

Case study: *Lobbying* for the elaboration of the *European Climate Control Package* and the ratification of the *Kyoto Protocol*

Georgia VITCA,

Babeş-Bolyai University, Cluj-Napoca

Email: vitcageorgia@yahoo.com

Keywords: *political, communication, lobbying, legislation making*

Abstract: *Lobbying is an old but also a modern concept. It is an old concept because it has been used starting from antiquity and it is new because it was conceptualized as such only in the last century. Both political science and communication science are researching this interdisciplinary issue. The article presents a case study on lobbying concerning the Climate Control Package and the Kyoto Protocol in Europe.*

Theoretical concepts

- *Lobbying is the intentionate influence on decision-making processes concerning political decisions through persons, who are not involved in these processes on a regular basis. (Leif & Speth, Die fünfte Gewalt-Lobbyismus in Deutschland, 2006).*
- *Lobbying refers to an unofficial exchange of information with public institutions as a minimum concept, but also to the unofficial attempt to influence these institutions as a maximum concept. (Schendelen, 2005).*

These are two of the most significant definitions for lobbying, definitions which place the concept at the border between political science and Public Relations, as it refers not only to a simple process of communication, but to an act of persuasive communication.

Peter Köppel offers a different definition for the term *lobbying*, which underlines five significant factors connected to the concept (Köppel, 2003): *The legislative decisions of administrative institutions and public institutions are being influenced by persons which are not involved in decision-making processes. This influence must be wanted and intentionate and is accomplished through special instruments of communication. The purpose of lobbying is the precise influence on certain decisions, but it must not be understood as an influence upon the process of designing political and statal parameters.*

The concept of *lobbying* is connected to other 3 concepts from political terminology. The first of these concepts is *influence*. *Lobbying* is first of all an effort, which is not always sufficient to cause changes or to exercise a real influence. There are quite a number of factors that can interfere between the effort submitted to the problem and the expected results, such as the quality of lobbying, opponents and the access to official institutions and representatives. Lobbying is not at all necessary when orthodox methods such as a petition or an official meeting can be used to achieve the purpose. However, lobbying is useful when it comes to increasing the chances of being successful on the European arena.

Lobbying can also be understood as *participation*, it is nevertheless very different from the significance one can give to the term during the electoral campaign. In the very best case, the term can be understood as entering a certain arena or a political circle, undergoing a set of negotiations with the purpose of gaining support and demonstrating loyalty towards one's stakeholders or supporters. Participation is seldom a singular activity, but rather an interactive process.

The third term connected to lobbying is *democracy*. A group of lobbyists can endanger the honorable development of democratic processes, but 1000 groups of lobbyists stand for an efficient representation of interests, which supports the parameters of democratic systems.

The Kyoto Protocol and *European Climate Change Programme*

The European legislation concerning climate issues has attracted numerous interest groups, especially due to the establishment of a consultative process by the European Commission, which aimed at attracting the participation of both economic and public groups. The representation of public interests had been coordinated by the interest group *Climate Network Europe*.

Climate Network Europe is an interest group with an intense activity on a European level and is made up of more organisations such as: *Transport & Environment, The World Wildlife Fund, Greenpeace or Friends of the Earth* (CAN Europe). CNE's vision refers to the process of motivating global political structures in the direction of protecting global climate, in a manner that promotes equity and social justice between peoples and a sustainable development of local and regional communities. The interest group's

mission is to offer civil society the necessary instruments to influence the structures responsible for creating an efficient global strategy meant to reduce green-house gases and to implement these at an international, national and local level.

The European Climate Change Programme (ECCP) is a package of measures developed in the year 2000 by the European Commission as an answer to the international Kyoto Protocol from 1997 (The Climate Action Network. Civil Society Tackling Global Negotiations). This programme can be seen as a preparatory stage, whose purpose was to elaborate a proposal to ensure the ratification of the Kyoto Protocol. The active involvement of the European Parliament in developing a package of measures has determined the lobbyist groups' orientation towards the European Commission, which acted in the purpose of attracting a great number of stakeholders. ECCP had become a consultative process with many stakeholders, including experts from member states of the European Union, economic groups, environmental NGO's concentrated on developing different ways to reduce green-house gas emissions.

The content of the international Kyoto Protocol offered the legislative basis for the conformation of European economic actors to the clause of reducing harmful gases (The Climate Action Network. Civil Society Tackling Global Negotiations). On the other hand, economic players would benefit from flexibility and independence in making a decision regarding the implementation of the protocol, which did not lay out clear instructions about the steps that should be taken. The thought behind the decision of not imposing strict measures through the protocol was not to affect the economic activity and profit of industrial players.

The Kyoto Protocol needed to be ratified by all member states of the European Union, which is why the European Commission received the task of designing the legislative act. The main purpose for designing the ECCP was to find solutions with minimum gas-reduction costs which could allow the European Union to accomplish the measures of the Kyoto Protocol. At first a series of committees and work groups were built within the European Commission. The themes on which the work groups and committees are to focus are: energy, traffic, industry and flexible mechanisms proposed by the Kyoto Protocol.

The European Commission decided on the formation of 7 work groups. The main opinion differences between the members of the work groups were related to the issue of finding a balance between the desire to reduce harmful gases as much as possible and the attempt to apply flexible measures that would not damage the activity of economic actors.

As a result of the dialogue between work-groups a new concept had been put forward: *the commercialisation of emissions*. This concept referred to the economic actors' purchase of certain technologies, processes and practices, which would contribute to the implementation of policies conceived in the purpose of reducing green-house gases. The European Commission was very fond of this concept as it created a balance

between the flexibility put forth by the Kyoto Protocol concerning the reduction of emissions at an acceptable level and the financial costs that the industry would have to bear in order to implement the measures of the Kyoto Protocol.

Lobbying strategies used and their results

The process of conceiving ECCP had taken the form of an active debate between actors of contradictory positions and a multitude of interests, which tied diverse alliances as well as coalitions strongly influenced by the political interests of these actors (Michalowitz, 2004). The economic players involved in this process were on the one hand producers of green-house gases, such as oil companies, energy providers or transport companies and on the other hand they were also involved in reducing the emissions and finding alternative ways of producing energy. These actors expected to profit from the measures of the Kyoto Protocol. The other group of stakeholders involved in the debates were organisations representing public and environmental interests. These two groups of actors met within the 7 work-groups established by the European Commission. Regardless of the European Commission's attempt to include representatives of all stakeholders involved in the seven work-groups, the economic sector still benefited from over-representation.

The vast majority of governmental and non-governmental actors had become involved in conceiving the ECCP in the initial phase of the debates at the invitation of the European Commission. The economic actors had made use of their involvement in the development of the ECCP to discover which preliminary measures they would have to take concerning the reduction of emissions. They were able to monitor the situation by their involvement in the discussion, their participation in the work groups and contacts to different officials in European politics. The oil companies directed their efforts towards reaching a consensus within the coalitions and alliances built inside the work groups and towards presenting this consensus to the European Commission as if it would belong to the entire oil industry.

In order to negotiate efficiently with business groups, representatives of the public and environmental groups decided to join forces under the guidance of *Climate Network Europe*, which was confronted with the situation of being forced to hire new staff to benefit from expertise in all the subjects discussed by the work-groups built by the European Commission. Due to its structure, *Climate Network Europe* could play a significant role in the debates. CNE was made up of two categories of members: national associations, which delegated the lobbying tasks to the mother-organisation, did not consider the European legislation and had little impact upon CNE; the second type of members were organisations with their headquarters in Brussels, especially NGOs, which proved to be highly efficient because they functioned on the basis of voluntary participation and had therefore a homogenous opinion and a common goal.

CNE's approach of designing the ECCP was to become active within work-groups and to organize support-campaigns for the project within EU member states. The legislative proposals that resulted from CNE's activities had only partially been published. (Michalowitz, 2004).

Climate Network Europe had focused on influencing European institutions, especially the Commission, the Parliament and the Council of Ministers. CNE's member organisations had undertaken the task of lobbying at a national and international level, but did not involve itself in debating climate-related issues, which was actually the assignment of the mother-organisation. From all the organisations that had become involved in designing the proposal for the ECCP, *Climate Network Europe* was the one that had the highest number of members taking part in the work-groups established by the European Commission.

The groups representing public interests benefited from their reputation as competent partners in the debates connected to climate issues, however they had to compete with economic actors, which compounded their ability to delineate their arguments. The Commission tried to favorize the public interest groups establishing a rule through which one third of the whole argumentation time was attributed to the NGO's (Michalowitz, 2004).

The decisions made by the Commission owed themselves mostly to the lobbying done behind closed doors. Another disadvantage for the NGO's was the lack of staff involved in designing the project proposal. The final package of measures resulted as a consequence of the compromise between NGO's and the representatives of economic interest groups.

In what the evaluation of results is concerned, the number of adopted measures was relatively small. The proposal of the ECCP referred to the energetic performance of buildings, an efficient supply of bio-energy, the reduction of certain categories of green-house gases which should later on take force in the form of legislative acts. A number of 11 measures had been modified and 22 additional measures had to be discussed in the near future.

The results of the debates was presented to the Council of Ministers, which agreed to the Commission's proposal to ratify the Kyoto Protocol. On the 31 of May 2002, the European Union ratified the Kyoto Protocol (The Climate Action Network. Civil Society Tackling Global Negotiations). The problems connected to the Protocol which remained undiscussed referred to the implementation of the Protocol, which had also involved the European Parliament.

The greatest success for *Climate Network Europe* was the approval of the *European Climate Change Programme* and the ratification of the Kyoto Protocol. The organisation was also quite proud of the fact that it had been the only NGO that had been officially consulted by the European Commission in climate issues. Nevertheless, there had been some structures of the Commission that evaluated the approval of the ECCP as unsatisfying, taking into consideration the clear results that had been obtained. On

the other hand, the Commission had given greater importance to the information and opinions coming from the side of the industry representatives.

The non-governmental actors were not sure of the real impact of their work upon the European Commission's final decision. The work-groups established by the Commission had proved incapable of elaborating homogenous proposals, so that the final results reflected a diversity of opinions. As a consequence, the process of elaborating the *European Climate Change Programme* underlined the variety of interests and opinions of the industrial and non-governmental actors, but did not lead to the implementation of satisfactory and realistic solutions (Michalowitz, 2004).

Whilst *Climate Network Europe* viewed its success in the ECCP case as a major one and as an accomplishment of its initial expectations and capacities, this case of lobbying can be seen as a case with vague goals, interests and results. One must mention the fact that this case reflects a lack of resources on the side of groups representing public interests. On the other hand, it is very clear that all the stages involved in the elaboration of *European Climate Change Programme* had been controlled by the European Commission, which reflects certain European political interests in climate issues.

In what actors from the public sector are concerned, one can consider that they had applied an adequate strategy by forming coalitions and alliances. Most likely the only possibility which could have led to obtaining a greater success would have been the massive employment of experts on all the subjects discussed during the debates.

The major presence within the work-groups of representatives of the economic sector had a strong impact upon the lobbying strategy adopted by *Climate Network Europe*. The explanation that lies behind this reality is the high number of resources and the great variety of interests that actors representing the industry had in comparison to those of the NGOs. As a consequence, the lobbying done by public interest groups had been sometimes completed by that of the economic actors.

The final result of the negotiations for the elaboration of the *European Climate Change Programme* is more connected to the percentage of the participants than to the content of the presented proposals, as economic actors prevailed within the work-groups and NGOs mainly focused on the task of lobbying.

Conclusions

The European Union can be seen as an ambitious political experiment with the purpose to replace old accommodation practices with a system of debates and negotiations, which could offer an increased legitimacy to decisions and changes taking place at the European level. The European decision-making system is accredited with a great significance, due to the supremacy of the European laws over the national legislation. Numerous interest groups coming from pluralist societies within the member states try to intervene in the decision-making process, taking advantage of

the permeability and openness of European institutions. European officials encourage the appearance of new problems and stakeholders, as these certify the relevance of the European system and support the process of European integration.

The analysis of the European political system demonstrates its complex nature, determined by its institutional structure, but also by the multitude of actors and networks involved. For interest groups in general as well as for a multitude of actors involved lobbying is a difficult task. Lobbying is confronted with a great challenge determined by the multiple levels of power within the European Union.

Of great importance to lobbyists is the European Commission and the Council of Ministers. In spite of its sovereign position in what the initiation of legislative proposals is concerned, the powers of the European Commission are often overestimated. To back our statement up we must mention that this institution has a highly fragmented structure. On the other hand, in spite of the formal independence of member states, numerous authors see the Council of Ministers as the central power organ of the European Union.

The European Commission, the European Parliament and the Council of Ministers are the target structures of lobbyists and interest groups, which are active in Brussels. In what the European Commission is concerned, one can state that this is the European structure most accessible to lobbyists, because of its law-initiation task, process during which an informational deficit often occurs, which the Commission tries to keep in balance by encouraging experts from the external environment to get involved. Under these circumstances, representatives of certain interest groups can benefit from the possibility to influence the officials responsible of writing the legislative proposals. Once the legislative proposal has been designed, the chances to change anything regarding this proposal are very slim. In the case that lobbying does not produce the desired effects in the stage of writing the legislative proposal, interest groups have only one possibility left to reach their goals: to lobby in the Council of Ministers or European Parliament with the purpose of eliminating certain unfavourable details from the proposal or of modifying these details in the direction desired by the lobbyists.

In what the European Parliament is concerned, some interest groups see it as an additional target or a main target, depending on their resources. Interest groups which rely on a broad set of resources see the European Parliament as an additional target, which is part of an extensive lobbying strategy directed towards a large number of targets. For interest groups with limited resources, the European Parliament is often their only possibility to make their voices heard.

The Council of Ministers is the most difficult to influence out of the three European institutions mainly because of its structure. The most efficient way to influence the Council is by gaining the support of one of the members of the working groups within its structure and building up a lobbying strategy at a national level.

The most commonly used definition of the term lobbying refers to various ways of interest representation in the European Union ("Lobbying is the intentionate influencing

of political decision-making processes through persons who do not normally take part in these processes”). The problem in finding a universal accepted definition of the term lobbying is a consequence of the European diversity of lobbying, but it is also a cause for the numerous faulty attempts to regulate European lobbying.

Other barriers in regulating European lobbying are the Commission’s dependency on outside expertise when certain issues are concerned, which makes the Commission reserved towards posing constraints on lobbying or the various cultural differences within the EU, which makes enforcing regulations and an image of lobbying in member states an old problem. The only progress in this issue was the establishment of a code of ethics accepted by all European institutions, which, in the lack of a system of checks and balances, is quite inefficient.

The representation of individual and group interests is a legitimate activity of a democratic system and the criticism that this process is often subjected to mostly refers to the way in which it is conducted and not to its legitimacy. In today’s society, interest representatives are commonly organized actors. Interest groups are the most significant organizations of this type and are a part of the political system of the European Union. The various interest groups participate in the processes of opinion-formation at European level.

In order to efficiently influence the European institutions interest groups usually choose lobbying strategies, not traditional methods. Applying methods and tactics specific for lobbying and Public Affairs can also be seen as a way of paying respects to the diversity of values and stakeholders within the European arena.

There are numerous challenges, options and dilemmas which an interest group has to deal with. For every specific arena, lobbyists have to take into consideration a great number of factors: positions and interests involved, stakeholders, the time dimension, the limits of the arena and they must find the most efficient strategy to manage the arena. The lobbyist group itself has to be able to evaluate its own limitations.

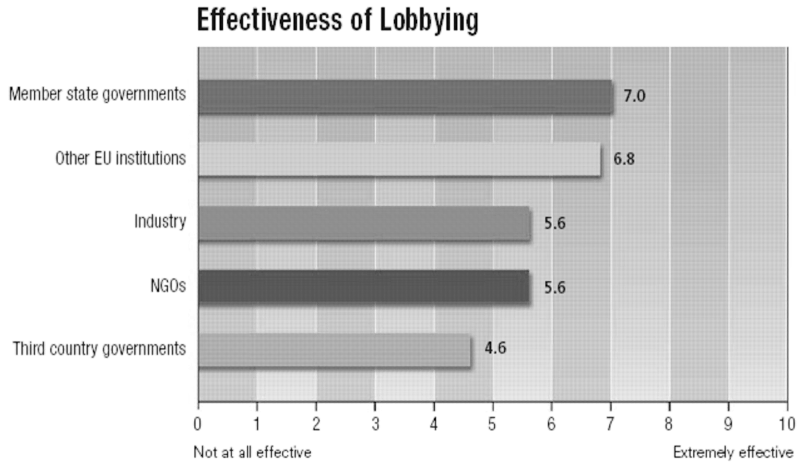
Performing a detailed analysis of the European decision-making space can considerably increase the chances of success for an interest group. One must not overlook the situations in which a hazard event can deliver the desired results, but these types of situations are very rare. The analysis of the European arena is more or less complete because of factors such as insufficient information, lack of time or unreliable sources of information. However, based on an initial evaluation, the interest group is capable of generating a set of options regarding the tactics and strategies that can be applied later on.

All in all, we find that an interest group which practices professional lobbying brings collateral contributions to the democratic system of the European Union. There are nevertheless numerous groups which remain passive, but criticise the procedures and results of European politics. These players have a negative impact on European democracy. The instruments of lobbying offer the opportunity to a large number of groups to take part in the democratic processes of the EU and overrule the possibility

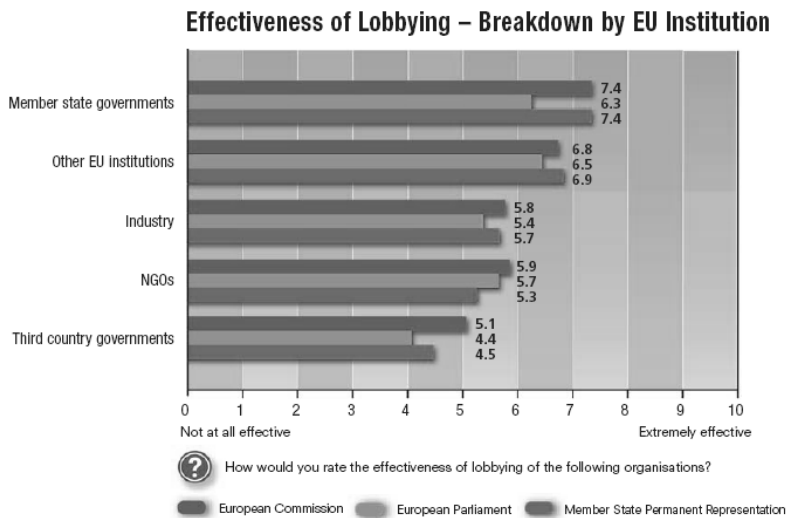
that only a small elite can exercise its influence upon the decision-making processes in the European arena. In a nutshell, the efficient functioning of European democracy depends on numerous groups and persons who know how to get involved in decision-making processes and how to practice professional lobbying.

Annex

1. The efficiency of lobbying practiced by certain actors (The Definitive Guide to Lobbying the European Institutions)

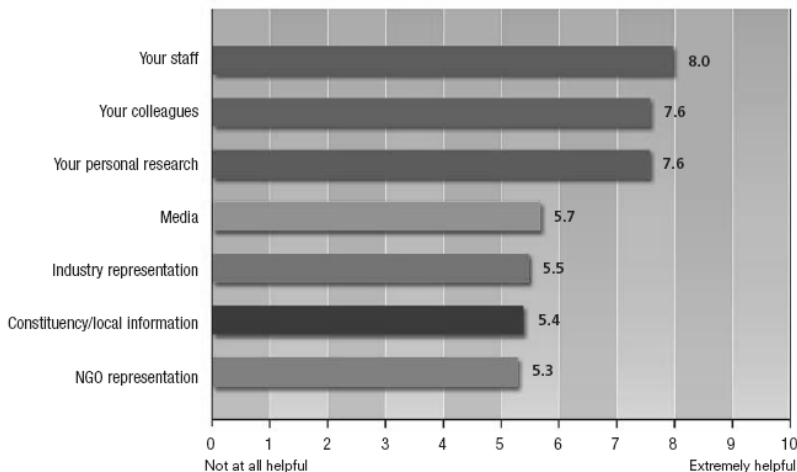


2. The efficiency of lobbying practiced by certain actors on the European Commission, European Parliament and other member state representation actors (The Definitive Guide to Lobbying the European Institutions)



3. The helpfulness of information sources to lobbyists (The Definitive Guide to Lobbying the European Institutions)

Helpfulness of Different Information Sources



References

- Bouwen, P. (2001). *Corporate Lobbying in the European Union: towards a theory of access*. San Domenico: European University Institut.
- Buholzer, R. (1998). *Legislative Lobbying in der Europäischen Union: ein Konzept für Interessengruppen*. Bern: Haupt Verlag.
- CAN Europe. (fără an)/22.04.2008, de pe Climate Action Network: http://www.climmet.org/about/whois_can.htm
- Chari, R., & Murphy, G. (fără an). *Examining and Assessing the Regulation of Lobbyists in Canada, the USA, the EU institutions and Germany: A Report for the Department of the Environment, Heritage and Local Government*. Preluat de pe http://www.transparency.ie/Files/2006_Registration_of_Lobbyists.pdf/22.04.2008
- Dagger, S., & Kambeck, M. (2007). *Politikberatung und Lobbying in Brüssel*. Wiesbaden: Verlag für Sozialwissenschaften.
- Engels, V., & Simmert, C. (2002). *Die Lobby regiert das Land*. Berlin: Argon Verlag.
- European Climate Change Programme*. <http://www.climnet.org/EUenergy/ECCP.html>/22.04.2008
- Greenwood, J. (2003). *Interest Representation in the European Union*. New York: Palgrave Macmillan.
- Greenwood, J. (2003). *Regulating Lobbying in the European Union*. London: Macmillan.
- High time to regulate EU lobbying*. (2005, Ianuarie-Februarie). Preluat de pe Consumer policy review: <http://www.corporateeurope.org/consumerpolicyreview.pdf>/22.04.2008
- Jakel, C. (2005). *Lobbyismus: Bedeutung für Staat und Wirtschaft*. Saarbrücken: VDM-Verlag Müller.

- Jaub, C., & Lahusen, C. (2001). *Lobbying als Beruf: Interessengruppen in der Europäischen Union*. Baden-Baden: Nomos-Verlag.
- Jurgen, H. (2007). Lobbyismus und parlamentarische Demokratie. In *Vierteljahreshefte für Politik und Kultur der Friedrich-Naumann-Stiftung für die Freiheit*. Berlin: Liberal-Verlag.
- Karr, K. (2007). *Democracy and Lobbying in the European Union*. Frankfurt am Main: Campus.
- Koppel, P. (2003). *Power Lobbying: das Praxisbuch des Public Affairs. Wie professionelles Lobbying die Unternehmensfolge absichert und steigert*. Wien: Linde.
- Leif, T., & Speth, R. (2006). *Die fünfte Gewalt-Lobbyismus in Deutschland*.
- Leif, T., & Speth, R. (2003). *Die Stille Macht*. Wiesbaden: Westdeutsche Verlag.
- Losche, P. (2007). *Verbände und Lobbyismus in Deutschland*. Stuttgart: Kohlhammer Verlag.
- Michalowicz, I. (2004). *EU Lobbying. Principals, Agents and Targets: Strategic interest intermediation in EU policy-making*. Deutsches Institut für Public Affairs. Münster: Lit Verlag.
- Pfeifer, G. (1995). *Eurolobbyismus: organisierte Interessen in der Europäischen Union*. Frankfurt am Main: Lang Verlag.
- Prenzel, T. (2007). *Handbuch Lobbyarbeit Konkret*. Schwalbach am Taunus: Wochenschau-Verlag.
- Public policy and regulatory advice across central and southeast Europe* <http://www.candle.com/22.04.2008>
- Richardson, J., & Mazey, S. (1993). *Lobbying in the European Community*. Oxford: Oxford University Press.
- Richter, C. (1997). *Lobbyismus und Abgeordnetenbestechung: Legitimität und Grenzen der Einflubnahme von Lobbyisten auf Abgeordnete*. Aachen: Shaker Verlag.
- Schaber, T. *Transparenz und Lobbying in der Europäischen Union. Geschichte und Folgen der Neuregelung von 1996*.
- Scheff, J., & Gutschelhofer, A. *Lobby Management. Chancen und Risiken vernetzen. Machtstrukturen im Wirtschaftsgefüge, Management Perspektiven*. Wien: Linde Verlag.
- Schendelen, R. v. (2005). *Machiavelli in Brussels*. Amsterdam: Amsterdam University Press.
- Schwer, M. (1997). *Interessenverbände: Kooperation und Konfrontation: die Lobby der Verbände und Vereine*. Bonn: Inter Nationes Verlag.
- Strauch, M. (1993). *Lobbying: Wirtschaft und Politik im Wechsenspiel*. Frankfurt am Main: Frankfurter Allg. Zeitung.
- Teuber, J. (2001). *Interessenverbände und Lobbying in der Europäische Union*. Frankfurt am Main.
- The Climate Action Network. Civil Society Tackling Global Negotiations*. (fără an). Preluat pe 04 22, 2008, de pe <http://www.gan-net.net/pdfs/can.pdf>
- The Definitive Guide to Lobbying the European Institutions*. (fără an). Preluat pe 04 28, 2008, de pe <http://www.bmbrussels.be/pdf/GuideEurInst.pdf>
- Worner, T. (2004). *Einflussmöglichkeiten von NGOs auf die Umweltpolitik der Europäischen Union*. Marburg: Tectum-Verlag.