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LOBBYING – A POLITICAL COMMUNICATION TOOL FOR CHURCHES AND
RELIGIOUS ORGANIZATIONS

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Abstract: The paper focuses on demonstrating that, in spite of the controversies, lobbying has become an important political communication tool for churches and religious organizations in the United States and in the European Union as well. The American highly regulated lobbying system is compared to the lowly regulated system working at the level of European institutions. The following analysis highlights the differences that the two environments have generated in terms of the main issues and tools used by churches and religious organizations in order to influence policy-making, mainly in the framework of the pluralist – corporatist dichotomy. While the American religious lobbying has been very efficient in influencing the public policy regarding issues like the health care reform, immigration, same-sex marriage, abortion etc., the most significant result of the European religious lobbying has been the recognition of religious communities as partners of dialogue for the European institutions.

Key Words: advocacy; churches; dialogue; European Union; lobbying; political communication; religious organizations; United States.

Compatibility of churches and religious organizations with lobbying activities seems to be a debatable matter almost everywhere. Many politicians and citizens as well object to the very idea of religious lobbying on the reason that it violates the principle of church – state separation. Moreover, most of the religious staff involved in promoting certain views and positions on various issues of public policy prefer to use other words for describing their work, such as “advocacy”, a term that covers a broader range of activities aimed at supporting a cause, a right, or a case. This reluctance is largely the consequence of the fact that “lobbying” and “lobbyists” quite often have negative or pejorative connotations and sometimes are associated with allegations of corruption and influence trafficking.

However, the legitimacy of lobbying has often been emphasized. In the United States (US), this legitimacy is widely accepted as deriving from the First Amendment to the Constitution, which asserts the freedom of speech, the right of people to assemble and to petition the government. This is the reason why the US has chosen not to limit the lobbying practice but to regulate it in order to assure more fairness, transparency, and responsibility. Although, traditionally, most European countries have proved more skepticism towards the legitimacy of lobbying and have not adopted formal regulations, in recent decades, the European Union (EU) institutions have started to pay attention to this matter, as a consequence of the lobbying explosion. The European Parliament has decided on the ‘Rules of Procedure’ referring to lobbying, and the European Commission has adopted measures for improving the framework for the activities of lobbyists (“interest representatives”).

Obviously, the legitimacy of lobbying does not necessarily involve the compatibility of the religious institutions and organizations with such an activity. This paper tries to demonstrate that, in spite of the controversies, lobbying has already become a political communication tool for churches and religious organizations. The approach is based on the comparison between the longer experience that the US has had in this respect and the newer one, which has been developed at the level of the EU. This comparison will take into account both the similarities and the differences between the religious landscapes in the two environments. On the one hand, the so-called “new religious pluralism”, deriving from the increasing religious diversity, is emerging on both sides of the Atlantic.¹ On the other hand, the specific traditions have generated significant differences between the US and the EU countries, especially those derived from various approaches to the relationship between church and state. The analysis will highlight the new facets of these traditional differences, which have emerged in the process of the European integration.

Definition of “lobbying” and “lobbyist”; lobbying regulations in the US and the EU

“Lobbying” is a word that cannot be properly translated in other languages and therefore it is often used as such. Although it is generally associated with the American tradition, the English origin is mentioned too. The word “lobby” originally referred to the entry hall in the British House of Commons, where people could meet the members of the government and plead their case.² In the US, the term “lobbyist” was first used in 1830, and “lobbying” became the common term for petitioning as early as the 1870s, when the practice of petitioners to meet the members of Congress in the lobbies became usual.³

Although these words are very often used, even abused in our days, there is no consensus on their meanings. Most scholars have had in view broader definitions, but there have been a variety of approaches, according to various perspectives and experiences. I should stress that lobbying is often described as a complex communication process. Lester W. Milbrath, who defined lobbying as “the stimulation and transmission of a communication...”, allocated a large part of his classical book on lobbyists to examining the dimensions of this process: communication within and among lobby groups, direct personal communication of lobbyists with the government, as well as indirect communication, through intermediaries.⁴

This paper will not approach the variety of scholarly definitions, but will focus instead on the formal ones, as they could be found in legislation or other official documents. This kind of definitions has a critical importance for evaluating who is “in” and who is “out” as well as which activities are included and which are excluded. Therefore they are particularly relevant for drawing conclusions about the compatibility of religious institutions and organizations with lobbying activities.

In the US, the Lobbying Disclosure Act of 1995 (LDA) defines “lobbying activities” as “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work...”; further down it defines “lobbying contact”: “any oral or written communication (including an electronic communication) to a covered executive branch official or a covered legislative branch official...”.⁵ This definition is much narrower than many scholarly ones: it refers only to the activities aimed at influencing policy-making in the legislative and the executive branches; it does not include the influence exerted on the courts, or the so-called “grassroots” lobbying, which seeks to influence the decision-making process indirectly, through mobilizing public opinion.

In the case of the EU, the controversies regarding the definition of lobbyist and lobbying were one of the major difficulties experienced by

the European Parliament in the process of developing its strategy towards this activity in the early 1990s. The adoption of the present rules was possible only when the terminological confrontations were avoided. When the Commission decided to approach this issue, a very broad definition was chosen, as compared to the very specific, even technical American legal definition. The ETI documents defined lobbying as “activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions” and lobbyists as “persons carrying out such activities, working in a variety of organizations such as public affairs consultancies, law firms, NGOs, think-tanks, corporate lobby units (‘in-house representatives’) or trade associations.”⁶ It is worth mentioning that the European Parliament agreed with this definition of lobbying, considering it “to be in line with Rule 9(4) of its Rules of Procedure”.⁷

Recent comparisons of lobbying practices in the US and the EU have revealed many similarities since globalization has stimulated the transfer of instruments used by various actors in the process of influencing public policies. However, these comparisons stress significant differences, mostly as a consequence of the specific environments.⁸ First of all, the US has a much longer lobbying tradition than the EU. While the practice of lobbying became common in the US as early as the nineteenth century, at the EU level, it started to become a basic tactic only during the second half of the 1980s, in connection with the single European market. Other differences refer to the concrete way of carrying on this activity. Clive Thomas identified two variations in lobbying, namely the use of contract lobbyists and the rise of new techniques in lobbying. The US has the most advanced system regarding both aspects: the number and the professionalism level of contract lobbyists and lobbying firms have increased substantially; also, the rise of new techniques, like mobilizing grassroots support networking, targeted mass mailing, public relations and media campaigns, etc. is unparalleled as compared to other countries.⁹ In other words, the professionalization level of lobbying is much higher in the US than elsewhere. According to the Delegation of the European Commission to the USA, “a key difference” lies in the approach to funding non-profit organizations: unlike the American government, the European institutions, especially the Commission, often provides this kind of financial support.¹⁰

The most significant differences seem to derive from the ways in which these activities are regulated. Lobbying regulation has entered the political agenda in various areas of the world, but mostly in North America, some of the EU countries, and more recently the EU institutions. In the US, as far back as in the second and the third decades of the last century, the US Congress paid attention to this practice and its regulation. However, the first attempt to impose legal control on lobbying was The Federal Regulation of Lobbying Act of 1946, which required registration of

those involved in influencing the lawmaking process and filing reports on their activity. It was an important step, but the provisions proved not to be clear enough, so that many organizations and lobbyists avoided registering. In the years that followed, Congress periodically tried to strengthen the regulation of these activities, and in 1995 a new law was passed: the Lobbying Disclosure Act (LDA) then amended by the Lobbying Disclosure Technical Amendments Act of 1998. Despite the more restrictive requirements the provisions of the LDA proved to be insufficient to avoid abuses.

Consequently, other attempts followed and, finally, the Honest Leadership and Open Government Act of 2007 was passed, amending the LDA and other pieces of legislation. Title I of the new law is significant: “Closing the Revolving Doors”. According to its provisions, the departing members of the Senate must wait now two years, instead of one, before lobbying former colleagues (the former members of the House of Representatives must wait one year). Title II, “Full Public Disclosure of Lobbying”, provides quarterly reports, rather than semiannual ones, and other detailed disclosures. Also, the Act prohibits the giving of gifts by lobbyists and their clients to members of Congress and their staff. The law strengthens certain former provisions regarding the sanctions for failure to comply with LDA requirements: civil penalties are raised from \$50,000 to \$200,000, and, for the first time, criminal penalties are provided, namely imprisonment for up to five years or a specified fine, or both.¹¹ It is also to be noted that the Obama Administration adopted even more restrictions on lobbying, namely: in his first day in office, the President signed an executive order prohibiting executive branch personnel from taking gifts from lobbyists and also from working as a lobbyist for two years after leaving the administration; subsequently, the President issued a series of memoranda barring lobbyists from talking about specific projects and applicants for stimulus funding according to the American Recovery and Reinvestment Act of 2009, in order to avoid improper influence or pressure.¹²

At the EU level, the regulation of lobbying is even more complex, as there have been differences among institutions in this matter. The key targets of lobbying are the Commission and Parliament. As the initiator of legislation, the Commission has often been the first target. However, the Parliament has become increasingly attractive to lobbyists as a result of its increased legislative power, mostly in connection with the use of the co-decision procedure with the Council of Ministers. Parliament was the first European institution that put the proposals for regulating lobbying on the agenda, at the end of 1980s. A number of reports were drafted and discussed, but it proved to be very difficult to reach consensus regarding specific problems, the most substantive one being the definition of lobbying.¹³ Only in 1996 – 1997 did the Parliament succeed in adopting certain rules, which were annexed to its Rules of Procedure. According to

the Annex IX (“Lobbying in Parliament”), lobbyists have access to Parliament using nominative passes issued by quaestors; in return, they are required to observe a ten-point code of conduct, and to sign a register, which is published on the Parliament website. It follows that Parliament has adopted an accreditation system for lobbyists, but the register provides only the names of the pass-holders and of the organizations they represent, without giving information about the interests for which the lobbyists act.

Unlike Parliament, the Commission has rejected the idea of accrediting the organized interests on the grounds that it may create a barrier to the open consultation with civil society. At the beginning of the 1990s, the Commission defined its approach to the dialogue with the interest groups: not accreditation, registration or code of conduct since all groups must be treated equally; but a voluntary directory was set up and the groups were encouraged to draw up their own voluntary codes of conduct. An important change occurred only in 2005, when the Commission launched the European Transparency Initiative (ETI) in order to review the framework for “interest representation (lobbying)”. Following-up the debate with the stakeholders on this matter, a new voluntary register of interest representatives coupled with a binding code of conduct were set up. Those who register certain information about themselves will be alerted in return to consultations in their specific areas of interest. “In line with the self-regulatory approach”, it will remain the responsibility of registrants to disclose how they are funded; however, when reference is to the Code of Conduct, “Self-regulation of lobbyists is not seen as a viable option”.¹⁴ We can identify here a departure from the Commission’s traditional approach to lobbying regulation: subscribing to the Code of Conduct is now a requirement for lobbyists wishing to be included in the Register of interest representatives, a provision characterized as being “in line with the example set by the European Parliament”. Moreover, the Commission launched the invitation to Parliament to examine the possibility of closer cooperation in this area and to consider the feasibility of “one-stop-shop” registration, where the lobbyists could register with all the European institutions.

The European Parliament had a positive answer to this initiative. The “one-stop-shop” proposal was welcomed, and the Commission was called to set up a joint working group to consider the implications of a possible common register and to negotiate a common code of conduct.¹⁵ In spite of these important signals for a stronger cooperation, differences were still notable. While the Commission decided to maintain the voluntary register, Parliament called for a common mandatory register; also, while the Commission concluded to request registrants selected budget figures and budget sources, Parliament called for “full financial disclosure”.

In June 2008, the Commission’s “Register of interest representatives” was opened. According to the categories listed in the Register, most of the

interest representatives are “in-house” lobbyists and trade associations active in lobbying (especially professional associations), and non-governmental organizations. On 1 April 2011 the number of registered interest representatives reached 3,798.¹⁶ It is hard to say that this number reflects the real intensity of lobbying around the European Commission. Various documents issued by this institution estimated about 15,000 people employed in this kind of interest representation. However, the register is intended for the registration of organizations, while the individuals are expected to register only if they are working as independent interest representatives. It remains to be seen if the automatic alert will provide a sufficient incentive for voluntary registration and if the sanctions consisting in temporary suspension or exclusion from the Register will be strong enough to prevent non-compliance.

I should mention that the European Parliament and European Commission Joint Working Group has drawn up a draft agreement on the establishment of a joint “Transparency Register”, which has been submitted to these institutions for approval. An important step consisted in launching a common web-page for accessing their existing registers, in April 2009.¹⁷

With these recent developments that have occurred in the US in mind, along with the EU approaches of lobbying regulation at about the same time, we can conclude about a common trend. Both the American Honest Leadership and Open Government Act and the European Transparency Initiative have in essence the same purpose: to increase transparency and responsibility in lobbying. However, these documents reflect the traditional differences between the American and the European view on lobbying regulation: while the US Congress has reinforced the mandatory approach, the European Commission has maintained the self-regulation one. Nevertheless, the position of the European Parliament has given more credit to the mandatory system, and, consequently, similarities with the American approach have chances to be strengthened in the future.

Lobbying by churches and religious organizations in the US

Church – state separation is usually seen as an important characteristic of the American government and society. The basis of this relationship has been identified in the First Amendment to the US Constitution, “Congress shall make no law respecting an establishment of religion; or prohibiting the free exercise thereof....” Even for authors who assert that “American society continues to be deeply divided on the question of the proper relationship between the institutions of church and state”, the US is the best example for the church-state separation model, as compared to other democracies.¹⁸

The American approach has proved to be for the benefit of government and religion as well: on the one hand, the government holds no religious viewpoint and therefore is able to treat people equally irrespective of their religious faith; on the other hand, there is a large variety of religions in the US, and Americans are free to belong to any church or to not get involved with faith at all.

According to the findings of a 2008 survey conducted by the Pew Forum on Religion & Public Life, religious affiliation in the US is very diverse and extremely fluid.¹⁹ More than one-quarter of American adults (28%) have left the faith in which they were raised and more than 16% say they are unaffiliated with any faith. The survey confirms that the US is becoming a “minority Protestant country” since the number of Americans who report that they are members of Protestant denominations stands at about 51%; these denominations are very diverse and grouped around three religious traditions: evangelical Protestant churches (26.3% of the adult population), mainline Protestant churches (18.1%), and historically black Protestant churches (6.9%). Another key finding is that Catholicism has experienced the greatest losses as a result of affiliation changes, only 23.9% of Americans describing themselves as affiliated with this religion, which means about half of the Protestants’ proportion; also significant, among the foreign-born population, the number of Catholics is almost double than that of the Protestants, which explains the interest of the Catholic church in the issue of immigration.

While the separation protects the church from the intrusion of the state, it does not prevent the church from influencing state affairs. Although the activities developed by churches and religious organizations in order to influence public policy are sometimes characterized as a violation of the church – state separation, their right to carry on this kind of activities is largely acknowledged.²⁰ According to Daniel Hofrenning, “organized religion has played a vital role in virtually every major political issue in the history of the United States”, and lobbying has been an important activity in this process.²¹

It is to be mentioned that the term “church” is used throughout this paper in its generic sense, as a place of worship, including mosques and synagogues, and the term “religious organizations” refers to those entities, others than churches, namely nondenominational or ecumenical organizations, and other entities whose main goal is the advancement or study of religion.²² Although a communication that is made by a church, an association of churches or a religious order is not included in the legal definition of “lobbying contact”²³, this does not mean that there is an incompatibility between churches and lobbying. However, there are certain limitations in this respect. Namely, churches and religious organizations, which are exempt from taxation according to the Internal Revenue Code, are limited in the amount of lobbying in which they may engage if they wish to preserve this preferred status.²⁴ In general, an

organization may jeopardize this status if a substantial part of its activities is dedicated to lobbying, on the reason that the government is not supposed to subsidize it. The Internal Revenue Service considers a variety of factors for measuring lobbying activities in order to determine if they are “substantial”, including the time devoted and the expenditures devoted to them.²⁵ Although the churches and religious organizations are exempt from registering and filing reports under the LDA, if they hire outside firms that lobbies on their behalf, those firms must register and report the required information regarding their clients.

The organizations which engage in grassroots lobbying and public advocacy, not in direct lobbying involving direct communication with the officials, do not appear to practice prohibited lobbying activities. Although “advocacy” is often used synonymously with “lobbying”, there is a significant distinction between the two terms; “advocacy” covers a broad range of activities developed in order to plead specific cases or causes, supporting ideas that will address certain needs. It explains why “religious lobbyists” often prefer to be called advocates, underlying the distance from the “secular lobbyists”. As Daniel Hofrenning argued in his book, there are important differences between the two categories: while the secular lobbyists prefer an insider strategy, developing a close relationship with the lawmakers, the religious lobbyists emphasize outsider tactics, rallying the grassroots and protesting at the gates of power.²⁶

The history of religious lobbying started in Washington DC in the years that followed the First World War, thanks to the activities developed by the Methodist Church to promote “the cause of temperance” and to support the Prohibition as a way to combat alcohol-related problems. The so-called United Methodist Building, the only non-governmental building on Capitol Hill, which was constructed in the early 1920s, became a center of ecumenical efforts to influence policy-making, and many lobbying or advocacy offices of the Protestant churches and organizations have been housed there. The Catholic Church started its lobbying activities shortly after the Methodists. According to Roy Beck, the religious groups often began their lobbying operations “in part as a way to counteract the influence of other religious groups”.²⁷

The religious groups have played a significant role at turning points in the post-war history of the US. The civil rights movement is the greatest example of the victories that the religious groups and the religious lobbyists won in the 1960s and 1970s. Martin Luther King had an office in the United Methodist Building where he coordinated the actions in the desegregation process, especially the historic March on Washington. The women’s movement also used that building as a center for organizing its activities. Groups and agencies against the war in Vietnam coordinated their efforts for peace from the same building.²⁸

While in the 1950s and 1960s the most active groups (not only the religious ones) were those dedicated to the liberal causes, in the next two

decades the conservative groups grew as strong counter-movements. According to Jack Walker, one of the outstanding American scholars in the field of interest groups, the New Christian Right, a complex of organizations centered on the Moral Majority, grew up as a real national movement, similar in some ways to the civil rights movement.²⁹ Also significant, although many conservative organizations proved to be short-lived, others took their places having similar purposes. The best example is even the Moral Majority, founded in 1979 as a Christian fundamentalist organization that pleaded for a traditional vision of the family life and stood in opposition to the women's movement, as well as to legalized abortion, and the gay rights movement. Moral Majority was dissolved ten years later, but elements of its organization were transferred to the Christian Coalition of America, that has achieved a status of a major force on Capitol Hill. Founded in 1989, the new structure described itself as "one of the largest conservative grassroots political organizations in America" assuming the mission to represent the pro-family point of view before local councils, school boards, state legislatures and Congress, and also to provide information as well as political training to the pro-family community. It is worth mentioning that lobbying Congress and the White House is specified as a main tool used by this organization for accomplishing its mission.³⁰

When we refer to the present state of things it seems that the religion's influence on American society and government is declining. At least this is one of the main conclusions of a recent survey by the Pew Research Center. According to a poll conducted in the summer of 2010, more than 60% of Americans currently say that religion is losing its influence on American life and on Government leaders, and more than half of them believe this is a bad thing. However, a majority of Americans think that churches should keep out of political matters.³¹ When people are asked about the role of their religious beliefs in shaping the views about social issues they say the top influence is on opinions regarding same-sex marriage (35%) and abortion (26%), but only 7% cite religion as highly influential on their opinion regarding immigration reform.³²

Is the public opinion consistent with the positions and activities of churches and religious organizations regarding these issues? A closer look at recent developments could be helpful in answering the question. Referring to the first issue, same-sex marriage, recent polls have found that more Americans accept it: for the first time in 15 years of Pew Research Center polling, fewer than half oppose allowing gays and lesbians to marry legally. It is to be noted that Protestants and Catholics as well have become more supportive of this relationship.³³ However, the issue has been a controversial one within many churches and religious organizations. While the US Conference of Catholic Bishops constantly opposes same-sex marriage and periodically reaffirms its support for a constitutional amendment defining marriage as a union of a man and a

woman, other organizations and churches are more flexible and even divided on this matter. For example, American Baptist Churches USA confronted, in 2006, with the split of a regional board from the denomination because the national leadership declined to penalize churches that welcomed gay members; in 2009, Evangelical Lutheran Church in America adopted a social statement that supports a wide diversity of families, including those of same-gender couples; as far back as 2000, Presbyterian Church (USA) allowed ministers to bless same-sex unions on condition that those ceremonies do not equate with marriage.³⁴

Referring to abortion, the second placed in terms of the influence exerted by the religious beliefs on the public opinion, the polls reveal that this issue remains a divisive one, with a slim majority of people (53%) in favor of keeping it legal in all cases or in most cases.³⁵ Religious groups have also expressed various positions on this matter. While, again, the Catholic Church strongly opposes abortion in all circumstances, other churches have proved more flexibility: the American Baptist Churches oppose abortion as a primary means of birth control, but do not completely condemn it; the Evangelical Lutheran Church accepts abortion under certain circumstances; the Presbyterian Church, while disapproving abortion as a means of birth control or as a method of convenience, has expressed its belief that it must be based on a personal decision.³⁶

Recently, positions regarding abortion were at the center of the debate around health care reform, an issue to which President Obama dedicated important efforts during his first years at the White House. Although the polls revealed that Americans' views on this matter were influenced primarily by their political opinions and partisanship, not by their religious affiliation, religious groups were very active in the debate, using a large variety of lobbying and advocacy tactics as tools for political communication. They launched media campaigns for or against the proposals regarding the health care reform, through national radio and television advertisements, Internet websites and messages, conferences, petitions, letters, phone calls etc. Two large coalitions of religious groups were set up: the Faith for Health, a coalition of more than 30 organizations which strongly supported the new legislation, and Freedom Federation, a consortium of about 35 groups which firmly opposed it. Other religious groups were also very active in the process, prominent among them being the Catholic leaders who expressed concern that this reform could lead to government funding of abortion, euthanasia and embryonic stem cell research.³⁷ In March 2010 the US Conference of Catholic Bishops sent a letter to the US Congress asking for a negative vote on the bill based on two fundamental objections: first, the health care reform will expand federal funding of abortion; second, this reform will limit immigrants' access to medical care.³⁸ However, one day later, the legislation was passed thanks to an executive order issued by the President to reassure that there would be no federal funding for abortion. Although the order drew a

negative reaction from the leading pro-abortion groups, shortly after its publication the pro-life Democrats provided the missing votes to allow the health care bill to pass.

Moving to the next issue, namely immigration, we have to remember that, although few Americans see religion as being influential on their views regarding this matter, many religious leaders have been advocates for immigration reform. Moreover, according to Roy Beck, it is rare to have an issue such as immigration about which Congress and the people take so different positions: while polls have shown the majority of Americans wanting immigration reduced, the majority of senators and representatives have voted for provisions that actually increased the numbers. Similarly, the surveys conducted by the author on the religious lobbying offices have revealed that support for increasing the immigration level has become one of the half-dozen top priorities of these offices working for various religions.³⁹ This emphasis is explained, to a certain extent, through the experience and successes that the offices gained by working for the Civil Rights movement during the 1960s: the immigrants' problems are usually considered within the context of their rights.

It is to be noted that President Obama, who, as a senator, worked towards building a bipartisan coalition in favor of a comprehensive immigration reform, appreciates the efforts of religious communities, people of different faiths and beliefs, liberal or conservative, who advocate for fixing the "broken immigration system" having in view not only political or economic reasons, but a "moral imperative" as well.⁴⁰ The US Conference of Catholic Bishops has been particularly active in supporting this reform. Early in January 2010 the Conference announced steps to push for the enactment of immigration reform legislation, namely: the launch of a nationwide postcard campaign, the launch of two websites dedicated to immigrants' matters; and a nationwide action alert asking for Congress to enact immigration reform as soon as possible. Other actions specific to lobbying and advocacy followed, such as media conferences, open letters, testifying before Congress etc. These actions have not always been applauded and the church's involvement in this debate has also been criticized. An immigration reform examiner, who took into account these recent "lobbying efforts" in conjunction with previous actions, jumped to the conclusion that if the Catholic Church is going to use the pulpit to lobby for political change they must be treated as any other lobbyist group, without being exempted from taxes.⁴¹

Undoubtedly, the issues to which this paper referred are not the only ones approached by the churches and religious organizations through their lobbying and advocacy activities in the US. However, they could give us a relevant picture of the complex and diverse insider and outsider tactics used as tools for political communication. Although the differences between lobbying and advocacy are not always clear-cut, and there are

controversies regarding the legitimacy and sometimes the legality of these actions, their intensity and efficiency are remarkable.

Lobbying by churches and religious organizations in the EU

Unlike the American settlement, which has been dynamic but stable for more than two centuries, the EU is a system in-the-making that has evolved during the past half century through successive extensions and institutional changes. The EU is a *sui generis* entity, which consists in a mixture of the attributes of a state and those of an international organization, and also has a complex relationship with its member states, based on subsidiarity. Therefore, this complex system, in which power is even more distributed than in the American decentralized federation, has been characterized as a “multi-level governance”.⁴²

Inside the European system the relationship between church and state has gained specific facets. On the one hand, there are various forms of this relationship in the European countries: for instance, while in France the separation is clear, based on the constitutional provisions, in Germany church tax is collected by the public authorities, and in Belgium the churches, as well as the humanist organizations are financially supported by the state. According to Radu Carp, there are three types of church-state relationships in the EU: the first is characterized by the existence of a predominant religion; the second is founded on the strict separation of the two institutions; and the third consists in a separation on the basic issues, while many tasks are assigned in common to church and state.⁴³ On the other hand, the European institutions, characterized by a mixture of supranational and intergovernmental features, have developed their own view regarding the relationship with churches and religious organizations.

This view has had to take into account the religious heterogeneity of Europe. Catholicism is the largest denomination and benefits by the greatest adherence mostly in the countries that belonged to the Roman Empire; Orthodoxy is the main denomination in southeastern Europe; and Protestantism dominates in northern Europe. Also, some citizens are not affiliated with any faith: according to a special Eurobarometer, about 18% of Europeans declare that they don't believe in “any sort of spirit, God or life force”,⁴⁴ a percentage which is comparable with that of Americans who say they are not affiliated with any faith (16%).

The formal relationship of the European institutions with churches and religious organizations has not a very long history. Despite the Christian Democratic prominence on the political scene in Western Europe, and despite the strong Catholic identity of most countries that set up the bases of the European Community, the founding treaties (Paris, 1951 and Rome, 1957) made no reference to religion since economic matters were the essential concerns.⁴⁵

When this relationship entered the European agenda it did not take mainly the form of lobbying or advocacy, as in the American pluralist tradition, but that of the dialogue developed by the European institutions with churches and religious organizations, as a channel for communication inspired by the corporatist tradition specific to most member states. Founding the European organizations to represent various religious communities was an important prerequisite in this process. One of the major organizations, Conference of European Churches (CEC), an ecumenical structure bringing together Protestants, Anglicans and Orthodox, was founded in 1959 with the aim of fostering dialogue between churches from eastern and western Europe. Also, the Commission of Bishops' Conferences of the European Community (COMECE), a major Catholic organization, was created in 1980 to monitor and provide assistance in European policy-making.

It was only in 1992 that the European institutions expressed an interest in developing links with the religious bodies on a more formal basis. Jacques Delors, the then President of the European Commission, launched "A Soul for Europe", an initiative with the aim of giving a spiritual and ethical dimension to the European enlargement and integration. In order to involve religious communities in dialogue with the European institutions the Commission encouraged them to organize meetings, conferences, seminars, social activities, etc. However, the program did not have any legal implications on the communication between the institutions and the religious communities.

The next step towards formalization of this relationship was the Declaration on the Status of Churches, which appended the Treaty of Amsterdam (1997). It was a very brief document, in two points. First of all, the neutral position of the EU was stated, which "respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States". Secondly, a balanced approach was involved through the provision that the EU "equally respects the status of philosophical and non-confessional organizations."⁴⁶

This Declaration paved the way for specific statements and provisions in the main body of the treaty that followed. The Convention on the Future of Europe (2002-2003) gave rise to a very active participation of religious and non-religious organizations in the debates on the proposed Constitution for the EU. The Christian churches and their organizations, especially COMECE, strongly supported the incorporation of the Amsterdam Declaration in a distinct article of the new treaty, as well as the idea of a statement in the Preamble that Europe's values were rooted in Christianity. On the other hand, the secularist and humanist organizations developed intense campaigns to oppose the inclusion of these statements and provisions, or at least to balance them. A very critical position was expressed by the European Humanist Federation (EHF), which "unites humanist and secularist organizations across

Europe”, defining humanism as “an ethical worldview, not just an atheist or agnostic one.”⁴⁷

Although the word “lobbying” was not very often involved, in fact there were sustained lobbying campaigns developed by both parts. For example, the EHF, the main humanist organization, criticized COMECE and CEC, the main Christian organizations, for their coordinated lobbying efforts,⁴⁸ but the federation itself was engaged in a very active campaign asking the EU to guarantee its secular character: numerous memorandums, statements, papers, as well as petitions, letters and press releases were issued, addressed to the EU institutions, to the member state governments or to the general public.⁴⁹ The result was a compromise between the two positions, but the Treaty establishing a Constitution for Europe was not ratified since French and Dutch voters rejected it, in 2005.

The Treaty of Lisbon, which finally entered into force in December 2009, incorporated the statements and provisions of the failed Constitutional Treaty regarding the religious and humanist inheritance, as well as the relationship between the EU and both kinds of communities and organizations. In the Preamble of the consolidated versions of the Treaty on EU and the Treaty on the functioning of the EU it is specified that the agreement was made “drawing inspiration from the cultural, religious and humanist inheritance of Europe”. This means that Christianity does not benefit by a specific mention, but the religious inheritance is recognized as a root of the European values. At the same time, the reference to religion is balanced by references to cultural and humanist influences.⁵⁰ In line with this approach is Article 17 of the Treaty of Lisbon, which reiterates the equal status conferred to religious and non-religious bodies, and also provides a legal basis for formal consultations: “recognizing their identity and their specific contribution” explicitly introduces the idea of an “open, transparent and regular dialogue” between them and European institutions.⁵¹ This recognition as well as the provision for a systematic dialogue implies that both kinds of organizations should have a role in European policy-making.

The first year after entering into force of the Treaty of Lisbon was relevant for the manner of developing the dialogue. In July 2010 the sixth annual summit of the European institutions representatives with the European faith leaders took place in Brussels, in the new legal context. Presidents of Commission, Parliament and European Council met twenty representatives from Christian, Jewish and Muslim religions, as well as from the Sikh and Hindu communities to discuss the fight against poverty and social exclusion, namely the “crucial role” that churches and religious communities have to play in this process, based on their long standing experience.⁵² A few months later, in October, when the three Presidents met eighteen representatives of philosophical and non-confessional organizations (five humanists and twelve freemasons) to discuss the same topic, the experience of these organizations in fighting poverty and

exclusion was also acknowledged. However, unlike the EU officials and religious leaders as well, some of these representatives proved to be skeptical regarding the positive effects of this kind of meetings on the question of poverty. The president of the EHF expressed his concern that the churches – and in particular the Catholic Church – will exploit the formalized dialogue to insert themselves at the earliest stage of the European policy-making.⁵³

In spite of the controversies, the recognition of religious communities as partners of dialogue for the EU institutions is the most significant result of their lobbying activity, even if the word as such has been usually avoided. Beyond this specific matter, the European churches and religious organizations have also participated in debates regarding climate change or “flexicurity” in the welfare state, as well as regarding issues like immigration, abortion or same-sex marriage, which are of major concern for their American counterparts.

It is to be noticed that, in spite of their intense lobbying activity, the main religious organizations have not registered themselves in the Commission’s Register of Interest Representatives. Out of the 3,798 organizations registered until April 1, 2011 only 17 were in the category “representatives of religions, churches and communities of conviction”, and only 10 of them were representatives of churches or religious organizations. It is true that, according to the clarifications provided by the Commission, activities in response to its direct request, such as “participation in consultative committees or in any similar fora” are not expected to be registered.⁵⁴ However, the category is not explicitly mentioned among exceptions, like “social partners as actors in the social dialogue”. Moreover, CEC and COMECE registered themselves on the list of the “Lobbyists accredited to the European Parliament”. No doubt, new developments could occur if the Commission and Parliament will succeed in their work towards a common register and code of conduct for lobbyists. For the time being, the case of churches and religious organizations is a convincing proof that the European Commission has mostly maintained the self-regulatory approach of lobbying and, overall, the European institutions have maintained a lowly regulated system of these activities.

Concluding remarks

In spite of controversies, the compatibility of churches and religious organizations with lobbying activities benefits by a formal basis in the legislation adopted in the US and the EU as well. Although the church – state separation is invoked by the critics of the very idea of religious lobbying, it is largely admitted that this principle is not an obstacle for churches and religious organizations interested in influencing policy-making. The church – state separation is not supposed to be an essentially

negative concept, which ensures that the church and state remain separate entities; it also involves a positive relationship, since it protects religious freedom, but does not prevent the religious groups from influencing state affairs.

Lobbying, a term often associated with negative connotations and sometimes with allegation of corruption and influence trafficking, is recognized as a legitimate communication tool, both in the US and the EU. However, the specific environments have generated specific features of lobbying, the most prominent being the regulatory system: while in the US lobbying is highly regulated, in the EU it is still lowly regulated. The recent developments in lobbying regulation have strengthened some similarities between the American and the European ways of approaching this issue: transparency or open government, as well as honesty, integrity or accountability are the key words in the laws or other documents adopted either in the US or in the EU in the recent years. However, the approaches are still different. The corporatist tradition in Europe is still relevant in making the difference: dialogue is an important communication channel not only for the social partners, but for the churches and religious organizations as well. While in the US, the lack of official channels through which organizations can influence policy-making explains why substantial resources are spent on lobbying and therefore stricter regulations for it have proved to be necessary.

Churches and religious organizations act in these specific environments. In the US, religious groups have played a significant role at turning points in the post-war history. Now, they are very active in influencing policy-making regarding issues like same-sex marriage, abortion, health care reform, immigration etc. The intensity and efficiency of religious lobbying are remarkable, although the differences between lobbying and advocacy are not always clear-cut, and sometimes the legitimacy or legality of these actions are scrutinized. In the EU, the formal relationship of the European institutions with churches and religious organizations entered the agenda only at the beginning of the 1990s, when it did not take mainly the form of lobbying or advocacy, as in the American pluralist tradition, but that of a dialogue developed by the European institutions with religious organizations (and subsequently non-religious ones too), as a channel for communication which is in line with the corporatist tradition specific to most member states. Although the word *lobbying* has not been very often involved, the most significant result of lobbying activities developed by the religious communities was their recognition as partners of dialogue for the EU institutions.

Notes:

¹ Thomas Banchoff, “Introduction”, in *Democracy and the New Religious Pluralism*, ed. Thomas Banchoff (Oxford, New York: Oxford University Press, 2007), 3.

² Frank R. Baumgartner and Beth L. Leech, *Basic Interests: The Importance of Groups in Politics and in Political Science*, (Princeton: Princeton University Press, 1998), 33.

³ Theodore J. Lowi and Benjamin Ginsberg, *American Government: Freedom and Power*, (New York, London: W.W. Norton & Company, 1992), 558, 574.

⁴ Lester W. Milbrath, *The Washington Lobbyists*, (Chicago: Rand McNally, 1963), 8. Part Three is entitled “Lobbying as a Communication Process”.

⁵ US Congress, “Lobbying Disclosure Act of 1995” (LDA), P.L. 104-65, 109 Stat. 691 (1995) as amended by the Lobbying Disclosure Technical Amendments Act, P.L. 105-166, 112 Stat. 38 (1998), <http://lobbyingdisclosure.house.gov/lda> (accessed December 10, 2007).

⁶ European Commission, “Green Paper ‘European Transparency Initiative’”, COM (2006) 194 final, (Brussels: European Commission, 2006), 5.

⁷ European Parliament, “Resolution of 8 May 2008 on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions” (2007/2115 (INI), (Brussels: European Parliament, 2008).

⁸ For a detailed comparison of lobbying definitions and regulations in the US and the EU, see Liliana Mihut, “Lobbying in the United States and the European Union: New Developments in Lobbying Regulation”, *Romanian Journal of European Affairs* 8, 4 (December 2008): 5 - 17.

⁹ Clive S. Thomas, ed., *First World Interest Groups: A Comparative Perspective* (Westport: Greenwood Press, 1993), 39-40.

¹⁰ Delegation of the European Commission to the USA, “Lobbying in the EU: An Overview”, *EU Insight*, 22, September 2008, www.eurunion.org/euinsight (accessed November 10, 2010).

¹¹ Library of Congress THOMAS, S1: “Honest Leadership and Open Government Act of 2007”, <http://www.thomas.loc.gov> (accessed December 15, 2007).

¹² Congressional Research Service, “Lobbying the Executive Branch: Current Practices and Options for Change”, CRS Report 40947, December 1, 2009, <http://www.crs.gov> (accessed February 15, 2010).

¹³ European Parliament, “Lobbying in the European Union: Current Rules and Practices”, Working Paper, AFCO 104 EN, (Luxembourg: European Parliament, 2003), 37.

¹⁴ European Commission, “Communication on the Follow-up to the Green Paper ‘European Transparency Initiative’”, COM (2007) 127 final, (Brussels: European Commission, 2007), 4-5.

¹⁵ European Parliament, “Resolution of 8 May 2008 on the development of the framework for the activities of interest representatives (lobbyists) in the European institutions” (2007/2115 (INI), (Brussels: European Parliament, 2008).

¹⁶ See the web-page <http://ec.europa.eu/transparency/regrin>.

¹⁷ The new web-page, which enables the public to access information about both registers from a single starting point: http://europa.eu/lobbyists/interest_representative_registers/index_en.html.

¹⁸ Stephen V. Monsma and J. Christopher Soper, *The Challenge of Pluralism: Church and State in Five Democracies*, (Lanham, New York: Rowman & Littlefield Publishers, Inc.: 1997), IX. According to these authors, there are three basic models of church-state relations in modern democracies: one model is the strict church-state separation; the second is the formally established church model; and the third is the structural-pluralist model.

¹⁹ Pew Forum on Religion & Public Life, “US Religious Landscape Survey. Religious Affiliation: Diverse and Dynamic” (Washington, D.C.: Pew Research Center, February 2008), 5-6, <http://pewforum.org> (accessed September 2, 2010).

²⁰ Roy Beck, “National religious lobbying”, *The Social Contract* 5, 3 (Spring 1995): 163.

²¹ Daniel J.B. Hofrenning, *In Washington But Not of It: The Prophetic Politics of Religious Lobbyists* (Philadelphia: Temple University Press, 1995), 1, 6.

²² These definitions are based on those used by the Internal Revenue Service. See IRS, “Tax Guide for Churches and Religious Organizations: Benefits and Responsibilities under the Federal Tax Law”, Publication 1828 (11-2009) Catalog Number 21096G, 2, <http://www.irs.gov> (accessed October 20, 2010).

²³ See US Congress, “Lobbying Disclosure Act of 1995” (LDA), Sec 3. Definitions.

²⁴ Congressional Research Service, “Lobbying Congress: An Overview of Legal Provisions and Congressional Ethics Rules”, CRS Report for Congress RL31126, October 24, 2007, <http://www.crs.gov> (accessed February 15, 2010).

²⁵ See IRS, “Tax Guide...”, 5-6.

²⁶ Hofrenning, 123-128.

²⁷ Beck, 162.

²⁸ General Board of Church and Society of the United Methodist Church, “The United Methodist Building”, www.umc-gbcs.org/umbuilding (accessed October 26, 2010).

²⁹ Jack L. Walker, Jr. *Mobilizing Interest Groups in America: Patrons, Professions, and Social Movements* (Ann Arbor: The University of Michigan Press, 1991), 37.

³⁰ See the website of the Christian Coalition of America, <http://www.cc.org> (accessed October 27, 2010).

³¹ Pew Forum on Religion & Public Life, “Growing Number of Americans Say Obama is a Muslim”, August 18, 2010, <http://pewforum.org> (accessed September 21, 2010).

³² Pew Forum on Religion & Public Life, “Few Say Religion Shapes Immigration, Environment Views”, September 17, 2010, <http://pewforum.org> (accessed September 21, 2010).

³³ Pew Forum on Religion & Public Life, “Support for Same-Sex Marriage Edges Upward”, October 6, 2010, <http://pewforum.org> (accessed October 16, 2010).

³⁴ Pew Forum on Religion & Public Life, “Religious Groups’ Official Positions on Same-Sex Marriage”, July 27, 2010, <http://pewforum.org> (accessed October 16, 2010).

³⁵ Pew Forum on Religion & Public Life, “Abortion Views by Religious Affiliation”, January 15, 2009, <http://pewforum.org> (accessed October 16, 2010).

³⁶ Pew Forum on Religion & Public Life, “Religious Groups’ Official Positions on Abortion”, September 30, 2008, <http://pewforum.org> (accessed October 16, 2010).

³⁷ Pew Forum on Religion & Public Life, “Religious Groups Weigh In On Health Care Reform”, October 8, 2009, <http://pewforum.org> (accessed September 21, 2010).

³⁸ Catholic News Agency, “U.S. Bishops’ final plea to Congressmen: Do not pass pro-abortion health care bill”, www.catholicnewsagency.com (accessed September 21, 2010).

³⁹ Beck, 161.

⁴⁰ The White House, “Remarks by the President on Comprehensive Immigration Reform”, American University School of International Service, Washington, D.C., July 1, 2010, www.WHITEHOUSE.GOV (accessed September 7, 2010).

⁴¹ Dave Gibson, “Catholic Church should lose tax-exempt status over pro-illegal; alien lobbying efforts”, January 23, 2010, <http://www.examiner.com/immigration-reform-in-national/catholic...> (accessed September 9, 2010).

⁴² Helen Wallace, “The Institutional Setting”, in *Policy-Making in the European Union*, ed. Helen Wallace and William Wallace, Fourth ed., (Oxford: Oxford University Press, 2000), 3-37.

⁴³ Radu Carp, “Religion in the Public Sphere: Is There a Common European Model?”. *Journal for the Study of Religions and Ideologies*, vol. 10, issue 28 (Spring 2011), 97.

⁴⁴ European Commission, Special Eurobarometer 225 “Social Values, Science and Technology”, June 2005, http://ec.europa.eu/public_opinion/archives/ebs/ebs_225_report_en.pdf (accessed October 9, 2010).

⁴⁵ Lucian N. Leustean; John T.S. Madeley, “Religion, Politics and Law in the European Union: an Introduction”, *Religion, State and Society* 37, 1 & 2 (2009): 3 - 18.

⁴⁶ Treaty of Amsterdam amending the Treaty of European Union, the Treaties Establishing the European Communities and certain related acts, Luxembourg: Office for Official Publications of European Communities, 1997.

⁴⁷ See the Federation’s website: <http://www.humanistfederation.eu>.

⁴⁸ David Pollock, “Article 17: Reasons for Concern”, Paper presented at the Conference “Does God Matter? Representing Religion in the European Union and the United States”, Aston Centre for Europe, Aston University, 12-13 November 2010, <http://www.aston.ac.uk/lss/research/centres-institutes/aston-centre> (accessed November 20, 2010).

⁴⁹ European Humanist Federation, “The Churches’ Campaign for Special Rights in the EU”, October 2010, <http://www.humanistfederation.eu/index> (accessed October 30, 2010).

⁵⁰ Ronan McCrea, “Religious Contributions to Law and Policy Making in a Secular Political Order: The Approach of European Institutions”, Paper presented at the Conference “Does God Matter? Representing Religion in the European Union and the United States”, Aston Centre for Europe, Aston University, 12-13 November 2010, <http://www.aston.ac.uk/lss/research/centres-institutes/aston-centre> (accessed November 20, 2010).

⁵¹ Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, *Official Journal of the European Union*, C83, 53, 30 March 2010.

⁵² EUROPA – Press Releases, “Presidents of Commission, Parliament and European Council discuss the fight against poverty and social exclusion with European faith leaders”, 19 July 2010, <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/967> (accessed September 21, 2010).

⁵³ Euobserver.com, “EU atheist-freemason summit ‘very odd’, says Europe’s chief unbeliever”, 21 November 2010, <http://euobserver.com/843/31066> (accessed November 22, 2010).

⁵⁴ European Commission, “Communication ‘European Transparency Initiative: A framework for relations with interest representatives (Register and Code of Conduct)’, COM (2008) 323 final, Brussels: European Commission.

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