commit itself to disclosing its lobbying meetings.

E. FOLLOWING LOBBYING – LINK COLLECTION

- EU Transparency Register:
https://ec.europa.eu/info/about-european-commission/service-standards-and-principles/transparency/transparency-register_en
- Register of Commission Expert Groups:
<http://ec.europa.eu/transparency/regexpert/index.cfm?Lang=EN>
- Publication of outside jobs of MEPs:
<http://www.europarl.europa.eu/meps/en/home>
- Lobbyfacts EU – Statistics and data on lobbying in the EU, published by Corporate Europe Observatory, LobbyControl and Friends of the Earth Europe: <http://lobbyfacts.eu>
- Revolving Door Watch – Publications on changing sides from politics to business and vice versa, published by Corporate Europe Observatory: <https://corporateeurope.org/revolvingdoorwatch>
- Lobbypedia – German webpage on, among others, change of sides, Lobbying in the EU, published by LobbyControl:
<https://lobbypedia.de/wiki/Hauptseite>
- Lobby Planet Brussels – Insights into the lobbying jungle in Brussels, published by Corporate Europe Observatory:
<https://corporateeurope.org/lobbyplanet>
- Alliance for Lobbying Transparency and Ethics Regulation (ALTER-EU) – page on lobbying in the EU with current topics and examples on captured legislation Lobby transparency, expert group etc.
<https://www.alter-eu.org/>



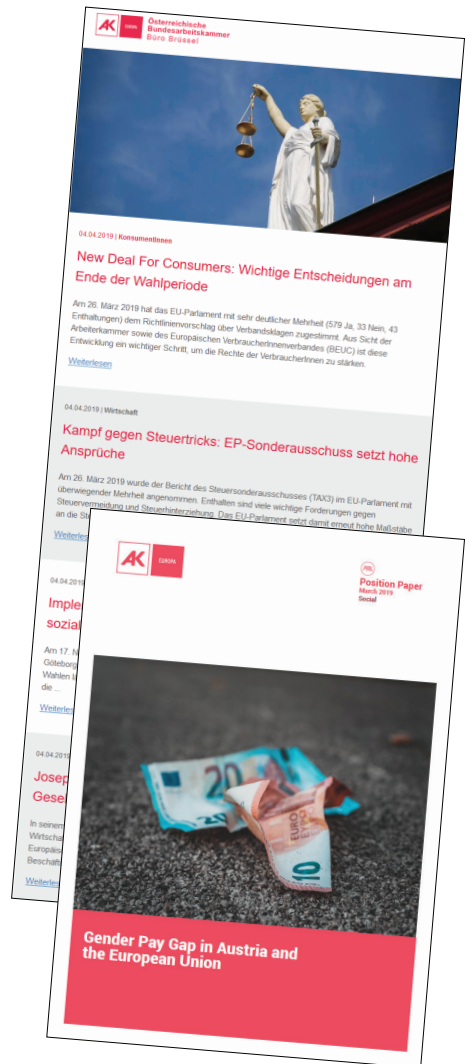
AK EUROPA Newsflash

Critical analysis directly from Brussels

AK EUROPA's Newsflash provides articles and position papers on recent developments at the European level.

Our news articles focus on a critical examination of the decisions of the European institutions. They provide background informations on the political process and recent developments in the fields of social and consumer policy, economics, trade and environment. In addition, position papers offer our viewpoints on current legislative proposals and give recommendations to policy makers.

Subscribe online:



www.akeuropa.eu



BESTELLEN!

Unter
<https://wien.arbeiterkammer.at/Newsletter.html>

können Sie den EU-Infobrief
kostenlos bestellen.

infobrief eu & international: EUROPA UND INTERNATIONALES IN KRITISCHER UND SOZIALER PERSPEKTIVE

Der EU-Infobrief erscheint 4x jährlich im digitalen Format und liefert eine kritische Analyse der Entwicklungen auf europäischer und internationaler Ebene. Die Zeitschrift der Abteilung EU & Internationales der AK-Wien fokussiert dabei Themen an der Schnittstelle von Politik, Recht und Ökonomie. Anspruch ist nicht nur die Prozesse in den europäischen Institutionen zu beschreiben, sondern auch Ansätze zur Überwindung des Neoliberalismus zu entwickeln. Kurze Artikel informieren in prägnanter Form über aktuelle Themen. Langbeiträge geben den Raum für grundlegende Analysen, Buchbesprechungen bieten eine kritische Übersicht einschlägiger Publikationen.

IMPORTANT NOTE

It is a matter of fact for us to research and work on all content of our publications very thoroughly. However, we cannot guarantee that everything published is complete and up-to-date, or that no legislative changes have occurred since the last issue. Therefore, we ask you to always take into account the date of publication of this brochure stated in our legal disclosure.

If you have any questions please contact our hotline: +43 (0)1 501 65 0

For more information please visit our website:
www.arbeiterkammer.at

All current AK publications can be downloaded here:
■ wien.arbeiterkammer.at/publikationen

Additional ways of ordering this brochure:
■ E-mail: bestellservice@akwien.at
■ Telephone: +43 (0)1 501 65 1401

Article number **106**
Second revised print edition, March 2019

Media owner: Kammer für Arbeiter und Angestellte für Wien (Chamber of Labour Vienna),
Prinz-Eugen-Straße 20-22, 1040 Vienna, Telephone: +43 (0)1 501 65 0

Publication according to §25 of the Austrian Media Act:
wien.arbeiterkammer.at/impressum

Cover photo: © gremlin - Gettyimages

Information graphs pages 4, 8, 16, 18, 20, 27, 28, 39: © Julia Stern

Graphic design and layout: Julia Stern, schere.stern.papier@gmail.com

Print: AK Wien, 1040 Vienna

Publishing and production place: Vienna

Date of publication: March 2019



GERECHTIGKEIT MUSS SEIN



wien.arbeiterkammer.at