Tainted love

Corporate lobbying and the upcoming German EU Presidency

LOBBY CONTROL

Corporate Europe Observatory

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Corporate Europe Observatory (CEO) is a research and campaign group working to expose and challenge the disproportionate influence that corporations and their lobbyists exert over EU policy-making. CEO works in close alliance with public interest groups and social movements in and outside of Europe to develop alternatives to the dominance of corporate power.
www.corporateeurope.org

LobbyControl e.V. is a non-profit initiative working to inform the public about lobbying and opinion making in Germany and the EU. We shed light on the privileged influence that big corporations often enjoy and argue for a lively and transparent democracy.
www.lobbycontrol.de

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Glossary

AA German Government's Federal Foreign Office

ACEA European Automobile Manufacturers' Association, a corporate lobby group

ADAC General German Automobile Club, a car drivers' association

AGRIFISH Agriculture and Fisheries Council of Ministers, part of the Council of the EU

Auto ABS Asset-backed securitised car loans

BASF A major German agri-chemical company

BDA Federal Association of German Employers' Associations, a corporate lobby group

BDI Federation of German Industries, a corporate lobby group

BfR German Government's Federal Institute for Risk Assessment

BMEL German Government's Federal Ministry of Agriculture and Food

BMF German Government's Federal Ministry of Finance

BMW A major German car company

BMWi German Government's Federal Ministry for Economic Affairs and Energy

BUND German environmental NGO, affiliated to Friends of the Earth

Bundestag German federal parliament

BVI German investment fund association, a corporate lobby group

BVL German Government's Federal Office of Consumer Protection and Food Safety

CCS Carbon capture and storage

CDU-CSU German Christian Democrat and Christian Socialist centre-right political group

CEFIC European Chemical Industry Council, a corporate lobby group

Corporate Europe Observatory An NGO

Chancellery German Government's lead ministry, reporting to Chancellor Angela Merkel

CO_2 Carbon dioxide, a greenhouse gas

Coreper Committee of the Permanent Representatives of the Governments of the Member States to the European Union, part of the Council of the EU

Council of Ministers Part of the Council of the EU, this is a set of 10 configurations covering different policy areas, to which each member state sends their minister responsible. Examples include AGRIFISH, and Ecofin

Council of the EU EU institution where member state governments negotiate and then adopt EU laws, and coordinate EU policies

DBI group subsidiary of the German association representing gas and water utilities, a corporate lobby group

DBV German Farmers' Association

DHV German deep-sea fishing association, a corporate lobby group

DENA German Government's Energy Agency

Die Linke German radical left political party

Dieselgate Scandal which engulfed the car industry when many companies were found to have cheated on pollution emissions tests

DST Digital Services Tax, an OECD and EU proposal to tax the revenue of digital giants

DUH Deutsche Umwelthilfe, a German environmental NGO

DVGW German association representing gas and water utilities, a corporate lobby group

ECHA European Chemicals Agency, an EU executive agency

ECON EU Parliamentary Economic and Monetary Affairs Committee

ECPA European Crop Protection Association, a corporate lobby group

EDCs Endocrine disrupting chemicals, toxic chemicals which change how the human body's hormone system works

EFB EU federation of national family business associations, a corporate lobby group

EFSA European Food Safety Authority, an EU executive agency

EGD European Green Deal, flagship policy of European Commission President Ursula Von der Leyen

ESRB European Systemic Risk Board, an EU institution set up to monitor the stability of financial markets

EUZBBG The Act on the Cooperation between the Federal Government and the German Bundestag in European Union Affairs, which provides rights to MPs to information on German decision-making on EU matters

FDP German Liberal political party

Frag den Staat German not-for-profit website hosting freedom of information requests

Gas 2030 Gas strategy of the German Government

GDV German insurance association, a corporate lobby group

Glyphosate Task Force Group of pesticide producers which coordinated industry inputs into the process to reauthorise glyphosate, a corporate lobby group

Green hydrogen Produced from supposedly excess renewable electricity via electrolysis

IARC International Agency for Research on Cancer, part of the World Health Organisation

IG Metall German metalworkers' union

IVA German crop protection and fertiliser industry, a corporate lobby group

JKI Research centre which is part of the Federal Ministry of Food and Agriculture

LNG Liquefied natural gas

LobbyControl A German NGO

MEP Member of the European Parliament

OECD Organisation for Economic Co-operation and Development

pCBCR Public Country by Country Reporting, an OECD and EU proposal to ensure the largest companies publish information on their profits and taxes

Permanent Representation Every EU member state maintains an office in Brussels to handle its day-to-day interactions with the EU institutions

P&P Parlevliet & van der Plas, Germany's largest fishing company

Presidency of the EU Every six months, a member state takes on the Presidency of the Council of the EU, a key role in preparing for, and setting the agenda of, Council meetings. The German Government will be EU Council President from 1 July 2020 to 31 December 2020

SCOPAFF Standing Committee on Plants, Animals, Food and Feed, an EU comitology committee

SPD German Socialist centre-left political group

STS Simple, transparent, and standardised securitisation. Bundled car loans receive the STS label if they comply with the procedural and structural requirements set out in the STS regulation

SUV Sports utility vehicle, typically large and a high fuel consumer

TEN-E Trans-European Networks for Energy, an EU initiative to spearhead the development of new cross-border energy infrastructure

Trilogue Negotiations to finalise a piece of EU legislation involving the European Commission, Council of the EU, and European Parliament

VCI German chemicals industry trade association, a corporate lobby group

VDA German Association of the Automotive Industry, a corporate lobby group

WHO World Health Organisation, part of the United Nations

Working parties or groups of the Council There are over 150 working parties or groups in the Council and they bring together officials from each member state to scrutinise draft EU proposals for new regulations and directives

Introduction

1. Introduction

by Nina Katzemich, LobbyControl and Vicky Cann, Corporate Europe Observatory

The Corona Presidency

The upcoming German Presidency of the EU, starting on 1 July 2020, looks set to be the 'Corona Presidency'. Any early plans Chancellor Angela Merkel and her Government had for its six months at the helm of the EU are likely to be jettisoned. Instead, at the top of its agenda will be dealing with the health, social, and economic fallout of the coronavirus pandemic, and a small handful of other priorities such as finalising the next EU budget; post-Brexit negotiations with the UK; trade with the United States, Latin America, and Africa; and the flagship European Green Deal initiative.

Some recent commentary has welcomed the fact that Germany will lead the EU in the coming six months. As Europe's biggest, wealthiest nation, and one which does not appear to have suffered such a catastrophic loss of human life as experienced elsewhere during the pandemic, some argue that the German Government will provide strong and competent leadership at this moment of crisis for the EU.

And yet there are significant concerns. What kind of economic recovery will the German Government promote in the EU? Will we see a repeat of the 2008 economic crisis where the subsequent recovery programmes, heavily influenced by Merkel, drove a wedge between rich and poor Europe, northern and southern Europe, and led to a decade of austerity, the impacts of which played out in such a disastrous way in the battered health systems of Italy and Spain? Will the Presidency promote 'business as usual' by bailing out major climate polluters such as the fossil fuel industry, and rolling back regulation, supposedly to make economic recovery easier? And who will the German Government listen to most, its friends and allies in industry, or scientists and public interest groups who advocate an EU recovery based on solidarity among nations and a green stimulus package?

Chancellor Angela Merkel attends European Council, February 2020. Credit: European Union

The answers to these questions are not yet fully clear. But as this report shows, on key topics the German Government is too close to big business interests. Whether it is the climate-busting car and gas industries; the big businesses that lobby to oppose tax transparency and support tax avoidance; or the agri-chemical and publishing sectors: they all seem to have the ear of the Government on too many key domestic and EU decisions. And there is a real danger that during its Presidency, the Government will continue to protect the interests of big business.

When Germany takes on Presidency of the EU, its role will include chairing the Council of the EU. The Council is the most opaque of the EU institutions and – as explored in Box 1.1 and Chapter 10 – has rightly been compared to a "blackbox".[1] This creates a serious democratic deficit. It prevents the public from holding their governments to account on their EU decision-making as it is often unclear how member states have negotiated on any given decision, and which backroom deals were made.

But this opacity also plays into the hands of corporate actors with the capacity, resources, networks, and access to get the information needed and feed their interests into the political process. They ensure their lobbyists (in-house or hired) are able to track relevant policy files and influence them at key moments, over-shadowing civil society groups who lack the equivalent resources.

...transparency of decision-making at the EU level is crucial as difficult decisions are made about the winners and losers of post-coronavirus recovery programmes.

Now more than ever, the transparency of decision-making at the EU level is crucial as difficult decisions are made about the winners and losers of post-coronavirus recovery programmes.

Big industry wins with the German Government

This report, a collaboration between NGOs in Germany and Brussels, shows how member states negotiate in the interests of their biggest companies in the Council of the EU. Many, if not all member states, are prone to this tendency, but the occasion of the German Presidency of the EU provides an opportunity to expose how, in recent years, some of Germany's biggest corporate sectors have secured the support of their government for industry-friendly positions at the Council of the EU. The case studies below reveal some cross-cutting themes.

Frequent interventions against climate protection measures

While Germany often prides itself on its record in introducing progressive environmental policies and spear-heading efforts to tackle climate change, the reality exposed in these studies is rather different. On the positive side, there is Germany's commitment to phase out nuclear energy. However, priority has also been placed on securing energy supplies, including from fossil fuel sources, in order to support Germany's most energy intensive industries. This has led to massive support for new gas infrastructure in Germany and elsewhere in the EU (Chapter 3). Also exposed below is how the German Government fought to ensure that gas was included in the EU's so-called sustainable taxonomy, which will determine which investments are classified as green and compatible with UN climate agreements, and which are not (Chapter 4). Consistent and ongoing support for Germany's powerful car industry, with its passion for heavy cars with powerful engines (Chapter 2), major agri-chemical industry (Chapter 7), and the well-connected industrial fishing sector (Chapter 8), further weakens the Government's claim to be a climate and environmental champion.

Crucial role of the Ministry for Economic Affairs

It is remarkable how often the Federal Ministry for Economic Affairs and Energy (BMWi) under Minister Peter Altmaier has a decisive say in the cases featured below. Altmaier is a former head of the Federal Chancellery and a close confidant of Merkel. Undoubtedly the BMWi plays an important role in German-EU politics: it's the BMWi, together with the Federal Foreign Office (AA), which lead the coordination of the Government's approach to EU matters, and it's the BMWi which passes draft directives to the committee preparing the Council meetings for example on competitiveness, telecommunications, transport, and energy. But it looks as if Altmaier and the BMWi often use this situation to quickly exert their authority, on behalf of Germany's biggest corporate players, to the detriment of the public interest. Meanwhile our cases often demonstrate that the Ministry for Environment is in a much weaker position. In January 2020 for example, Altmaier wrote a letter to European Commission President Ursula von der Leyen which argued against more pollution limits for the car industry before 2030, thereby undermining Von der Leyen's flagship policy, the European Green Deal (Chapter 2). The Minister for Environment has since endorsed this initiative.

Altmaier wrote a letter to European Commission President Ursula von der Leyen which argued against more pollution limits for the car industry before 2030

Impact of coalition politics

The impact of Germany's coalition-style of government can be seen to have substantially complicated its decision-making on EU matters, especially with the so-called 'grand coalition' between the centre-right CDU-CSU and the centre-left SPD political parties. In several cases in recent years this has led to mixed messages on important EU files (ePrivacy, Chapter 6), or no position at all (tax transparency, Chapter 5), which has delayed efforts to introduce positive new rules at the EU level. Perhaps the most notorious case was the 2017 EU vote on the reauthorisation of the weedkiller glyphosate, when the (CDU-CSU) German Minister of Food and Agriculture supported it, breaking an agreement to abstain agreed with the (SPD) Minister of Environment (Chapter 7). In 2018, when the Council adopted a decision on post-2030 emission limits on passenger cars, Environment Minister Schulze had to give in to the will of other ministries (Chapter 2).[2]

While it is very often Merkel's CDU-CSU which wins the day, the SPD must also be held responsible for the delays, loopholes, and derogations which have benefited big business. It was the SPD's Finance Minister Olaf Scholz who helped to kill off the EU proposal for a Digital Services Tax, in the hope that a global tax would be agreed at the Organisation of Economic Co-operation and Development, but thereby abandoning a realistic plan B in case these international negotiations fail (Chapter 5).

Ideological bias towards export industries

Underpinning German Government decision-making on both domestic and EU affairs is a strong focus on maintaining its export surplus. This approach has been heavily criticised for its destabilising effects on the European and world economy, but is considered to be the 'Holy Grail' of Germany's economic policy. This provides some explanation for the support provided to the biggest multinationals' policy demands such as those of the agri-business giants of Bayer and BASF, and the car industry. It might also explain why, in the taxation examples featured in Chapter 5, the Government has refused to actively support EU initiatives, preferring to instead support the demands of its major export industries.

Privileged access to decision-makers

Crucially, running through many of the cases is the overwhelming sense that while industry has the ear of the German Government, civil society often does not. For example, the Government's Gas 2030 strategy was developed wholly behind the scenes, until NGOs happened to get wind of it (Chapter 3). During the EU's glyphosate reauthorisation – led by the German Government which played the key rapporteur role – the process ensured that industry inputs into the evaluation report drafting process were significant, while the public were restricted to a formal 'consultation' (Chapter 7). In the area of fisheries, it is remarkable that German industry is able to join official EU delegations in negotiations with Norway, while NGOs have been refused (Chapter 8). Meanwhile, industry has far out-weighed NGOs when it comes to lobby meetings on ePrivacy (Chapter 6) or on emission limits for cars (Chapter 2).

Many ministers and officials appear to actively give privileged access to industry interests...

While on the one hand, many ministers and officials appear to actively give privileged access to industry interests, we also know that smaller civil society NGOs do not have the resources to follow EU files at every detailed stage. This does not mean that NGOs never have influence, but the huge difference in resources and access leads to a really uneven situation, which an absence of transparency exacerbates.

Research and agencies provide a helping hand

Last but by no means least, the German Government will sometimes actively help industry to make its political and technical case by commissioning or relying upon research that supports its demands. For example for the EU's ePrivacy file, the BMWi commissioned biased research to back-up industry's lobbying purporting to show how the industry would be damaged by the proposed new rules. Similarly, Altmaier's Gas 2030 strategy made the case for additional climate-busting infrastructure using highly contentious figures predicting a projection for growing gas demand, which came from industry. And the German input into the glyphosate reauthorisation process at the EU level relied heavily on the safety studies of producer companies such as Monsanto. The glyphosate example also demonstrates the problematic role that some federal agencies play, acting less as regulators and more as champions of industry.

Concluding comments

Taking on the Presidency of the EU is always an important moment for a member state government. But the German Presidency will be especially crucial as the EU battles to handle the consequences of the coronavirus pandemic. It seems clear that the German Government should use this moment to break from the past, forgo corporate interests (despite the mass of ongoing 'coronawashing' lobbying underway),[3] and instead make serving the public interest the clear priority. As we set out in Chapter 9, in the midst of a global pandemic, putting the public interest at the heart of all its dealings with the pharmaceutical lobby will be imperative for the Government. Tragically, there is a serious likelihood that under the German Presidency we will see business as usual. But in the uncertain political and economic waters the EU is entering, pandering to private, wealthy, and corporate interests could have far-reaching and deeply destructive consequences.

Council Presidencies are always a target for corporate lobbies, keen to influence the priorities and aims of the presiding member state.

BOX 1.1: What is the Council of the EU and what is the Presidency?

This report largely focuses on the Council of the EU which, together with the European Commission and European Parliament, discusses and adopts new rules and regulations. The Council of the EU is made up of ministers and officials from the 27 member states, and is rightly criticised for being perhaps the most opaque of the EU institutions.

As explained in more detail in Chapter 10, it is very hard for outside researchers to follow negotiations between national government representatives in the Council and to get an understanding of the positions of specific member states on any given subject. Most of the discussions and positioning are conducted by officials on behalf of their governments in around 150 working groups which convene, behind closed doors, in meetings which are not usually minuted. It is equally hard to discover who is lobbying member states and how this affects the final outcome of legislative negotiations. The Council of the EU is not currently part of the EU lobby register and there is no German lobby register.

Holding the EU's (rotating) Presidency is an important role enabling a member state to stamp its authority on, and present its agenda for, both the Council of the EU and also the wider European project. The role involves chairing all Council working groups, Council ministerials, and others – including the preparation of meeting agendas and discussion papers – as well as representing the Council in trilogue negotiations with the European Parliament and the Commission. The Presidency is also responsible for trying to progress current legislative files by producing proposals upon which it can try to seek agreement from the other member states.

Clearly the coronavirus will have a major impact on how the German Presidency operates. Media reports indicate that under the present Croatian Presidency, as few as 10 per cent of the usual meetings are being held. The German Presidency has said that it thinks this can grow to 30 per cent with video-conferencing becoming the norm.[4]

Past experiences indicate that Council Presidencies are always a target for corporate lobbies, keen to influence the priorities and aims of the presiding member state. High-profile lobby events, either in Brussels or in the home country; industry campaigns based on sectoral demands; lobby consultancy firms greasing the wheels for corporate clients; and even corporate sponsorship of Presidencies have all featured prominently in recent times.[5] And while the pandemic may mean the temporary suspension of some of these tactics, it is likely that significant lobbying will still be going on.

Germany has been neither open nor transparent in the run up to its Presidency. Despite several parliamentary questions, it was near impossible to discover the Presidency's early priorities before the coronavirus impacted.[6] While we have seen little evidence of Government outreach to civil society in the run-up to the Presidency, we know that industry has been active in issuing its own suggested programmes and setting-up lobby meetings.[7] Yet, the Government has refused to release information about the lobbying that has taken place on its Presidency agenda on the grounds that it was not legally required to do so, nor would it be "efficient". In terms of legislative and lobbying transparency, this is not a good start.

These issues are explored in more detail in Chapter 10.

CASE STUDY

Car industry

2. 'Autoland': How the German Government protects its car industry from adapting to climate change

by Arne Fellermann, Bund für Umwelt und Naturschutz Deutschland e.V. (BUND)

Ever since the EU established targets to reduce carbon dioxide emissions from cars, automobile producers have been fighting to keep these as weak as possible. The German Government continually protects its car industry from adapting its business model of ever-heavier SUVs and limousines with combustion engines to address climate change. Despite the Dieselgate scandal this situation continues, leading to the absurd situation that today large, polluting vehicles can still officially be counted as 'reducing emissions'. While the European Green Deal could pose a risk to this model, the car industry is using the corona crisis as an excuse to avoid further change.

Introduction

Germany champions itself as a leader of green industry and sustainability in Europe and the world. However, it is startling how one industrial sector, road transport, has remained largely untouched by any efforts to clean it up. Since 1990 it has not made any progress in carbon dioxide (CO_2) emission reductions in transport; all gains in efficiency have been consumed by rising demand. In fact in Germany the already large car fleet rose by a staggering 11 per cent between 2010 and 2018, an increase of 4.5 million vehicles. New cars have become more efficient, yet at the same time they also have become bigger and more powerful.[8]

Despite cars being a key source of CO_2 emissions, it became evident that the automotive industry would not respect even its own voluntary industry targets. So in 2009 the EU decided to set mandatory targets for reduced CO_2 emissions for new cars, with the first applied from 2015. Further standards were later introduced for 2020 and, very recently, for 2030. However, every time the EU decides on these new standards, a major lobby battle erupts. These CO_2 standards are a vital part of Europe's efforts to protect the climate. It should be noted that they are separate from other emission limits the EU sets to ensure that cars do not emit too much of several dangerous air pollutants, such as nitrous oxide for example, which was at the heart of the Dieselgate scandal. There are strong connections between stricter emission targets and Dieselgate however, because from the mid-1990s on, the car industry equipped its heavier limousines with diesel technology, which is more economic in energy consumption but which creates more air quality problems, especially in inner cities. Nevertheless, this technology was heavily subsidised by the German state and has been popular with consumers and producers, meaning that road transport has remained a serious problem for the climate.

The German car manufacturers

Practically all chief lobbyists of the big car companies have previously held government or political party roles.

The car industry is crucial to the German economy and one of the political heavyweights. It is publicly regarded as 'too-big-to-fail'. Its influence and access with ministries and political parties is founded on a well-oiled machine of unions, party financing, and sponsorships by car producers – such as financial support for political party conventions[9] – and an active exchange of positions between public and private sectors via the revolving door. Practically all chief lobbyists of the big car companies have previously held government or political party roles.[10] Not surprisingly the German Government has traditionally been very receptive towards car-makers' interests, including on CO_2 standards.

The powerful and influential car industry association Verband der Automobilindustrie (VDA) reported a revenue of €446 billion and well over 800,000 employees for German car-makers and their suppliers for 2017. Their premium and luxurious cars enjoy considerable popularity abroad and contribute to Germany's foreign trade balance.

Traditionally, there is also a partnership between car-makers and some trade unions. The largest union in Germany is IG Metall which has very close ties to the car industry. And while car-makers have better lobby ties with the centre-right CDU-CSU, the centre-left SPD has typically been more open to union influence.

German car manufacturers maintain very close communication with policy-makers and regulators in Germany and the EU and they spend huge sums on maintaining this close relationship. While there is no German lobby register, the EU register reveals that German lobbyists dominate the car sector in Brussels. Altogether the 3 largest German car manufacturers plus the VDA employed 101 lobbyists (or the equivalent of 43 full-time positions) on EU policy affairs and spent a combined lobby budget of around €8 million in 2018.

The lobby battle over CO_2 limits for 2020

In 2013 the process to update the EU's CO_2 limits for passenger cars for the target year of 2020 began. The final agreement for the 2020 carbon emissions limit was 95 grams of CO_2 per km for cars. But this target was a headache for the industry to achieve, because they had been inactive on the problem for decades – especially for those car-makers making larger, 'premium' models. For example, by 2018, only two years before the target year, the average EU CO_2 emissions per car was still at 121 g/km. Some manufacturers such as Daimler, even increased the average CO_2 emissions of their car fleet in this period, despite the EU targets to lower them. In 2017 it already was at 125g/km. However, due to their product line, lower diesel sales because of Dieselgate, and the production of increasingly heavier SUV models, Daimler's fleet average increased dramatically to 134g/km in 2018.

Car companies which do not meet the EU targets are required to pay fines, potentially costing billions. The stakes were high for the car companies, but rather than adapt their car models to meet the targets, they instead opted to lobby for easier targets. At first this went well, and the German Government intervened successfully in order to protect BMW, Daimler, and others from special rules on heavy limousines. But by the time the final negotiations in the trilogue (with the Commission and European Parliament) were due to start, the car industry was still not happy, and it used its well-oiled lobbying machine to convince the German Government to intervene.

With a hand-written "Dear Angela" at the top, Wissmann argued that Germany's "premium segment" of car manufacturing constituted almost 60 per cent of automotive jobs, which should not be destroyed by "over-regulating"

Documents obtained via freedom of information show some of the lobbying that took place.[11] For example VDA Chair Matthias Wissmann wrote to Chancellor Merkel on 8 May 2013. With a hand-written "Dear Angela" at the top, Wissmann argued that Germany's "premium segment" of car manufacturing constituted almost 60 per cent of automotive jobs, which should not be destroyed by "over-regulating". He emphasised that the proposal by the Commission and Parliament was "very ambitious and to a large extent unbalanced" and made clear his expectations that the German Government would intervene.[12] Wissmann is a former Minister for Transport (1993-98) and was a Cabinet colleague of Merkel during this time. According to the newspaper Die Zeit, he even warned that the new 2020 targets would threaten European's industrial future.[13]

On the same day the IG Metall union also wrote to the Chancellery. Its Chair, Berthold Huber, supported the necessity to intervene and also lobbied the Commission for so called "Supercredits" and other finesses, designed to make it as easy as possible to reach the emission targets.[14]

Meeting lists obtained through the website for information rights Frag den Staat showed how, in the first half of 2013, the chief executives of Volkswagen and BMW, as well as Matthias Wissmann, all had personal one-to-one meetings with Merkel, while the chairs of the powerful workers' councils of BMW, Daimler, and Volkswagen had one with the Chief of the Chancellery Eckart von Klaeden.[15] Incidentally, only a few months later, Von Klaeden went straight through the revolving door to become chief lobbyist for Daimler![16] The meeting lists show that, in the same time period, environmental and consumer protection associations had no more than one meeting together with the specialist level of the Chancellery.

Chancellor Merkel with Dieter Zetsche, the former Chairman of car company Daimler. Credit: RudolfSimon / Wikimedia / CC BY-SA 3.0

> Merkel picked up the phone and asked Enda Kenny, then-Prime Minister of Ireland and holder of the Council Presidency, to remove the existing compromise deal...

In June 2013 Merkel picked up the phone and asked Enda Kenny, then-Prime Minister of Ireland and holder of the Council Presidency, to remove the existing compromise deal hammered out together with the Parliament and Commission, from an upcoming Council meeting agenda. This was seen as an unusual and politically aggressive demand. But crucially for Merkel, it bought her time to win over enough other member states to postpone and then re-open the compromise deal, via a series of personal calls to member state leaders. According to a press report, these included Portugal and the Netherlands who were reminded of the role that German car companies played in their national economies,[17] as well as the United Kingdom. According to MEP Holger Krahmer, UK support for Germany's position on 2020 CO_2 targets was exchanged for German support for the UK position on an entirely different dossier, the European Banking Union.[18]

Peter Altmaier, then Minister for Environment, even tried to convince other states to support a compromise that only 80 per cent of car fleets would have to meet the targets by 2024.[19] This however wasn't a viable option with other member states, nor MEPs.

Two ton SUVs help lowering the emission target

In the end, the new emission targets were agreed at the beginning of 2014 for delivery in 2020. The car industry clearly had not achieved all it had aimed for and continued to argue that these targets were too ambitious, but its lobbying efforts and alliance with the German Government had ensured that there were a bewildering assortment of loopholes and phase-in rules to help the car industry avoid paying too many billion-euro fines. These include, to name just a few: in 2020 the companies are allowed to deduct the dirtiest five per cent of their cars from the emissions, they don't need to count combustion cars that also have a battery, and there is no difference between a smaller model and a two or three ton SUV. On top of this, so called "Supercredits" are given to electric vehicles so they can count double in the emission balance.

These loopholes have drastically reduced the climate benefits of the 2020 targets. Modern plug-in hybrids generally have an immense discrepancy between their official test results and their actual real world emissions. The main reason for this is that hybrids only have a low CO_2 footprint if they are regularly charged and mainly use their electric engine. If the – usually-small – battery is empty, their emissions are many times higher than the official limit value. This is now perfectly legal. Citizens buy hybrids thinking they are opting for a greener vehicle option, but in reality the situation is far, far more complicated.

2030 targets: the battle isn't over till it's over

In 2018 the German Government fought a new battle against updated CO_2 standards for vehicles to achieve by 2030. It was successful in preventing a minimum quota for electric vehicles. But instead of the 30 per cent reduction compared to the 2021 emission level, which the German Government had aimed for and the Commission had proposed, by 2030 new cars will have to lower their CO_2 emissions by 37.5 per cent. This time, a majority of member states and the Parliament were determined that cars should also have to make their contribution to mitigating the climate crisis and German attempts to persuade other member states were not successful. As expected, the car industry wholeheartedly condemned the results as too strict, without room for innovation.

In January 2020, Altmaier, now Minister for Economic Affairs and Energy, wrote to the Commission and rejected changes to the existing targets for 2030 for reasons of "planning reliability".

When the new President of the European Commission Ursula von der Leyen came into office, she declared her European Green Deal (EGD) to be the flagship policy of the new Commission. All relevant EU climate policies are to be aligned with the target of being climate neutral by 2050. CO_2 emission limits for cars will also have to be adapted to this, in a review due in Summer 2021. In January 2020, Altmaier, now Minister for Economic Affairs and Energy, wrote to the Commission and rejected changes to the existing targets for 2030 for reasons of "planning reliability".[20] Even more worryingly, the German Ministry of Environment has taken a similar position.[21]

Corona crisis as a lobbying opportunity

With the coronavirus crisis heavily affecting the production and sales of the car industry, companies and lobby associations have demanded the Commission weakens existing CO_2 targets. In a crisis meeting with the German Government, German car-makers and the VDA demanded political support to cancel any new negotiations about new targets for 2030 as required by the EGD.[22] In this way, the car industry pits one crisis against the other.

How will this debate develop during the German Presidency? The response to the coronavirus crisis is an opportunity to force the industry to genuinely convert itself to sustainability. Recovery funds could come with conditions that force the sector to do the right thing. Chancellor Merkel has already announced that reconstruction after corona should be climate friendly and has emphasised the need to tighten up the member states' general CO_2 reduction targets until 2030.[23] But will she also apply this standard to the car industry?

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Credit: LobbyControl

CASE STUDY

Gas industry

3. Love is in the air: Germany and the gas lobby

by Deutschen Umwelthilfe

The German Government, especially via the powerful Ministry of Economic Affairs, has become one of the EU's biggest advocates for a greater reliance on gas and the infrastructure to support it. But this dirty fossil fuel will only contribute more to the climate crisis and divert us from essential solutions such as renewable energy and efficiency gains. With numerous energy policy files on the EU's agenda in the coming months, Germany's love affair with gas must come under serious scrutiny.

Gas, the fake solution to the climate crisis

The relationship between the gas industry (for example companies such as Uniper, Wintershall Dea, and Shell) and the German Government is not only a love story, but one of an intimate partnership and mutual support. Peter Altmaier, Germany's Minister for Economic Affairs and Energy, summed up his administration's view on gas in eyebrow-raising terms: "Gas is not only important, it is sexy." This was at the public presentation of a report called 'First Results: Dialogue Process Gas 2030'[24] in October 2019 which effectively sums up the German Government's position on this fossil fuel, which in turn looks set to influence the upcoming Council Presidency.

> Peter Altmaier, Germany's Minister for Economic Affairs and Energy, summed up his administration's view on gas in eyebrow-raising terms: "Gas is not only important, it is sexy."

Credit: Patrick Büttgen / Wikimedia / CC BY-SA 4.0

Germany's sustainable energy transition faces a serious crisis. While the phase-out of nuclear power is proceeding as planned, the coal phase-out has been decided only in principle, and with an unclear end date.[25] At the same time the installation of renewable power has slowed down significantly and the necessary grid modernisation and extension is being implemented much too slowly. Political will to address these shortcomings is sorely lacking, despite the ambitious targets set by the Government. The overall situation is characterised by great uncertainty for investors, energy market actors, and citizens.

The gas industry has capitalised on this uncertainty by promoting gas as the secure, clean replacement for coal and nuclear energy. Yet gas is a fossil fuel, like oil and coal, and advocating Germany's dependence on gas for the coming decades will just mean more dependence on dirty energy and its expensive infrastructure, while simultaneously undermining opportunities for renewables.

The latter half of 2020, the period of the German Council Presidency, looks set to be a busy time for EU decision-making on gas with numerous files on the agenda, some of which have been prompted by Commission President Von der Leyen's European Green Deal. These include: the EU gas policy package, gas decarbonisation strategy, gas market reform, a methane strategy, and a review of the ongoing Trans-European Networks for Energy (TEN-E) process. The TEN-E regulation, for example, has been spearheading the development of new gas infrastructure across the EU, and its evaluation will influence to what extent future gas projects are eligible for funding by the EU. These policy elements have the potential to shape future EU gas policy in various and decisive ways and as such, Germany will be able to exert considerable influence on prospective EU energy policy during its Presidency.

It's worth examining in more depth a notorious example of Germany's love affair with gas, and its lobby battle at the EU level, namely the Nord Stream 2 pipeline. It is also important to explore how the German Government has recently cemented its policy position on gas through close collaboration with industry, and how its domestic positioning on hydrogen and methane leakages will likely impact on EU decision-making during the upcoming German Presidency.

Nord Stream 2: an unnecessary pipe dream

The deeply controversial Nord Stream 2, a projected twin gas pipeline from Russia via the Baltic Sea to Germany, is key in a geopolitical and economic conflict dividing EU member states, the Commission, the US, and Russia. Originally meant to be completed in 2019, it would double the capacity of the existing Nord Stream pipeline, and the German Government has been amongst its most powerful supporters.

Concerned over undue Russian influence, in 2017 the Commission proposed a change to the EU gas directive to stipulate that a third-party nation cannot own both the pipeline and the gas imported into the EU market.[26] Since this is exactly the position that the Nord Stream 2 pipeline was in, the changed directive would have had the potential to kill or seriously delay the project, which was exactly what the Commission intended.

In the three years to December 2017, the gas industry lobby had met with representatives of the German Government, often at ministerial level, at least 62 times, possibly more, to discuss the pipeline.

The pipeline is being built by Nord Stream 2 AG, a consortium owned by Russian giant Gazprom and financed by five European companies: Uniper (German-Finnish), Wintershall Dea (German), Shell (Anglo-Dutch), OMV (Austrian), and Engie (French). It's surely no coincidence that the German Government, with the support of France, Austria, and the Netherlands, vocally opposed the proposed change during meetings of the Council Working Group on Energy. Bulgaria and Austria, both of which held the EU Presidency in 2018, also backed Germany, refusing to push the dossier through despite attempts by others to accelerate it.[27]

Information from a parliamentary answer revealed the huge lobby power of Nord Stream's corporate backers. In the three years to December 2017, the gas industry lobby had met with representatives of the German Government, often at ministerial level, at least 62 times, possibly more, to discuss the pipeline.[28] Meetings were with the key industry backers of the pipeline including Gazprom, Uniper, Wintershall Dea, Shell, OMV, and Engie.[29]

Pipe sections for Nord Stream 2. Credit: Nord Stream 2 / Axel Schmidt.

Germany's staunch defence of Nord Stream 2 also hinges on the strong links between Gazprom, its construction consortiums, and senior political circles. High-profile revolving door cases include Gerhard Schröder, former German Chancellor, who chairs both the board of Nord Stream AG – the company that built the first Nord Stream pipeline – and the board of Russia's Rosneft oil company.[30] Schröder has often criticised both the Commission and the US for their opposition to Nord Stream 2. Another notable revolving door case involved Marion Scheller who had been a senior official working on energy policy at the BMWi but who in September 2016 became a senior lobbyist for Nord Stream.[31]

The change to the EU's gas directive passed in the end, but Germany secured a significant concession that restricts the applicability of the directive to its own territory and seas, but which nevertheless means that the project can go ahead at least on German soil. A likely option for the consortium will be to legally unbundle the last 12 nautical miles of the pipeline that lie in German territorial waters, which would mean fulfilling the EU directive, but still enabling the pipeline to go ahead, albeit in revised form. Nord Stream 2 AG has already set-up a new company to which the section of the pipeline in question could be outsourced.[32]

It seems clear that the gas industry can count on the German Government to do everything in its power, whether at a national or EU level, to make new gas infrastructure projects succeed.

Putting gas centre-stage

The Nord Stream 2 pipeline provides a clear symbol of the German Government's love affair with the gas industry, an affair which has recently been confirmed by the 'Gas 2030' strategy process. This started in December 2018 and although the final report is labelled 'First Results', it has become the *de facto* strategy on gas for the BMWi, determining its approach on gas for the coming decade, including the upcoming Council Presidency.[33]

The report, in line with industry assessments, projects a growing gas demand and urges additional infrastructure to tap into new sources of supply for pipeline and liquefied natural gas (LNG). Projects such as Nord Stream 2 and new LNG import terminals along the German coast demonstrate that the Government is actively following the report's recommendations. Moreover, 'blue' hydrogen made from fossil gas is labelled as CO_2 neutral and its use, including the application of controversial and risky carbon capture and storage (CCS) technology is advised.

> Meetings were held within an exclusive circle of industry lobbyists and civil servants, and not even the Ministry for the Environment, Nature Conservation and Nuclear Safety was invited

The 'dialogue' on Gas 2030 was organised by the Deutsche Energieagentur (German Energy Agency or DENA). The main work was conducted via an enormous number of working meetings and during the initial months, the whole dialogue process operated 'behind the scenes' and few people outside the gas industry knew about it. Meetings were held within an exclusive circle of industry lobbyists and civil servants, and not even the Ministry for the Environment, Nature Conservation and Nuclear Safety was invited to join.

However, eventually environmental NGOs such as Deutsche Umwelthilfe (DUH) became aware of the process and were consequently invited to participate in one plenary session, where we found ourselves to be among about 150 representatives from industry. In this plenary, held in June 2019, preliminary results from the working groups were presented and commented on. Seven months after the start of the process, this was the first opportunity for any NGO to intervene, and we had almost no opportunity to prepare a position on the emerging results that had been so heavily influenced by industry.

The ministry did subsequently agree to have one meeting with NGOs to discuss the strategy. However, as far as we can tell, no positions endorsed by environmental groups made their way into the final report, and the working groups continued without any further opportunities for independent organisations to contribute. The list of participants in this process remains a secret.

Even independent research commissioned by a Government agency was disregarded in the Gas 2030 process, because it concluded that the demand for fossil gas would decline as climate targets were fulfilled.[34] Meanwhile, an internal paper authored by DENA, which was used in the final Gas 2030 report, employed data from a study commissioned by the Nord Stream 2 consortium.[35] Instead of considering Government-commissioned research, it appears that the BMWi based its gas strategy on data from the gas industry.

Hydrogen: a misleading distraction

The issue of hydrogen was also discussed during the Gas 2030 process, and it was judged so important that the BMWi opted for an entirely new process to develop a hydrogen strategy. Hydrogen fuel can be used in engines or fuel cells and is often claimed to be climate-friendly. However, 95 per cent of today's hydrogen is produced from fossil fuels, while efforts to scale up the current 5 per cent of 'green' hydrogen (produced from electricity generated via renewables) are still likely to lead to more fossil fuel-friendly infrastructure. While green hydrogen can play a vital role in decarbonising sectors such as industry where no other alternative exists, there is a serious risk that the overambitious promotion of hydrogen as an energy source will just lock-in more dependence on dirty energy, which of course is just what the gas industry wants.

The German Government's dialogue on hydrogen consisted of only one stakeholder event, which took place in November 2019.[36] The strategy was originally due in December and was only published in June 2020. It puts a clear focus on green hydrogen, and leaves many loopholes open for the use of fossil gas. This had already become clear during the drafting process.

To reinforce the pro-hydrogen message, the Minister for Transport and Digital Infrastructure arrived in a fuel cell car at the stakeholder event in November, with accompanying publicity and fanfare.

In February 2020 a leak of the draft strategy on hydrogen revealed once more the gas industry's influence on German policy. The draft defined 'blue' hydrogen and 'green' hydrogen both as "carbon free", giving them the same standing. Blue hydrogen is fossil gas that has been turned into hydrogen using carbon capture and storage (CCS). However, equalising the two forms of hydrogen in this way would, in practice, lead to a huge advantage for the future deployment of blue hydrogen over the green version. On top of that, the draft sought to apply this so-called "carbon free" gas in almost every sector from industry to home heating and transport, in order to try to guarantee huge future hydrogen demand. To reinforce the pro-hydrogen message, the Minister for Transport and Digital Infrastructure arrived in a fuel cell car at the stakeholder event in November, with accompanying publicity and fanfare.

The Ministry for the Environment also had a say on the strategy and a revised, though not final, draft puts green hydrogen more into focus and narrows down the sectors where gas will play a role. The gas industry has little pull in this ministry, although there remains a risk that, when industry interests are at stake, the BMWi will pull rank over the Environment Ministry.

Germany's hydrogen strategy is an important input for debate at the European level and will likely influence policy-makers in Brussels, as the Government seems to plan to make the creation of the necessary markets and infrastructure in the EU a priority under its Presidency.[37] This is a concern given that the promotion of hydrogen is largely a smokescreen for more fossil fuel infrastructure.

Gas' dirty secret: methane emissions

Maybe the most glaring omission in Germany's 'Gas 2030' strategy is that it completely ignores the issue of methane emissions. Methane emissions occur along the entire value chain of natural gas, from extraction through to end use, and methane is a greenhouse gas far more damaging than CO_2. 'Gas 2030', however, does not even mention the word methane once. This is not surprising as including methane emissions shows natural gas to be much more polluting than its proponents would have us believe; and therefore represents a threat to the gas industry.

Even if the German Government did want to include more independent data on methane emissions in their considerations for a gas strategy, these are actually hard to find because the gas lobby has influence in science and research, too. The German lobby association representing gas and water utilities (DVGW - Deutscher Verein des Gas- und Wasserfaches) and its subsidiary, the DBI group, are among the institutes in Germany that are commissioned to examine methane emissions data, despite the obvious conflict of interest. The website of the DBI lists several gas companies as partners and supporters of emission-measuring projects.[38]

The German Government's side-stepping of the problem of methane might have serious consequences for EU policy. The Commission is currently preparing its first-ever methane strategy to tackle the issue of methane leakages and improve emissions reporting. This work takes place in the context of a new EU gas policy package expected in 2021.[39] The strategy, as well as important preparatory work on the gas decarbonisation package, are scheduled for the second half of 2020, which falls within Germany's EU Council Presidency. Ideally, Germany should promote these efforts and push back against the increasing calls to delay gas sector decarbonisation. But if Germany's past track record on gas is any indication, this will not happen.

Conclusion

For Germany's role in Europe, the influence the fossil gas industry exerts on the BMWi is highly problematic, and Germany looks set to continue to be an ally of the gas industry.

Despite promises by the German Government that climate protection will still play an important role under its Presidency, the large number of gas-related files that will fall within the orbit of its Presidency – the EU gas policy package, gas decarbonisation strategy, gas market reform, a methane strategy, and more – could provoke a lobby onslaught. Additionally, Germany seems set to implement changes at the EU level to pave the way for scaling up hydrogen production, and the emphasis on hydrogen masquerading as a climate-friendly fuel could serve to keep the gas industry alive for longer.

The coronavirus pandemic has not stopped gas industry lobbying. An April 2020 letter from industry to the Commission called for hydrogen and the controversial CCS, a favourite of the gas industry, to play a central role in the recovery effort.[40] And while the coronavirus pandemic might cause delays in the implementation of the European Green Deal, it seems clear that the gas industry retains many powerful friends in Brussels and Berlin.[41]

In light of this, Deutsche Umwelthilfe demands that the German Government uses its Presidency to develop an exit strategy for fossil gas that is in line with the 2015 Paris Agreement. For the period when fossil fuels are still used, the Government must ensure that public subsidies end immediately, with only renewables eligible for public funding.

To find out more about Deutsche Umwelthilfe's work, please visit www.duh.de or contact Constantin Zerger, Head of Energy and Climate Protection, zerger@duh.de

CASE STUDY

Finance industry

4. Letting industry have its way: Financial regulation and the German Government

by Marcus Wolf, Finanzwende

The German financial industry has profited from its relationship with the Government, from the car loan sector working to ensure a risky financial instrument was left largely unregulated, to allowing fossil fuel projects to be labelled as 'sustainable' or 'transitional' investments.

Financial policy has been a considerably important field of EU regulation since the collapse of Lehman Brothers and the subsequent economic crisis in September 2008. Ideas such as a tax on financial transactions have long been on the agenda, and the European Commission even proposed a structural reform of the banking sector. However, many of the fundamental changes that could have made the financial system fairer and more stable have been blocked or delayed. On multiple levels and at various moments in the political process, financial industry lobby groups have made their voices heard loud and clear. Financial industry lobby groups comprise over 700 organisations that work at both the European and national levels.[42]

Over the course of the legislative process, Germany and other EU states pushed for exemptions for dirty industries.

Below we look at two examples of how the German Government supported domestic industries in the area of financial regulation. The financial industry's lobbying on car loans is a textbook example of a cross-industry influence campaign. Despite continuing warning signs of an overheating EU car credit market,[43] the Commission's proposal for the securitisation (ie. the bundling up and selling) of car loans ended up actually reinforcing this unstable market. In no small part was this due to the efforts of the car and finance industries, leaving a risky financial instrument largely unregulated. The second case study investigates the attempt to create a framework for green investments in the EU, to define which investments are classified EU-wide as sustainable. Over the course of the legislative process, Germany and other EU states pushed for exemptions for dirty industries. While in the end, coal and nuclear energy will not be fundable under these criteria, the German Government managed to ensure that gas is included.

Case 1: Securitisation and the regulation of debt-financed car purchases

In 2017 European institutions concluded the regulation of a financial product that had been a key component in the build-up to the 2007-08 'subprime' credit crisis, namely securitised loans. In the end, the Commission's strategy for a 'Capital Markets Union' included a push for more 'securitisation' so as to "break down barriers that block cross-border investments in the EU and make it easier for companies and infrastructure projects to get the finance they need".[44] The cornerstone of securitisation was the proposal for "simple, transparent and standardised" securities, known as the STS regulation.[45]

The credit bubble that burst in 2008 was mainly driven by sub-prime mortgages. Those types of bundled loans in the housing market were not a major issue in 2017; but similar financial products in the car market were. There were signs in this market coming from the US and the UK that resembled the 'mortgage backed securities' crash in 2008. But despite these warning signs, the STS regulation ended up as a supportive tool to securitised car loans, so-called Auto ABS (asset backed securities).

The draft STS regulation was presented by the Commission in September 2015, but it would not go through easily. In the course of the following year, it became clear that the European Parliament had issues with many elements in the proposal, including one that was crucial to the car industry: "risk retention". Risk retention is about requiring the lender to hold on to part of the loans, a requirement that is supposed to prevent the car industry from making unrealistic assumptions about customers' credibility, selling them cars, and then letting the financial markets carry the risk. It is one of the small measures taken in the EU and elsewhere to reform securities markets to avoid a repetition of the Lehman Brothers debacle. In a briefing on the reforms of the global securities markets after the financial crisis, credit ratings agency Standard & Poors wrote that "post-crisis psychology, lessons learned about transaction oversight and providing better information, and regulations, such as risk retention compliance, have created better-quality securitisation pools."[46] Such considerations made the Parliament propose to double the 'risk retention' in the proposal, from five to ten per cent. This would not go down well with the car industry.

Corporate lobbies listed eight separate changes that they would like to see introduced by the trilogue negotiators into the EU proposal, including risk retention.

In January 2017 the German and French car industry associations, among them the VDA, and their banks claimed that they were "concerned that some of the provisions proposed would significantly harm the European securitisation market".[47] They listed eight separate changes that they would like to see introduced by the trilogue negotiators into the EU proposal, including risk retention. Whether to stick to the modest threshold or the new proposal would be decided at the negotiations between the Commission, Council, and Parliament – the trilogue.

Documents obtained by Corporate Europe Observatory via freedom of information requests reveal how in the trilogues, the views of the member states and MEPs on the Economic and Monetary Affairs Committee (ECON) diverged widely on important questions. Risk retention was one of the issues where the Council rejected the stance of the Parliament. And unsurprisingly, the German Government used its weight to defend its car industry.

Initially, when discussing the Council's own approach to the STS shortly after the Commission had tabled its proposal in September 2015, the German Government had a forthcoming attitude to risk retention. In a letter, the German Ministry of Finance (BMF) wrote to the Commission that it was "open to higher risk retention" as that would "better align the interests of the lender and investors."[48] In other words, a lender would have to think about how the loan would fare in the long term. That tone would change entirely in the final phase of the negotiations.


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BDA BANKEN DER AUTOMOBILWIRTSCHAFT

Comité des Constructeurs Français d'Automobiles

VDA Verband der Automobilindustrie

Legislative procedures on simple, transparent and standardised securitisations and the Capital Requirements Regulation – 2015/0226 (COD) and 2015/0225 (COD)

Upcoming trilogue negotiations – Concerns of European automotive industry

The Verband der Automobilindustrie (VDA), the Comité des Constructeurs Français d'Automobiles (CCFA) and the Banken der Automobilwirtschaft (BDA) have continuously followed and commented the legislative work of the European Commission, the European Council and the European Parliament on the regulations proposed for simple, transparent and standardised securitisations (STS) as well as amending the Capital Requirements Regulation (CRR). After the Committee of economic and monetary affairs of the European Parliament has voted on both proposals by the end of last year we are following the trilogue negotiations. We are still concerned that some of the provisions proposed would significantly ... the European securitisation market. Our main points are:

... term "originator" will exclude all leasing companies from the ... STS, Parliament).

Two years later, letters from the BMF show a strong opposition to higher risk retention rates as proposed by the Parliament. In January 2017, an overview of the positions in the Council from the BMF underlines that it opposes a higher risk retention as it would "go against the revitalisation of securities markets."[49] In May, a similar briefing showed the Government followed the issue to the door. According to the Parliament, the risk retention rate could be raised in a decision by the so-called European Systemic Risk Board (ESRB), an EU institution set up to monitor the stability of financial markets,[50] should it deem it necessary to ensure financial stability. On this point, the German Government was sceptical, as was one other member state government.[51]

Out of the eight demands tabled by the car industry in January 2017, five were met which watered-down the regulation of this highly problematic financial product.

In the end, the car industry had its way on that part of the battle. The risk retention rate was set at a low five percent, and the ESRB was not mandated to raise the rate, but merely to write a report on the matter, should they detect instability.[52] Generally, the car industry was successful. Out of the eight demands tabled by the car industry in January 2017, five were met which watered-down the regulation of this highly problematic financial product.[53] This was in the main due to the position of the Council, and apparently in no small part the German Government.

Now, with the coronavirus crisis, this should lead to reflections. At the moment, car sales have largely stopped, and in some countries such as the UK, regulators have felt it necessary to step in and ask lenders to provide customers with a three month moratorium on repayments.[54] In the US, there are even more worrying signs. "The current dislocations in credit markets show that while auto-loan defaults may not be the center of a financial crisis like mortgage-backed securities, they could well set off wider panic as consumer confidence crumbles, household balance sheets deteriorate and big issuers – car companies – struggle," Bloomberg wrote recently.[55] Whether this will become reality in the EU, remains to be seen, but if it does, there will be a link to that trilogue three years ago where the car industry had its governments help it out.

Case 2: Sustainable investment criteria diluted

The lobby battle over the EU's Criteria for Sustainable Investment exposes the alliance of industry and financial sector interests and how it cooperated with member state governments, including Germany.

In recent years there has been increasing pressure on the financial sector to invest more sustainably. The market for green finance is booming, and yet it has remained unclear how green finance should be defined in a technical sense. Since 2018 European institutions have been discussing binding criteria (a so-called "taxonomy") for sustainable finance in order to focus capital flows on greener investments.

Through leaked Council documents... we know that the German Government attempted to make these guidelines for sustainable financial products voluntary, severely weakening the force of the new rules.

However, a number of European governments, including Germany, have played a partly inglorious role in the process. The German Government said that it wanted to make the country the leading location for sustainable finance.[56] In a similar vein, the French Government has also claimed to be a "pioneer in the development of sustainable finance".[57] Despite these good intentions, both governments managed to almost bury EU attempts to introduce truly sustainable finance criteria.

Through leaked Council documents dated May 2019, we know that the German Government attempted to make these guidelines for sustainable financial products voluntary, severely weakening the force of the new rules.[i] Unsurprisingly this was also a key demand by the German insurance industry – namely the GDV (German insurance association) and investment managers' lobby, the BVI (federal association of investment and asset management) – which warned against a potential 'over-regulation' of the market for green financial products.[58]

i. The leaked documents are accessible upon request from Finanzwende. In the document, the German position is summarised: "Non-binding elements/measures could provide a common language that is voluntarily used by the financial industry and could be used as a basis for further policy options".

In addition, the German and French Governments tried to include their key energy sectors (gas and nuclear energy respectively) in the green taxonomy.[59] To its credit, the German Government insisted on the exclusion of nuclear energy, but its biggest win was securing labels for natural gas as an "enabling" or "transition" investment.[60] This means that investment funds holding assets in gas companies still count as green.[61] Clearly this contributes to Germany's strategy for its energy agenda, which is to strongly promote gas as a 'transition' fuel, in order to close the gap between the phasing out of nuclear energy and coal, and the as-yet largely missing infrastructure for renewables. (See Chapter 3, which explains why gas is firmly in the dirty energy camp, and not a 'transition' fuel.) The categorisation of "enabling" or "transition" investments has been heavily criticised as it allows for potential loopholes for dirty industries in a supposedly green framework.[62]

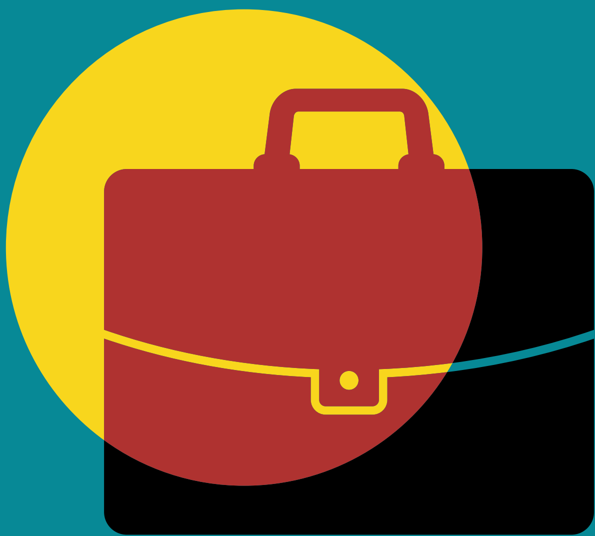
Gas-fired power plant in Germany. Credit: Christian A. Schröder (ChristianSchd) Wikimedia / CC BY-SA 4.0

Looking ahead, civil society must remain alert when the German Government takes over the EU Council Presidency in July, and must continue to demand a stricter regulation of financial markets in order to make finance serve society and the environment. After the market turmoil following the coronavirus crisis, it will be all the more important to preserve and strengthen regulation of financial markets.

Marcus Wolf is a researcher with Finanzwende. To find out more about Finanzwende's work, please visit www.finanzwende.de or contact info@finanzwende.de

CASE STUDY

Corporate tax



NETZWERK STEUER-GERECHTIGKEIT

5. Protecting dirty secrets: How German companies fight against tax transparency

by Christoph Trautvetter, Netzwerk Steuergerechtigkeit

Like many of their peers from other countries, some big multinationals from Germany use tax havens to shift their global profits. Their tax avoidance strategies mean they are opposed to more transparent financial reporting ('public Country by Country Reporting') that would reveal these structures and tactics. With support from the German Government they have repeatedly managed to block, delay, and water-down progress on financial transparency at the global level and are currently fighting against the EU taking a more progressive stance.

What is public Country by Country Reporting?

When multinational companies shift profits to tax havens this creates unusual patterns. Employees in Bermuda suddenly seem a hundred times more productive then their German peers; tiny Luxembourg becomes a big player in foreign direct investment; and, most importantly, some companies on paper make hardly any profit in the countries where they work and sell stuff, and consequently don't pay their fair share of taxes.

The concept of public Country by Country Reporting (pCBCR) of corporate profits and tax payments was developed to make these patterns visible, to help governments move towards fairer tax systems. It also helps tax agencies – especially those in developing countries without access to either the headquarters of multinationals or non-public information on tax exchanges – to better understand the games multinationals are playing.

...chemical giant BASF avoided €923 million in tax between 2010-2014, receiving tax advantages in Belgium, Malta, the Netherlands, and Switzerland.

So far, public outcry against tax avoidance has mainly focused on US (tech) companies such as Google, Apple, Amazon, and Facebook. But many big German multinationals use the same tax havens and tools to shift profits and reduce their tax payments around the world – and fear more transparency. For example, it is estimated that chemical giant BASF avoided €923 million in tax between 2010-2014, receiving tax advantages in Belgium, Malta, the Netherlands, and Switzerland.[63] Meanwhile the healthcare company Fresenius has been accused of avoiding up to €2.9 billion in taxes worldwide since 2010 through aggressive tax planning.[64]

German business associations have a long history of fighting against better and more transparent financial reporting, supported by various German administrations aiming to protect the unfair advantages of its export-driven industry.[65] When the UN tried to introduce an early version of pCBCR in 1977, business lobby associations including the International Chamber of Commerce managed to shift the discussion to the Organisation for Economic Co-operation and Development (OECD) which is the key international forum for tax policy-making. It in turn handed over standard-setting to a private body dominated by the big accounting firms that unsurprisingly settled on very little transparency.[66]

Nearly 40 years later, when under public pressure the OECD finally approved a form of CBCR in 2014, Germany again strongly opposed compelling big business to put more information on profits earned and tax paid into the public domain. In a discussion dominated by technical experts, Germany – driven by its business associations – was reportedly one of the fiercest opponents of making the information public.[67] Consequently CBCR information was made accessible only to tax agencies from a dedicated exchange network that, up until today, excludes most developing countries. The OECD is currently working on another attempt at global tax reform but has, despite repeated promises, so far failed to make at least the aggregated results of CBCR accessible in time to inform ongoing discussions.

PCBCR at the EU level: loopholes, blocks, delays

Parallel to the OECD, the EU introduced pCBCR reporting for banks and, in the wake of the tax fraud scandals revealed by the Panama Papers, launched consultations to make publication obligatory for all big companies. This time – away from the obscure and technical debate at the OECD – 66 per cent of the 282 respondents were in favour of publication. In stark contrast, 76 per cent or 25 out of 33 respondents from Germany rejected the idea, again mainly driven by business associations (12) and big companies (8).[68] For example, agri-chemical giant Bayer wrote: "In particular, countries outside the EU have an interest to substantially increase their tax base and will use the data obtained under CBCR to this end. Through this, profit-sharing are increasing – with the result that the existing European tax base and thus the financing of the national budget would be threatened."[69]

Despite the German and business opposition, the European Parliament adopted a plenary report approving the Commission proposal, albeit with several significant loopholes.[70] One of them would allow companies to exclude information for certain countries or years from their public reporting when this could be justified as protection of so-called commercial secrets – allaying one of the central fears repeatedly presented in the German debate[71] and repeated by German politicians in the European Parliament. While this amendment was tabled by a French politician from the Liberal group, German Liberal Michael Theurer (now a member

Credit: Tax Justice Europe

of the Bundestag) reinforced the need to protect competitiveness of European companies in the associated plenary debate.[72] In October 2019 following the European elections, the new Parliament again passed a resolution calling on the Council to "break the deadlock" on the proposal but a new attempt by the Council to unblock the proposal in November 2019 was cancelled when it was clear that the proposal had yet to receive the support of enough member states.[73] Germany continued to abstain on the issue, thereby denying the proposal the 'qualified majority' required to get it out of the deadlock.[74]

German politics, and in particular the opposition to pCBCR, has been dominated by Angela Merkel (Chancellor since 2005) and Wolfgang Schäuble (Finance Minister between 2009 and 2018) from the Christian Democrats (CDU-CSU). Since 2013 the CDU-CSU has been in a coalition government with the Social Democrats (SPD). The SPD's manifesto for the 2017 federal elections actually supported pCBCR, although it was clear that several important members were not very fond of the idea. After taking over the Federal Ministry of Finance (BMF) in 2018, it took more than a year and intensive civil society campaigning[75] and public pressure until Finance Minister Olaf Scholz (SPD) publicly endorsed pCBCR.[76] Nevertheless, at the EU level Germany still had to abstain from the Council vote due to the *de facto* veto right of the coalition partner – and in particular the Ministry for Economic Affairs and Energy (BMWi) currently held by Peter Altmaier (CDU-CSU) – which has to be consulted on all decisions related to corporate tax.[ii]

German business lobbies oppose pCBCR

...while business lobbies have been assured of the support for their position from the CDU-CSU, they ran a very active campaign to reinforce that position to try to mitigate the risk of the SPD taking a more vocal stance in favour.

But while business lobbies have been assured of the support for their position from the CDU-CSU, they ran a very active campaign to reinforce that position to try to mitigate the risk of the SPD taking a more vocal stance in favour. So-called German "family businesses" were particularly active: having already successfully prevented a proper inheritance tax on corporate wealth, they used a number of familiar lobby tactics to head off CDU-CSU support for pCBCR.[77]

1. Hire a think tank to write a study

In Germany there are about 400 companies with a turnover above €750 million that therefore fall under the remit of the EU proposal on pCBCR. Unlike in other countries, most of them are so-called family businesses. The Stiftung Familienunternehmen[78] (the Family Business Foundation) represents around 500 of the biggest among them – nearly all of them big multinationals (including confectioner Haribo; supermarket Lidl's owner, Schwarz; and chemicals company Henkel) rather than small family-run businesses that the name might imply. The lobby group maintains an office directly next to the Brandenburg gate in Berlin, a short stroll from the Parliament and the Chancellery. In 2017 it contracted one of the big economic research institutes (ZEW) to write a study analysing the costs, benefits, and consequences of the EU proposal on pCBCR from their perspective.[79] Unsurprisingly, the study raised many issues close to the heart of its sponsor, including the threat of competitive disadvantage for German industry. Many of their points were based more on myth than on fact, and were very debatable.[80]

ii. In fact, the decision is formally in the hands of the Ministry of Justice (SPD) because the Commission proposals would change the accounting directive, but approval without the BMF, the BMWi, and the coalition partner is not possible.

2. Reach out to politicians and the public

The Stiftung Familienunternehmen accompanied the launch of the report with an article in *Handelsblatt*, one of the most widely read economic newspapers in Germany, featuring a picture of a factory, the portrait and quotes of apparently committed and well-meaning entrepreneurs, and the title 'Attack on the German economy'.[81] And they made sure the report reached its targets. Bundestag member Fritz Güntzler (CDU) cited the report during a parliamentary debate when opposing the pCBCR proposal.[82]

"Thanks to the very good cooperation with the minister of economic affairs we managed to stop the damaging cbcr in Brussels.... The decision about this outright unspeakable proposal was on the brink until the end."

- Die Familienunternehmer

3. Continue behind closed doors

As Germany doesn't have a lobby register and meeting calendars of ministers and secretaries of state are usually not open to the public, and thus beyond freedom of information requests, lobby influence can be difficult to document. However a recent parliamentary answer revealed that the Stiftung Familienunternehmen had met with the BMF in January 2019 on pCBCR.[83] Additionally the 2019 Christmas letter of Die Familienunternehmer (The Family Entrepreneurs), another lobby group representing most of the big multinationals (although its membership list is not public) is telling:

> Thanks to the very good cooperation with the minister of economic affairs we managed to stop the damaging cbcr in Brussels.... The decision about this outright unspeakable proposal was on the brink until the end. For the first time we activated our European Dachverband EFB [EU federation of national family business associations - European Family Businesses] as well as several sister associations in other countries to influence their governments.[84]

Even though this letter might be overstating its influence to impress its members, it makes for worrying reading. It appears that, after ensuring opposition or at least abstention on pCBCR by the Government, the German business lobby might now be meddling with governments in other EU countries such as Croatia which has held the EU Presidency for the January to June 2020 period and which helped to tip the balance against the proposal in

Credit: Campact e.V

Credit: Campact e.V

the Council in November 2019.[85] The parliamentary answer referred to above also reveals that the BMWi met bilaterally with the Croatian Ministry of Economy a few days before the disastrous November 2019 Council meeting which failed to secure a majority to move ahead with the file. The nature of this discussion has not been revealed, but it seems unlikely that the German Government was trying to persuade Croatia not to oppose the proposal. Either way, the Croatian Government's decision to oppose the pCBCR proposal – thereby breaking the established protocol that incoming Council presidencies should remain neutral on files – was a particular blow to supporters of tax justice.

Conclusion

The continual blocks and delays to the EU's pCBCR are increasingly hard to justify considering the repeated tax scandals of many big multinationals, and growing public concern. Public country by country reporting should be a priority issue on the agenda for the German Presidency of the Council, and Germany should play a constructive role in unblocking this agenda at the EU level. However, the signs do not look good: pCBCR was not mentioned in the 17 March 2020 agenda for the German Presidency and it is likely that the coronavirus pandemic will further delay progress.[86]

> ...there has never been a better time for tax transparency and clamping down on tax avoidance...just as budgets for health and social protection come under huge pandemic-induced pressure.

But arguably there has never been a better time for tax transparency and clamping down on tax avoidance, as MEPs recently argued in a letter to EU finance ministers,[87] just as budgets for health and social protection come under huge pandemic-induced pressure. Germany is currently head of the OECD's inclusive framework that brings together more than 130 countries and jurisdictions to try to reach consensus on the subject. As such it must prioritise the public interest and tip the balance in the Council by finding a majority to support a robust pCBCR proposal, so that the file can move to the trilogue stage.

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5.1. German Government blows hot and cold on taxing internet giants

by Vicky Cann, Corporate Europe Observatory

Despite making repeated calls for the big US tech firms to pay more tax, the German Government, along with several other member states, has actively blocked a proposal in the Council for an EU digital services tax. Germany's move was supposedly to pave the way for an international tax on tech giants, but securing a really robust global tax will be a tall order.

In March 2018 the European Commission published a proposal to tax the billions of euros of revenue earned by digital giants such as Google and Facebook which fall outside current taxation systems.[88] The so-called EU digital services tax (DST) idea was based on a broad demand by the French and German Governments that the US tech firms should pay more tax.[89] However while the French Government has always been supportive of a specific EU-level DST, the German Government has always preferred a global digital tax negotiated at the Organisation of Economic Co-operation and Development (OECD) instead. And when push came to shove, the German Government, together with a handful of governments from other countries (Ireland, Estonia, Sweden, Finland) decided to block the EU's DST proposal.[90]

Finance Minister Olaf Scholz… was the target of specific lobbying from the German industry federation the BDI, which stated that the DST risked "causing extensive collateral damage to German industry and German tax authorities"

The EU's DST proposal was finally declared dead in March 2019, just before the European elections.[91] But a key moment in the fall of the DST was the (secretive) COREPER meeting on 31 October 2018 when the German official present said that "although progress had been made on a technical level, the present draft was not ready for decision".[iii] A subsequent Franco-German proposal to weaken the scope of the EU tax in order to secure an agreement failed.[92]

Olaf Scholz, Federal Minister for Finance.
Credit: European Union

Finance Minister Olaf Scholz, who had been the leading architect of the German position on the tax, was the target of specific lobbying from the German industry federation the BDI, which stated that the DST risked "causing extensive collateral damage to German industry and German tax authorities".[93] Likely other business lobbying has also taken place, but the Ministry of Finance (BMF) has so far refused to release information about this to media blog Netzpolitik.[94]

iii. In fact, this German opposition only became clear when, some months later, a leaked Government memo (obtained by *Investigate Europe and Netzpolitik*) revealed the detail of the COREPER discussion on 31 October 2018: https://cdn.netzpolitik.org/wp-upload/2020/01/20200117155037708.pdf

German MPs have been quick to remind Scholz that by blocking the EU proposal, he risks "further years of inaction against the tax dumping of global digital companies".

Scholz' SPD stood in the 2017 German elections on a platform which included a promise to tax big tech.[95] But once in office, he was rather unresponsive on the matter.[96] And ultimately his BMF took the decision to put the brake on the negotiations at the EU level, in the hope that negotiations on an OECD-led global digital tax would bear fruit. Indeed the German Presidency programme of 17 March 2020 also references the OECD initiative.[97] The head of the German Government's international taxation department (who is also Chair of the OECD's Committee on Fiscal Affairs[98]) had been planning to welcome 130+ finance ministers from around the world to Germany in July 2020 to discuss such a global tax, although the coronavirus pandemic has meant this meeting has been postponed.

But, by ditching the EU proposal, Scholz has failed to maintain a plan B in case the global tax negotiations fail. German MPs have been quick to remind Scholz that by blocking the EU proposal, he risks "further years of inaction against the tax dumping of global digital companies".[99] Part of the Government's opposition to the EU tax also apparently relates to a fear of trade retribution by US President Trump against some of Germany's major export industries such as cars, as per an (unpublished) paper by Scholz' BMF.[100]

If that is true, it seems unlikely that Trump will agree to anything other than a very weak OECD digital tax initiative, leaving a pretty large hole in Scholz' commitment to "ending tax avoidance by multinational corporations".[101] Scholz and the German Presidency must urgently reverse position and support a strong EU DST proposal, at least as a back-up in case OECD negotiations fail to deliver a good enough agreement. Meanwhile, the Commission has expressed renewed support for the DST, to raise funds for its corona recovery package.

Taxes on internet giants are coming under renewed assault in OECD member countries from the corporate lobby which is "shamelessly" using the coronavirus pandemic to demand delays.[102] This comes at a time when social media use and on-line shopping are expanding hugely, boosting the profits of such big tech corporations.

CASE STUDY

ePrivacy

6. Altered minds: Has the German Government shifted position on ePrivacy?

by Vicky Cann, Corporate Europe Observatory

The German Ministry of Economic Affairs and Energy has been a friend to companies with an interest in Big Data during the ePrivacy file. With the coronavirus putting a renewed focus on digital rights as track-and-trace applications are developed and used, the position of the German EU Presidency will be crucial.

EPrivacy is about protecting your digital rights by ensuring the confidentiality of your online communications, including the content of your emails, the websites you browse, and the purchases you have made, together with metadata (data which includes to whom, when, and where your communications are sent). Much of this data is monitored and collected, including via tracking cookies and other mechanisms, sold on, and used to target commercial advertising or political messaging at you, by advertisers, publishers, and social media platforms like Facebook, Google, and others. The EU's ePrivacy proposal aims to tighten regulation of this so-called surveillance capitalism business-model, and all of these related industries have been opposing the regulation.[iv]

...the German publishing industry has run a fear-mongering campaign against ePrivacy, with media industry journals calling it an "impending disaster" and questioning whether it could even be "the end of digital economy?"

Big Data lobbies hard

As previously reported by Corporate Europe Observatory, the ePrivacy file has attracted a huge amount of lobbying from corporate lobbies with an interest in Big Data. One Permanent Representation official from an EU member state told Corporate Europe Observatory that they could not recall a proposal that had ever attracted so much lobbying.[103]

German industry has certainly applied significant pressure on its own government on this file. The German media platform for digital rights *Netzpolitik* has reported that of a total of 32 meetings at which German ministers or state secretaries had met lobbyists to discuss the ePrivacy proposal, only 7 took place with civil society organisations. Industry lobbyists met by the Government included the publishing corporation Axel Springer, as well as Deutsche Telekom, Facebook, and Google.[104] In public, the German publishing industry has run a fear-mongering campaign against ePrivacy, with media industry journals calling it an "impending disaster"[105] and questioning whether it could even be "the end of digital economy?"[106]

iv. The term 'surveillance capitalism' was first used by Shoshana Zuboff in 2014 and is further explained here: http://theconversation.com/explainer-what-is-surveillance-capitalism-and-how-does-it-shape-our-economy-119158

The Ministry of Economic Affairs (BMWi) commissioned an economic impact study into ePrivacy's alleged effects on the country's advertising industry, predicting a drop in digital advertising spending of one third.

The Government responded to this lobbying campaign. In August 2017 the German Government's position paper on ePrivacy defended Big Data-driven online advertising models, saying the new rules "must not preclude the development and use of legitimate business models; this notably applies to business models that ensure access to information that is influential on user's opinion". [107] The Ministry of Economic Affairs (BMWi) commissioned an economic impact study into ePrivacy's alleged effects on the country's advertising industry, which predicted a drop in digital advertising spending of one third.[108] The report was severely criticised by NGOs and the German Data Protection Commissioner for being largely based on the views of the industry.[109]

However, last year the BMWi was apparently told to come to an agreement on the ePrivacy file with the Ministry of Justice which has traditionally been far more privacy- and consumer-friendly. In July 2019, the German Government issued a 77 page position paper on ePrivacy, presenting a mixed bag of some positives, but also some negatives.[110] It showed that while the Government had an acceptable position regarding the processing of metadata and on default privacy settings, nonetheless it supported the use of controversial tracking walls (which prevent visitors from viewing content on a website unless they consent to advertising cookies).

It's not precisely clear how or why the BMWi appears to have relented on at least some issues. Perhaps growing awareness at the highest levels about the risks associated with allowing private companies too much control over our data may well have played a part. Or perhaps it just recognised that it could afford to permit a more pro-privacy position, knowing full well that there is no majority for this in the Council. Whilst far from perfect, the German position is now more consumer-friendly than that of many other member states.

Digital rights in the time of coronavirus

Come July 2020, the ePrivacy file will be in the in-tray of the German Council Presidency although, regrettably, no reference was made to it in the German Presidency priorities dated 17 March 2020.[111] Notwithstanding the position of the BMWi, the German Government must try to find agreement with other member states on this more pro-privacy position so that this much-delayed file can enter the trilogue stage.

However, even if the ePrivacy file is put on the back-burner because of the coronavirus pandemic, digital rights will remain centre-stage. *The Economist* has named big tech as one of the possible big winners of the pandemic, which has enabled the sector to portray itself as the 'solution'.[112] So-called 'bio-surveillance' is increasing as governments, sometimes working with private companies, use individuals' phone, health, and on-line data for tracking the spread of the virus.[113] Meanwhile, in Brussels and likely other EU capitals, big tech companies and their lobby associations are trying to clean up the sector's image problem and advance their pre-existing policy goals.[114] The use and potential abuse of track-and-trace technology, and the lobbying of the companies involved, will require close scrutiny during the German Presidency and beyond.

CASE STUDY

Agri-chemical industry

7. Toxic lobbying: The agri-chemical industry's reach into German and EU decision-making

by Jan Pehrke, Coordination gegen BAYER-Gefahren

German agri-chemical multinationals such as Bayer and BASF are economic heavy-hitters. The sector puts its considerable influence to bear at the national and EU level to promote light-touch regulation of its products, from endocrine disrupting chemicals to the controversial weedkiller glyphosate.

Germany's agri-chemical sector is one of its biggest industries. After China, Germany is the second largest pesticide exporter in the world with a volume of US$4.3 billion, worth 12 per cent of the global market.[115] German multinational corporations Bayer and BASF are the biggest names in this sector, and receive support from the lobby groups Verband der Chemischen Industrie (VCI) and the Industrie-Verband Agrar (IVA) at the German level, and from CEFIC (the European Chemical Industry Council) and ECPA (the European Crop Protection Association) at the EU level.

While perhaps less well-known than its automotive sector, Germany's agri-chemical sector wields significant influence in both Berlin and Brussels. European Commission officials have complained about the "enormous pressure" exerted by this industry and its associations.[116] A range of EU files, from the battle over endocrine disrupting chemicals, to the controversy over the weedkiller glyphosate, illustrate the sector's lobby power – and its close ties to the German Government.

European Commission officials have complained about the "enormous pressure" exerted by this industry and its associations.

Endocrine disrupting chemicals: delaying regulation

Endocrine disrupting chemicals (EDCs) are present in many everyday products from plastics, to cosmetics, to pesticides. Because of their ability to interact with the hormonal (endocrine) systems of living organisms, including people, they are strongly suspected of having severe health and environmental impacts. According to its 2009 Pesticides Regulation, the EU is required to identify and ban substances meeting the definition of an EDC, but agreeing this definition became a major EU lobby battle. Following successful manoeuvres by corporate lobbies such as Bayer and BASF and some member states including Germany, action to regulate EDCs was delayed for years. Countless interventions were made by Bayer and BASF, together with the industry associations in Brussels (as documented in 'A Toxic Affair' by Corporate Europe Observatory and Stéphane Horel)[117] but also in Berlin.[118]

Following successful manoeuvres by corporate lobbies such as Bayer and BASF and some member states including Germany, action to regulate EDCs was delayed for years.

In 2011 the German and UK Governments published a position paper which advocated banning only the most "potent" EDCs, due to the potential "great commercial impact" of a wider ban.[119] It further argued for various pesticides and biocides to be exempted from the regulations. After an extraordinarily lengthy delay, the Commission presented a proposal which still contained many flaws.

The EDC regulations have been in force since 2018, but according to the Pesticide Action Network, implementation is weak because the data submitted by industry is incomplete, making it hard to properly evaluate substances against the finally-agreed definition.[120]

Chemical residues in food and water

The recast of the EU's drinking water directive passed the trilogue stage at the end of 2019, but industry succeeded in keeping two products off the list of hazardous substances, including a substance found in Bayer's medicine angeliq. These two products have only been placed on a watchlist.[121]

Currently, BASF, Bayer and other agri-chemical corporations are embroiled in a lobby battle about whether residues of certain hazardous pesticides that are not allowed in the EU can be allowed within imported food and animal feed.[122] There are 82 pesticides approved in the US that are either not approved or are explicitly banned in Europe, yet EU citizens are still exposed to these toxic chemicals via imports. Moreover the Commission has backtracked on its initial plan to ban these pesticide residues from imports following the lobbying efforts of industry and its member state allies. But seven EU member states, including Germany, have now objected even to this weakened approach.[123] Meanwhile, the corporations have no qualms in selling these hazardous pesticides to farmers across the global south, with untold consequences on human health, as documented in a recent report by Inkota Netzwerk.[124] At the time of writing, this lobby battle remains unresolved.

...seven EU member states, including Germany, have now objected even to this weakened approach.

But perhaps the most controversial recent EU decision involving the agri-chemical industry, specifically Bayer, and the German Government was the reauthorisation of the weedkiller glyphosate, which is explored in detail below.

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Credit: Drew Hays / Unsplash

7.1. Public agencies serving the chemical industry: The reauthorisation of glyphosate

by Katrin Wenz, Bund für Umwelt und Naturschutz Deutschland e.V. (BUND)

The renewal process of the EU market authorisation for the weedkiller glyphosate was highly controversial. After the German Federal Institute for Risk Assessment (BfR) had already declared glyphosate to be safe and recommended its licence for renewal, the WHO's International Agency for Research on Cancer (IARC) published a report in Summer 2015 classifying it as a "probable human carcinogen". There was a lot at stake for both the industrial and agricultural sectors in Europe, as the herbicide is used extensively in conventional agriculture. During the reauthorisation process Monsanto – the world's biggest producer of glyphosate – was acquired by Bayer, and a ban on the herbicide would have caused the German company a considerable loss of revenue. The German Government played a crucial role in ensuring the reauthorisation of the herbicide, both as 'rapporteur' for the scientific assessment and by casting the decisive vote in the final decision.

Glyphosate was introduced by the agri-chemical company Monsanto in 1974 under the trade name Roundup. It was an overnight success and remains the most widely used weedkiller worldwide. Yet it is deeply controversial and kills any plant that hasn't been genetically modified to resist the chemical. Glyphosate was officially approved for use at the EU level in 2002 and its reauthorisation was scheduled to be completed by 2015. However chemical producers faced more difficulties than expected. There was widespread public concern about the possible renewal of glyphosate's licence even before the WHO declared it to be probably carcinogenic. When scientific evidence is inconclusive but raises concern, the EU's precautionary principle should be invoked to take pre-emptive action such as a ban, even if there is no final proof for the risk. But in this case, the precautionary principle came under sustained attack from industry.

Authorisation renewal: choose your own rapporteur

Herbicides have to be checked for health and environmental risks by EU authorities before they can be approved for use within the Single Market. This process involves the European Commission, member states, and certain EU agencies specialised in the risk assessment of such substances.

One member state is appointed as rapporteur and leads on verifying the studies that industry producers submit. The rapporteur summarises the findings in a draft assessment report which becomes a key stepping stone for the EU approval procedure. Industry gets to choose which member state will be the rapporteur and write the assessment report. Before applying for the renewal of their authorisation, several glyphosate producers, such as Cheminova, Feinchemie Schwebda, Monsanto Europe (now part of Bayer), and Syngenta, formed the Glyphosate Task Force (GTF) which coordinated industry inputs into the process. Since Germany had already checked and approved the initial authorisation in 2002, it was no surprise that the producers picked Germany as rapporteur.

A 2015 study by the German environmental organisation BUND (Friends of the Earth Germany) revealed even more continuity: two managers of the German Federal Institute for Risk Assessment (BfR), one of the public agencies involved in the process, had already played a part in the initial authorisation.[125] The BfR was also embroiled in a substantial conflict of interest. Until at least 2015, the head of the department responsible for the approval of glyphosate had collaborated closely with representatives of the chemical industry on the risk assessment of pesticides, working for institutes that received funding from the chemical industry.[126] Additionally BfR's pesticide committee, which oversees the pesticide work of the BfR, at the time included employees from the chemical industry: two from BASF and one from Bayer, among its members.[127]

Public authorities: regulators or service providers?

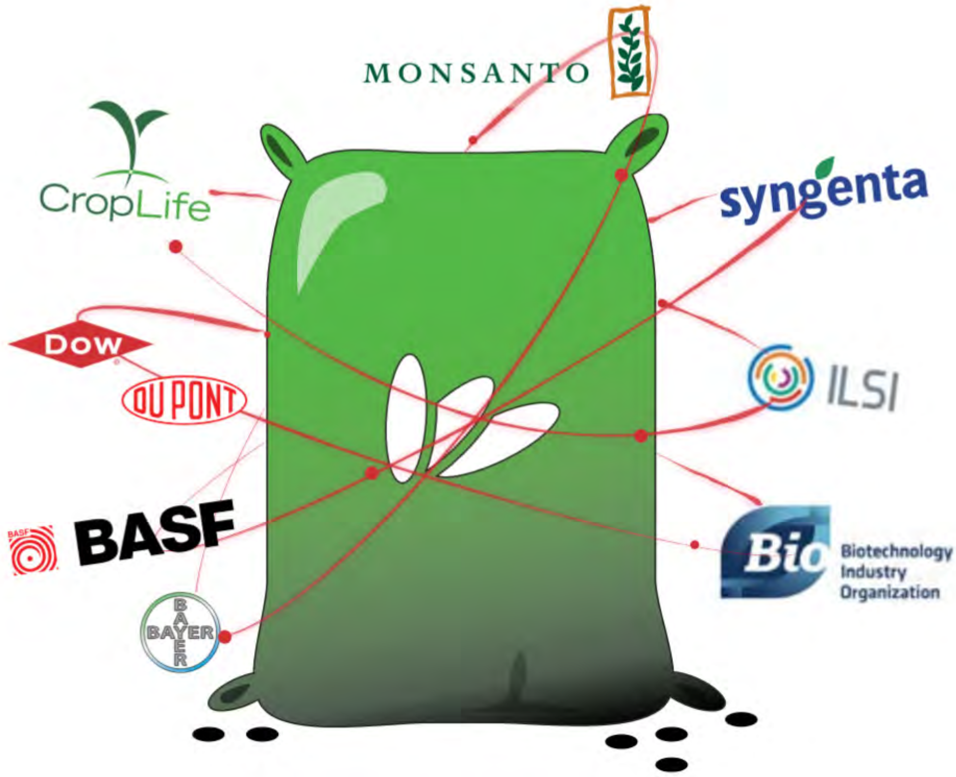
The BUND research showed the active exchange between the BfR and the GTF during the reauthorisation process. The assessment report from BfR contained the applicants' studies on the health and environmental effects of the substance in question and, in line with the EU pesticide regulation, a review of any other scientific study published on the subject. But the process gives the industry applicants a great advantage: they get to summarise the studies' results and assess them. Documents show that the GTF repeatedly tried to influence the final assessment, for instance by discounting the importance of independent and publicly-available literature. Independent studies were only roughly summarised, presumably so that they would only be dealt with superficially.[128]

Documents show that the GTF repeatedly tried to influence the final assessment, for instance by discounting the importance of independent and publicly-available literature.

A 2019 article by LobbyControl revealed that Monsanto financed two German studies on glyphosate as part of its lobbying effort. These studies, published by supposedly independent researchers, warned that banning glyphosate would cause multi-billion euro losses and stressed the ecological benefits of the herbicide for agriculture. The financing by Monsanto was not disclosed in the studies. They appeared in 2012 and 2015 in the *Journal für Kulturpflanzen (Journal of Cultivated Plants)*, published by the Julius-Kühn-Institut (JKI).[129] This research centre, which is part of the Federal Ministry of Food and Agriculture, was also involved in verifying the application for the reauthorisation of glyphosate by assessing plant compatibility, practical application, use and effectiveness. In 2019, when LobbyControl pointed out this highly problematic lack of transparency, the research centre removed the articles. But by that time, the reauthorisation process had long been completed.[130] It has been shown, particularly through the publication of the Monsanto Papers, that in order to keep glyphosate on the market, Monsanto repeatedly tried to influence studies, academics, and public agencies involved in the process, in the USA and in Europe.[131]

Indeed in their dealings with industry, some German authorities acted less like regulators and more like service providers. The BfR urged the Federal Office of Consumer Protection and Food Safety (BVL) to conclude the re-evaluation process as quickly as possible, since it expected critical results from recent glyphosate studies to increase public pressure.[132] The BfR appeared less interested in protecting consumers, and more interested in helping glyphosate producers get a speedy reauthorisation for their product by containing public discussion about possible risks.

Credit: LobbyControl



Opaque procedures

The BUND study shows just how complex and opaque the approval process was and how it played into the hands of pesticide producers, while putting the public at a considerable disadvantage.[133] Very early on in the process, the producers had access to the BfR's draft assessment report and were able to comment on it. When the European Food Safety Authority (EFSA) gave its final assessment of glyphosate at the end of 2015, producers had accessed the draft report at least six times, commenting on it at least three times. By contrast the public, however, only had one opportunity to provide feedback, during the public consultation in 2014. The studies provided by the producers were declared trade secrets and not available to the public. Only the authorities involved – EFSA and the European Chemicals Agency (ECHA) – were granted access. EFSA denied third party access to parts of the studies saying the applicants' trade secrets outweighed the public interest. In 2019, the General Court of the European Union finally annulled EFSA's decision, stating that the release of information on environmental emissions outweighs corporate interests in keeping documents secret.[134] A European Citizens' Initiative to ban glyphosate, signed by around 1.5 million people, partly succeeded on one point: to increase the transparency of pesticide approval processes, which the EU institutions implemented in 2019.[135]

Minister prioritises glyphosate over coalition Government

Even though EFSA's final report was presented in 2015, member states cast their final vote only in late 2017. The national experts which met as the Standing Committee on Plants, Animals, Food and Feed (SCOPAFF, an EU committee hosted by the Commission) were unable to come to an agreement on whether or not to reauthorise glyphosate, so an appeal committee of national ministers was asked to take the final decision instead.

...it was Germany's vote that broke the deadlock and tipped the scales in favour of the reauthorisation.

The German coalition Government had agreed to abstain in the vote but, on the day, the Minister of Food and Agriculture, Christian Schmidt went against this and voted in favour of renewing the licence for five more years. In fact, it was Germany's vote that broke the deadlock and tipped the scales in favour of the reauthorisation. By casting this vote, Schmidt not only went against the rules of procedure of the Federal Government, which call for an abstention if ministers from different parties disagree on a given policy in Brussels, but also created a controversy within the coalition Government.

It is absolutely clear that German industry has benefited greatly from Schmidt's decision, especially chemical giant Bayer, which was in the middle of acquiring Monsanto at the time. Another beneficiary was also the German Farmers' Association (Deutscher Bauernverband, DBV), the powerful organisation of conventional farming with strong ties to the conservative CDU-CSU party, which had repeatedly stressed just how important the renewed licence would be for German farmers.[136, v] These ties are especially strong in the Bavarian CSU, the party from which Schmidt comes. It is to be assumed that both industry and the conventional farming representatives strongly lobbied his ministry to influence the German position, but unfortunately, the BVL has refused to release documents to LobbyControl about meetings with lobbyists without very high handling charges.[137]

Christian Schmidt, Federal Minister of Agriculture. Credit: Verbraucherzentrale Bundesverband / Wikimedia / CC BY 2.0

What is not clear is whether there will still be a majority for another renewal among member states when the present authorisation ends in 2022. Public concern about the chemical has only grown, as have legal cases against Bayer-Monsanto by US citizens who have been frequently exposed to the weedkiller in their professional life, and who now have cancer.[138] It seems like the herbicide's days in Europe could be numbered, although the position of the German Government will remain a key determining factor of its fate.

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v. In Europe, glyphosate is not used in combination with genetically modified plants, but rather for soil preparation purposes.

CASE STUDY

Fishing industry

Our Fish

8. Fishy business: How the fishing industry gets first class treatment from the German Government

by Rebecca Hubbard, Our Fish

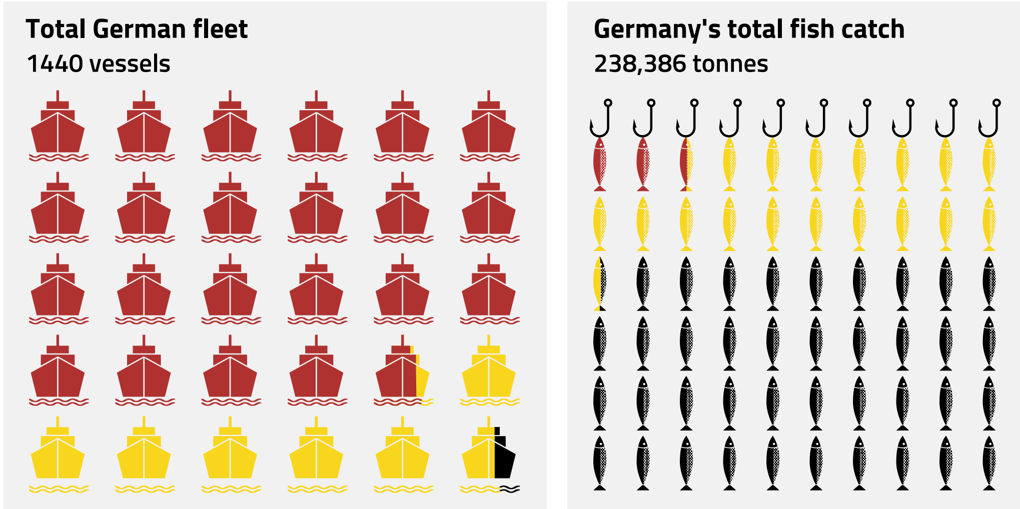
Fish are a publicly owned resource and part of a critical ecosystem that supports life on Earth. Decisions about how fish stocks are to be managed and supported should maximise the benefits for the environment and society. Yet the EU-German decision-making processes on fish appear to benefit one very wealthy fishing industry group. The German Presidency must right this wrong.

EU overfishing undermining our ocean

Europe's fishing industry is locked in an absurd race to catch as much fish as possible, as quickly as possible, for maximum profit.

The ocean is critical to the daily life and well-being of us all: it produces half our oxygen, regulates our climate, and has absorbed 90 per cent of the excess heat produced from climate change. Yet the biggest impact on the ocean is from fishing.[139] Despite EU laws requiring an end to overfishing by 2015, or by 2020 at the latest, when the EU AGRIFISH ministerial Council meets between October and December each year to set fishing limits, Germany and other member states have chosen to continue overfishing. Fisheries ministers ignore scientific advice and grant quotas far above the recommended levels,[140] the vast majority of which go to industrial fishing fleets. And despite the ban on discarding unwanted fish at sea, fishing vessels are still throwing mostly dead or dying fish back into the seawater, increasing the uncertainty over how many fish are actually being killed.[141] Europe's fishing industry is locked in an absurd race to catch as much fish as possible, as quickly as possible, for maximum profit.

Europe's seas and citizens are getting a bad deal. The continued overfishing of European fish populations is a tragedy for our ocean and will lead to less fish, collapsed marine food webs, higher carbon dioxide (CO_2) emissions and less sequestration, weaker marine ecosystems in the face of worsening climate change, less seafood, diminished prosperity, and fewer jobs within the fishing industry over the longer term.[142]



	% fleet	% catch
1099 small scale gillnetters	76%	4%
333 middle scale vessels	23%	30%
8 largest high seas vessels	0.5%	66%

*Latest reliable figures from 2016. See references in text
Credit: Our Fish

The lion's share: quota concentration in the German fishing industry

In 2016 the entire German fishing industry consisted of 1,440 vessels,[143] and over 75 per cent of these were small-scale and contributed less than 4 per cent of the total German fish catch.[144] By contrast, 8 of Germany's largest high seas fishing vessels (or 0.5 per cent of all vessels), landed over 65 per cent of total German catches.[145]

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In 2020, five of the largest high seas vessels in the German fleet belong to one Dutch fishing company, Parlevliet & van der Plas (P&P). P&P is active worldwide and in recent decades has adopted an aggressive expansion strategy to become the largest fishing company in Europe generating a total revenue of over €1 billion. Over time P&P has taken more than 40 per cent of revenue from fish landed by the German fleet.[146] In 2017, P&P is estimated to have effectively fished 100 per cent of the German quota for mackerel and blue whiting, and 64 per cent of the German herring quota; both herring and mackerel were being overfished then.[147]

The concentration of fishing quotas into so few hands has boosted net profit margins, but reduced other indicators such as vessel numbers and employment.[148] Analysis by the New Economics Foundation found that the distribution of quotas in Germany lacks transparency and accountability, does not deliver for the public good, and does not incorporate social and environmental criteria.[149] More specifically, according to a recent research report produced for the Commission, requests for data about which vessels were allocated which quotas were denied by the German authorities, rendering any in-depth analysis difficult due to the high level of anonymity in the public data, which protects the business secrets of quota holders.[150]

Multi-million dollar fishing company propped up by taxpayers

Not only does the P&P fleet have majority access to quotas and related profits in Germany and is the most profitable fishing company in Europe, it also received over €37 million in subsidies from Germany and the EU between 1994-2006 to modernise its fleet and build a fish processing factory in Sassnitz on the Baltic coast (€21 million), which will operate almost entirely by processing herring from UK waters.[151]

Additionally, P&P, like all fishing fleets, continues to benefit massively from tax exemptions for fuel.[152] Fuel support for the German P&P pelagic trawler fleet alone is estimated at €23.1 million per year.[153] Considering that fishing vessels use highly polluting fuels and the global fishing fleet contributes one per cent of total CO_2 emissions,[154] this publicly-funded fuel subsidy also undermines efforts to mitigate climate change.

A direct line to decision-makers

All of these subsidies and quotas do not come out of thin air. The company maintains strong contacts with the German Ministry of Agriculture and Food (BMEL) and even with the Chancellery. For example, Chancellor Merkel launched one of P&P's newly-built ships ROS 777 'Mark' in 2015, while a State Secretary at the BMEL spoke at the launch of two other trawlers in Cuxhaven in 2018.

Chancellor Merkel launched one of P&P's newly-built ships in 2015, while a State Secretary at the BMEL spoke at the launch of two other trawlers in Cuxhaven in 2018.

The key lobby group for P&P is the Deutscher Hochseefischerei-Verband (DHV, the German deep-sea fishing association) and is chaired by Dr Uwe Richter, who is also the Managing Director of the P&P fish plant in Sassnitz. The DHV's annual reports and media articles reveal many meetings and meals with high-ranked politicians and officials.[155] Its most recent annual report described the relationship between the federal authorities and the industry as "extremely positive".[156]

Dr Gero Hocker (FDP), a member of the Bundestag's Committee for Food and Agriculture, is President of the German fisheries alliance,[157] and besides the 'traditional' annual meetings in December with the heads of state fisheries divisions, many politicians have taken the time to visit the association at Sassnitz and pledge their support in the face of Brexit, which is likely to change fishing rights and quotas.[158]

After a visit by the Minister for Agriculture and Environment for the state of Mecklenburg-Vorpommern to the Sassnitz plant, the Minister pledged that the German Government would lobby in Brussels for the preservation of the fishing industry in the German north-east. This means it would fight against a ban on herring fishing in the Western Baltic Sea and for access to UK waters after Brexit.

The fox is in the hen-house

EU fishing limits are set annually by ministers at EU AGRIFISH Council meetings in October and December, with a number of important quotas decided in bilateral negotiations and confirmed in the December Council meeting. In AGRIFISH Council meetings, the Commission and EU fisheries ministers often negotiate all night long behind closed doors until they come to a deal, making it impossible for the public to know which EU countries support overfishing and which take a more progressive approach. The process is renowned for its lack of transparency and in 2019 an investigation by the European Ombudsman recommended that the AGRIFISH Council should make relevant documents publicly available in a timely manner.[159] To date, no such improvement has occurred.

In 2017 NGOs Corporate Europe Observatory and Seas at Risk exposed how fishing industry representatives with close links to P&P (through their membership of lobby groups such as the Pelagic Freezer-Trawler Association and the European Association of Fish Producers Organisations) were gaining access to the Council building during EU AGRIFISH negotiations by obtaining press passes, and meeting with the Dutch Government delegation to lobby for increased quotas.[160] At this Council meeting the Netherlands was able to secure higher quotas for many fish stocks, including increases of some quotas above scientific advice and the Commission proposals.[161]

> Members of the industry, including the Chief Executive of P&P Diek Parlevliet, have actually participated in the EU delegation and have been given priority access to information and government representatives participating in the consultations.

The EU's annual quota consultations with Norway over shared fish stocks such as cod and herring constitute some of the most important fishing quotas for Germany. However the process to agree the quotas is opaque and openly influenced by the fishing industry. Members of the industry, including the Chief Executive of P&P Diek Parlevliet, have actually participated in the EU delegation and have been given priority access to information and government representatives participating in the consultations.[162] In contrast environmental NGOs have been denied access to these meetings for two years, despite the Commission explicitly recognising that no transparent rules exist about stakeholders' attendance at the EU-Norway fishery negotiations.[163]

In the 2019 agreement on the EU-Norway quotas, it is stated that the Norwegian delegation raised significant concerns about the over-fishing of juvenile herring and the future yield for the species, and it called for a limitation of catches to rebuild the stock.[164] The total fishing limit for herring was nonetheless set above the scientific recommendation for sustainable yield.

Parlevliet was also part of the EU delegation to the Norway negotiations in 2017 (representing industry in Germany and the Netherlands) and it is estimated that P&P gained an additional €2.6 million in revenues in Germany in 2017 just from excess quotas agreed by EU ministers and which went above the proposed sustainable limits.


Credit: Alexander Lutsenko, Alamy Stock Photo

Conclusion

Every member state has the necessary information and instruments to deliver sustainable fisheries management that benefit the ocean and our citizens, but the political will is missing. This cannot continue. EU governments led by the German Presidency of 2020 must follow the science and enforce the rules. Continuing to allow overfishing will only result in the industry undermining itself, hastening the demise of Europe's fish populations, and the health of the seas on which we all depend. Despite the coronavirus pandemic, the 2020 fish quota talks will still need to go ahead and the German Presidency should ensure that the October and December 2020 AGRIFISH meetings follow the science on maximum sustainable yields; refuse access for all fishing industry representatives to decision-making forums for fishing limits; boost transparency of the whole process; and ensure that all subsidies improve the environmental and climate performance of the industry. In addition, policy responses to the coronavirus should aid the path towards a more resilient fishing sector, restored marine environment, and improved public health.[165]

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CASE STUDY

Pharmaceutical industry

9. Big Pharma during the coronavirus pandemic

by Vicky Cann, Corporate Europe Observatory

There are big question marks about how the German Presidency will handle the pharmaceutical industry during its Presidency. The sector is now centre-stage in the pandemic as drug companies – sometimes working with universities and public health authorities – rush to develop vaccines and effective treatments against the virus. German pharma companies, such as CureVac, are prominent in this research.[166] Decisions about who controls the distribution and costs of such drugs and vaccines will be essential.

The pharma industry's approach to public health crises – not to mention its record on preparing for pandemics – leaves much to be desired. A recent Corporate Europe Observatory report showed how the EU pharmaceutical industry lobby in the guise of EFPIA (European Federation of Pharmaceutical Industries and Associations) actively opposed the inclusion of bio-preparedness (getting ready in advance for epidemics such as the one caused by the new coronavirus) in the regulatory work of a public-private partnership (the Innovative Medicines Initiative) between the European Commission and industry lobby groups, when the possibility was raised by the Commission in 2018.[167] This was despite receiving billions in EU money to meet public health goals via the partnership.

...there was even "a promising candidate to treat coronavirus already in 2016", but Big Pharma wasn't interested in developing it further because it wasn't seen as profitable.

Moreover, since the coronavirus SARS 1 emerged in 2003 (a close cousin of the present virus), researchers have been calling for more development of medical technologies to address viruses of this type. According to the NGO Just Treatment there was even "a promising candidate to treat coronavirus already in 2016", but Big Pharma wasn't interested in developing it further because it wasn't seen as profitable.[168] It is only now, with a global pandemic raging and emergency public funds being mobilised to address it, that a clear profit motive emerges and industry is showing willingness to help develop vaccines and treatments.

Credit: Gerd Altmann (geralt), www.pixabay.com

Who will control the licences?

...at a time of pandemic there is a clear rationale for putting pharma licences in public hands, so as to minimise production costs, and to help ensure the most equitable distribution possible.

The rush to produce vaccines and effective treatments brings key questions to the fore, such as who will control the licensing rights to successful drugs or vaccines. President Trump recently raised the ire of the German Government when he tried to secure a potential CureVac vaccine "only for the United States". The German Minister of Health, Jens Spahn, and the company itself responded that it would only develop a vaccine "for the whole world ... not for individual countries".[169]

Trump's move was shocking. Yet, leaving drug, vaccine, and equipment licences solely in the hands of private companies is also risky, and at a time of pandemic there is a clear rationale for putting pharma licences in public hands, so as to minimise production costs, and to help ensure the most equitable distribution possible. Affordability is especially important as global access to medical treatments will be vital to prevent a resurgence of the pandemic. Trade rules allow for public authorities to take over drug and equipment licences owned by companies (compulsory licensing), even without their consent, but with compensation, if it is in the public interest.[170]

In recent EU debates, the German Government has not been a fan of the debate on access to and affordability of medicines.[171] Nonetheless, Chancellor Merkel recently said "A [coronavirus] vaccine must be accessible and affordable to everyone".[172] However, she did not say anything about future vaccines being a public good, free from monopoly patents; the German Government has generally taken an unfavourable stance towards any progressive intellectual property reform in the pharma sector at the EU level.

It was somewhat surprising then that in Spring 2020, German domestic law was changed to make it easier for patents to be limited on drugs and medical equipment during a pandemic.[173] Similar provisions have also been made in France and other EU countries.[174] These are sensible precautions, but so far there has not been a pan-EU approach to this.

Of course Big Pharma is opposed to compulsory licensing and at the EU level it has instead been lobbying for "an [intellectual property] framework that inspires long-term investment into our R&D infrastructure".[175] Curiously a senior official at the 'Drugs, Medical Devices, Biotechnology' department in the German Federal Ministry for Health recently wrote, in response to an article in the *Financial Times*[176] that compulsory licensing is "not helpful" and referred to it as "disappropriation". Instead the official echoed the Big Pharma mantra: that companies, academics, and investors need "incentives" to develop new vaccines and drugs.[177]

With the Commission working on an EU pharmaceutical strategy...it will be vital that the German Government fights to extend its domestic approach to compulsory licensing to the EU

Such comments are worrying, notwithstanding the recent change to German domestic law. With the Commission working on an EU pharmaceutical strategy[178] – now postponed due to the pandemic – it will be vital that the German Government fights to extend its domestic approach to compulsory licensing to the EU, as well as getting to grips with the affordability of, and access to, medicines. This will be the only way to turn Merkel's fine words into meaningful action.

There are few more important issues right now.

CASE STUDY

Law-making

10. Transparency and accountability of German and EU law-making

by Nina Katzemich, LobbyControl and Vicky Cann, Corporate Europe Observatory

Compounding the corporate influence demonstrated throughout this report are the problems of transparency and accountability of decision-making at both the EU and German levels and how this leads to a democratic deficit for citizens. Below we explore these issues in more detail.

A lack of transparency plays into the hands of corporate lobbyists with the resources, the staff, and the contact books to be able to gather information about what is happening on a particular file – and to work out how best to influence proceedings.

The lack of transparency regarding the law-making function of member states on EU matters is a two-level problem. On the one hand, the work of the Council is intentionally opaque. Many member states are happy to keep their deliberations behind closed doors, to be able to take their time to come to a view, to change their mind, to keep unpalatable views out of the public domain, and of course, to make deals. This is particularly troubling as the Council is co-legislator, with the European Parliament, on all new EU laws, holding exclusive legislative oversight in some key areas such as tax policy.

On the other hand, there is also a huge lack of transparency when national governments discuss and agree their EU positions at home. When these trends are combined with the absence of lobby transparency in both the Council and in many member states, this leads to a real democratic deficit.

Firstly, without legislative and lobby transparency, decision-makers cannot be held to account by national politicians, civil society, and the media for the decisions that they take, in our name, at the EU level. With the context that EU policy-making affects our lives in many, many ways on a daily basis, we have a serious accountability issue here.

Secondly, a lack of transparency plays into the hands of corporate lobbyists with the resources, the staff, and the contact books to be able to gather information about what is happening on a particular file – and to work out how best to influence proceedings. The more such resources are at a lobbyist's disposal, the more they benefit from Council opacity, and this surely provides part of the explanation as to why the Council regularly promotes pro-industry positions on EU files.

The Bundestag. Credit: geldoderleben / Flickr / CC BY-SA 2.0

Legislative and lobby transparency in Germany

Below we describe how the German Government develops its position on an upcoming EU file, for negotiation with other member states in the Council.[vi]

1. Legislative transparency

Most German federal laws are drafted in the ministries of the Federal Government. While there is not much information made available to the public about what is going on during this drafting phase, this is even more the case for the Government's internal coordination to agree a final position in the Council of the EU on proposals for new EU rules and regulations.

1a. The role of the Government

How does it work? The ministry responsible for the proposed EU law, which would also represent the Government in the Council of Ministers, has the task to coordinate with other relevant ministries. The most important body is the regular meeting of the heads of unit responsible for European affairs in the ministries. Chaired by the Federal Foreign Office (AA) and the Federal Ministry for Economic Affairs and Energy (BMWi), it's here where positions are discussed and elaborated. This, at least partly explains why, throughout this report, we see the fingerprints of the BMWi on so many legislative files, seemingly outside its immediate area of competence. If there is no agreement in the meetings of heads of unit, these questions are raised in the committee of state secretaries on European affairs, which will take the final decision. The Chancellery also plays a coordinating function across Government.[179]

Decisions on what position the Government will adopt on proposed new EU rules, which interests to advocate for, and which positions to defend, all happen away from public attention.

Decisions on what position the Government will adopt on proposed new EU rules, which interests to advocate for, and which positions to defend, all happen away from public attention. While the work of federal ministries on national laws has been made slightly more transparent in recent years by publishing draft laws and statements, this is not the case for the Government's EU decision-making. For example, the positions it adopts in Council meetings are not published.

vi. The transposition of finalised EU laws into German law is a separate process and is not discussed here.

1b. The role of the Bundestag

According to the German Constitution's article 23, paragraph 3, the Bundestag has relatively far-reaching participation rights on EU issues, implemented through the 'Act on the Cooperation between the Federal Government and the German Bundestag in European Union Affairs' (EUZBBG).[180] In a nutshell this means that, before the German Government takes part in European decision-making on upcoming new laws etc, it has to give the Parliament the opportunity to give its opinion, even though this opinion is not binding on the Government.

In order to be able to act on this right, the Bundestag also has a strong right to information about EU policies and processes. It receives around 25,000 documents on EU affairs annually from the Government,[181] held in a database only accessible by MPs and their staff. The documents mainly cover the decision-making process of the Federal Government on EU matters, as well as the preparation and progress of consultations within the EU institutions. Among many others, the Bundestag receives reports from the German Permanent Representation about meetings of working groups and committees of the Council, which are required to include information about positions represented by Germany and by other member states. Additionally, the Government is obliged to give an evaluation of all proposed EU legislation. With these rights, the Bundestag has one of the strongest participation, oversight, and information rights of all EU member state parliaments.[182]

The Bundestag has one of the strongest participation, oversight, and information rights of all EU member state parliaments.

The German Bundestag is making increasing use of these rights. In the current legislative period, 66 opinions were issued under Article 23(3).[183] Opposition parties particularly use this instrument, although the governing parties often ensure that they cannot interfere too much in the Government's decisions. For this reason, the opposition also uses other instruments such as inquiries and motions. All in all, it is clear that oversight of the Government's EU policy could be even stronger in the German Bundestag considering that in the last legislative period there were just 36 European policy debates and just 1640 parliamentary questions related to EU policy.[184]

Legislation derived from Brussels plays an increasing role in the lives of EU citizens and there is not enough public attention on the decision-making taking place at the EU level. Holding governments to account for their decision-making at the EU level is an important task for MPs, and could be one way to begin to narrow the democratic and accountability deficit between EU and national levels. MPs should question – as appropriate – why the Government has adopted a particular position, or why it was supporting the demands of industry against the public interest, thereby raising public awareness about what is going on. It is vital that this happens while there is still time to provoke a change and before the file is finalised. It is clear that this is asking a lot from national Parliamentarians but in Germany the EUZBBG means that they are well-equipped to do so.

2. Lobby transparency

The ways in which lobbyists influence legislation in Germany is largely opaque and difficult for the public to follow. This is even more so with the Government's positioning on matters being discussed in the Council of the EU.

Why is this so? In Germany, lobby meetings between ministries and stakeholders are not proactively published by the Government, nor by lobbyists, leaving Germany out of step with the transparency rules in Ireland, the UK, and even the European Commission, for example. Lists of meetings between the executive level of the ministries and lobbyists can be requested by MPs via parliamentary questions, but this does not seem to happen very often. This means that lobby meetings with ministers or officials, whether to influence national laws or EU positions, are largely invisible.

Transparency organisations have argued that a comprehensive lobby register covering both the Bundestag and the Government is needed...

Moreover, there is no lobby transparency register in Germany. At the EU level it is possible, at least retrospectively, to find out which files lobbyists are interested in, although this is not a well-enforced part of the register. The German Verbändeliste is wrongly called a lobby register by some German politicians, but it's no more than a voluntary list of trade and business associations, as well as some NGOs, who register in order to get invited to official hearings. It lacks important information such as lobby budgets or issues lobbied on, but offers registrants a major perk, namely access passes to the Bundestag. Ironically, this so-called lobby register therefore only serves to facilitate more lobbying. Transparency organisations such as LobbyControl, Transparency International, and Abgeordnetenwatch have argued that a comprehensive lobby register covering both the Bundestag and the Government is needed, fulfilling society's right to know who influences which laws, with which budget, on whose behalf. In recent years, there have been several initiatives for a binding lobby register in Germany, but in the end they have all failed because of the missing political will of the CDU-CSU.

Germany needs to introduce a mandatory transparency register for the Government and the Parliament, as well as a requirement to proactively publish a list of lobby meetings. This would fulfil the public's right to know who influences both national and EU laws.

3. Opacity: the chance for corporate lobbyists

There is a classic understanding among lobbyists that non-transparent processes benefit those with the capacity and resources to dedicate to following and understanding them, and who have the contacts to win insight and influence. This also is the case in Germany of course. Big companies and trade associations can employ lobbyists or hire lobby firms with specific expertise in technical processes and lobby know-how. There are many lobby firms in Brussels, as well as in Berlin and other EU capitals, which specialise in offering these kind of services to wealthy clients.

And while the lack of transparency serves the lobby interests of those with the resources and networks to overcome it, it is a big disadvantage for wider civil society. Often specialist NGOs tend not to know when an important EU law is being discussed by the Government, and even if they do manage to find out, their much smaller budgets and pressured staff resources – alongside the absence of public attention for a file – mean it is much harder to ensure that the public interest is centre-stage in decision-makers' deliberations.

In addition, the possibility of getting information via freedom of information is very limited. The German Government tends to often refuse such requests about Council discussions with the justification that international negotiations have to be kept confidential in order to not damage the negotiation position.[185] Documents in these cases are either never made available or only after the law is adopted.

When the German Government discusses its Council position, we have a right to know what is going on. The public should be informed when positioning on a certain file is taking place and of the final German position. The Government must put an end to privileged access for corporate interests, and business-only policy consultations, and ensure that the public interest is centre-stage at all times. The publication of documents relating to Council discussions should occur in real time.

Above we have described some of the transparency and accountability weaknesses – and some strengths – in the way that EU rules and regulations upon which the Government must input, negotiate, and ultimately decide, are handled in Germany. But even the member states with the most open, transparent, and accountable systems will struggle to overcome the opaque and downright secret processes and culture which permeate the Council of the EU.

The Council of the EU

The Council of the EU, made up of ministers and officials from the 27 member states, is rightly criticised for being perhaps the most opaque of the EU institutions.

1. Legislative transparency

MPs have argued that "the EU currently does not live up to [the] democratic standard and that the Council, in particular, regularly violates EU transparency regulations".

A lack of transparency characterises almost all levels of Council policy-making. Its 150+ working parties and groups (which perform in-depth scrutiny of legislative proposals) do not systematically keep minutes or other records of their discussions, which prevents citizens, civil society, and journalists from understanding which country's government is advocating which position, and to hold them to account.[186] While the Council of Ministers' meetings are live-streamed, many of the detailed negotiations between member states at that level happen off-camera. As we see in the car industry example above (Chapter 2), quid pro quo deals between states trading-off different interests and different topics are part of how the Council operates, and contribute to EU member states' lack of appetite for transparency. Moreover there is a lack of transparency at the trilogue level preventing non-insiders from understanding how final negotiations with the European Parliament and Commission on proposed new laws are progressing.

In recent years the European Ombudsman,[187] MEPs,[188] civil society,[189] and the media have increasingly criticised this opaque approach and demanded reform. Some of the strongest criticism has come from national Parliamentarians across Europe who have highlighted how the lack of transparency at the EU level prevents them from holding their own ministers and officials to account, and are demanding urgent reform.[190] In a compelling 2017 report, the MPs argue that "the EU currently does not live up to [the] democratic standard and that the Council, in particular, regularly violates EU transparency regulations".

A reform process to make the Council more transparent has been championed by the Governments of the Netherlands, Denmark and eight other, mostly smaller EU member states.[191] But even this unambitious agenda has so far failed to gain the support of a majority of member states, with France and Portugal (both upcoming Presidency states), and others, opposed to the agenda.

The German Government has so far sat on the fence when it comes to the legislative reform process and boosting democratic oversight of Council decision-making, neither being a strong advocate nor a strong opposer. This is not good enough. The German Government needs to champion this agenda in order to progress it. Special effort must be made to challenge the blocking member states and to find a working majority to take this agenda forward.

2. Lobby transparency and privileged access

But a lack of legislative transparency is not the only problem facing the Council of the EU. There is a serious lack of lobby transparency too. The Council has so far failed to join the official EU lobby transparency register, although new negotiations to develop a revamped register with Council participation tentatively started in May 2020.

However, on the positive side, the register's secretariat has recently confirmed, in response to a complaint from Corporate Europe Observatory, that all lobbyists should be declaring all lobby expenditure on EU decision-making, including that spent influencing at the member state level. If implemented properly, this should see declared lobby expenditures rising substantially.[192]

All lobbyists should be declaring all lobby expenditure on EU decision-making, including that spent influencing at the member state level.

Meanwhile member states' own records on proactive lobby transparency of their officials working at the EU level is patchy at best. A handful of member states – Croatia, Finland, Germany, Ireland, Italy, Netherlands, Romania – provide some transparency regarding the lobbyists met by their senior staff in their EU Permanent Representations, but this likely covers only the tip of the iceberg of lobbying towards the 27 Permanent Representations.

BOX 10.1: Lobbying of German Permanent Representation

Earlier in 2020, the German Permanent Representative Ambassador Michael Clauß and his Deputy, Ambassador Susanne Szech-Koundouros, started to proactively publish a list of their lobby meetings.[193] This is to be welcomed as previously the Government had refused to record this information, let alone publish it.[194] The list is far from perfect, for example, it does not present any information on the topics discussed in each meeting, but it provides some insight into the lobbying of the Permanent Representation's senior team. Many of the names on the published list of 15 meetings (to 3 June 2020) are German economic heavyweights, namely BASF, Volkswagen, software giant SAP, Deutsche Bank, and the business federations BDI and the BDA. Also featured are Airbus and political consultancy Eurasia Group. It is imperative that, alongside transparency, the Permanent Representation develops robust guidelines to guard against privileged access by big business.

Sponsorship of an EU Presidency is totally unacceptable: it promotes a company to decision-makers, and can function as a PR veneer for the company's reputation.

A further scandal regarding privileged access to EU decision-makers is also brewing. For years it has somehow become acceptable for the member state holding the rotating Council Presidency to take sponsorship from companies – big and small – to provide services, products, or sometimes even cash, to support presidency activities. Recently, the 2019 Romanian Presidency was sponsored by Coca Cola, as well as fossil fuel companies Enel and OMV.[195] The current Presidency, Croatia, has signed 16 separate sponsorship deals, including with Renault, Citroën, and the fossil fuel company INA.[196] But sponsorship of an EU Presidency is totally unacceptable: it promotes a company to decision-makers, and can function as a PR veneer for the company's reputation. Even smaller companies should not be offering favours to governments in this manner: goods and services for a Council Presidency should be paid for in the normal way. This problematic practice has been increasingly condemned by civil society, MEPs, and the European Ombudsman[197] who has criticised the Council's failure to regulate it.

On lobby transparency, the German Government will play a key role in the re-started lobby transparency register negotiations and must press for a new, legally-binding, comprehensive EU register with meaningful Council participation. It should lead by example and publish all lobby meetings of the German Permanent Representation, not just those of its chiefs. Additionally it should publish a list of all lobby meetings held by its ministers, when discussing EU matters, at least for the duration of the Presidency, if not beyond. Furthermore, all member states should be encouraged to develop national transparency registers which would cover lobbying on both national and EU decision-making.

The German Government must put an end to privileged access for corporate interests, and business-only policy consultations, and ensure that the public interest is centre-stage at all times. In cases where the interests of a regulated industry are fundamentally at odds with the public interest, lobbying should be reduced to that which is only strictly necessary, while the hosting of industry events or industry sponsorship should be banned. These kinds of "firewalls" should be applied to the tobacco, tax avoidance, and fossil fuel industries.

On the corporate sponsorship of Presidencies, the German Government has announced it will in principle reject sponsorship deals during its Presidency, but with a major loophole of "possible exceptions for regional products or services."[198] It has further told the Council that it has "concluded some smaller local business sponsorship contracts aiming to promote regional interests" for its Presidency.[199] No information has been made available about who these contracts are with. The Government must cancel all existing contracts for corporate sponsorship for its own Presidency, and initiate a process in the Council to ban the practice for all future Presidencies.

Conclusion

11. Conclusion and recommendations

by Nina Katzemich, LobbyControl and Vicky Cann, Corporate Europe Observatory

Whether you are a citizen of Germany or of another member state in Europe, a journalist or an activist, there are many reasons why we should all be interested – and concerned – about how the German Government will handle its upcoming EU Council Presidency.

REASON 1: The EU Council Presidency is always a key moment for a member state.

It's a once-in-a-generation turn at the helm of one of the EU's most important legislative and political bodies. It's an opportunity to stamp authority on the EU's direction of travel, as well as to influence the progress of numerous legislative files. Germany, alongside France, is the most powerful member state of the EU27 and has a special responsibility to use its political influence wisely and always in the public interest.

REASON 2: The cases in this report show that on many issues, the German Government is too close to industry interests.

It is too readily available to big business, including in comparison to civil society. Whether it is the car or gas industries, agri-chemical giants or fishing companies, corporate tax-payers or major exporters, the German Government is often willing to advocate on their behalf, at the expense of the public interest at both the national and EU levels.

REASON 3: The absence of both Council decision-making transparency and German Government lobby transparency effectively play into the hands of such corporate lobbyists.

Lobbyists with the resources, capacity, and networks can overcome the opacity of Council decision-making in Brussels and in the member states, while the absence of structural and proactive lobby transparency in Berlin enables them to keep their discussions in the shadows. This democratic deficit privileges corporate voices over others and risks marginalising the interests of the very people who elect governments in the first place.

REASON 4: We are facing unprecedented challenges. The climate crisis and the coronavirus pandemic both require new vision, progressive alternatives, and strong leadership.

The evidence in this report shows that while Germany prides itself on its 'green' reputation, when it comes to its fossil fuel gas industry, or fossil fuel-guzzling car companies, Berlin prefers a 'business-as-usual' approach. This is not acceptable. The response to the coronavirus crisis is an opportunity to ensure the EU economy genuinely converts to sustainability. Fossil fuel industries should not receive bail-out funds, while recovery funds for other sectors should come with conditions that lead to cleaner and greener outcomes, stamp out tax avoidance, and promote social justice. It is essential that the Germany Presidency prioritises a pandemic coronavirus crisis response which puts sustainability and fairness at its heart.

Alongside the specific policy recommendations included in each of the chapters above, we have further cross-cutting recommendations below.

1. The German Government must urgently adopt new rules and a new culture to distance itself from corporate interests, for its EU Presidency and beyond. These should include:

- An end to privileged access to to ministers and officials and business-only policy consultations. This should be monitored and rigorously enforced.
- In cases where the interests of a regulated industry are fundamentally at odds with the public interest, lobbying should be reduced to that which is only strictly necessary, while privileged access via the hosting of industry events or industry sponsorship should be banned. These kinds of "firewalls" should be applied to the tobacco, tax avoidance, and fossil fuel industries.
- A new focus on lobby transparency including a legally-binding lobby register, the widespread use of legislative footprints (which list lobbying on a specific file), and proactive transparency of the lobby meetings held by ministers and (senior) officials. During the Presidency, it is imperative that all German ministers implement lobby transparency, building on the good practice of the 2019 Finnish Presidency.
- A new approach to transparency of the Government's preparation for Council discussions. The public should be informed when positioning on a certain file is taking place and of the final German position. The publication of documents relating to Council discussions should occur in real time.
- An end to the revolving door and conflicts of interest for ministers and officials.

These issues are not just a problem in Germany; undoubtedly the other 26 member states would also benefit from introducing these measures urgently.

2. As the President, Germany must also champion much needed reforms within the Council. These include:

- When member states make decisions in the Council they do so on our behalf and we have a right to know far more about what is going on. Despite demands for change from the European Ombudsman, MEPs, national parliamentarians, and civil society, the current Council legislative transparency reform agenda lacks ambition and is progressing far too slowly. It is in danger of stagnating or resulting in very little meaningful change. We need the real-time publication of minutes of all Council working party meetings, more live-streaming of key meetings, and greater access to documents, including at the trilogue stage. The German Presidency must champion these reforms, lead by example, and introduce pilot projects, in order to build momentum for deeper changes.

- The Council must respond rapidly to public concerns regarding the issue of business sponsorship of Council Presidencies. The German Presidency should not just reject all sponsorship for its own Presidency, but should work with other member states in order to ban all such future sponsorships. Council Presidencies should not give any impression that they are 'for sale'.

- The Council must cooperate with the Commission and Parliament in introducing a reformed EU lobby transparency register which is legally-binding for all three institutions and which is as comprehensive as possible. All member states must commit themselves to transparency of lobby meetings of their Permanent Representations in Brussels, to follow the rule of only meeting registered lobbyists, and to create momentum for national lobby transparency registers.

3. The German model of parliamentary rights regarding the Government's EU decision-making, together with effective models from other countries, should be replicated elsewhere in the EU where MPs' rights are far less comprehensive.

German MPs' rights to information about the Government's EU decision-making, and to participate in the decision-making process, are among the highest standards of EU member states. As legislation derived from Brussels plays an increasing role in the lives of EU citizens, and as there is not enough public awareness about the decision-making taking place at the EU level, holding governments to account is an important task for MPs. German MPs should use these rights as much as possible including, for example, regularly questioning the German Government's approach to EU negotiations on specific files.

4. This parliamentary right to information, and the corresponding right to feed-in to Government decision-making on EU matters, should also be extended to citizens across the EU.

This should help to level the playing field between well-resourced corporate lobbies, and everyone else, and could provoke a blossoming of participatory models, from citizens' assemblies to digital consultations, from hearings to petitions. It could really transform EU decision-making in Germany and other member states, from the bottom up.

> **It's clear that the German EU Presidency will not proceed as Merkel and her ministers had originally intended. The coronavirus crisis has already led to a major rethink of the Presidency agenda, but there is little evidence that the Government will use the crisis for a genuine change of direction. For example, at the instigation of the CDU-CSU, the coalition has already agreed to "avoid, as far as possible, burdens on employees and companies through laws and other regulations".[200] It's not too late, but delivering a really transformative Presidency will require the German Government to urgently implement a major change of approach, to lead in the common public interest.**

Endnotes

1. European Ombudsman. Ombudsman welcomes Dutch initiative on EU transparency. 19 June 2019. https://www.ombudsman.europa.eu/en/press-release/en/115390

2. Tagesschau. Schulze bedauert deutsche Position. 9 October 2018. https://www.tagesschau.de/ausland/eu-kohlendioxid-101.html

3. For more information on 'coronawashing' see Corporate Europe Observatory's Corona Lobby Watch: https://corporateeurope.org/en/2020/05/corona-lobby-watch

4. Politico. German 'corona presidency' plan pivots to crisis management, Is it a bird? Is it a plane? No, it's the German presidency of the Council of the EU. 30 April 2020. https://www.politico.eu/article/germany-angela-merkel-coronavirus-covid19-european-council-presidency-seeks-to-master-crisis-management-and-eu-reform/

5. Corporate Europe Observatory. Captured States: when EU governments are a channel for corporate interests. February 2019. https://corporateeurope.org/en/2019/02/captured-states

6. Parliamentary question Drucksache 19/16296 answered on 2 January 2020: http://dip21.bundestag.de/dip21/btd/19/162/1916296.pdf

7. See for example the website of US lobby group AmCham EU: https://www.amchameu.eu/news/presidency-delegation-germany-lead-member-needed Accessed 19 May 2020

8. BMVI. Verkehr in Zahlen 2019. https://www.bmvi.de/SharedDocs/DE/Publikationen/G/verkehr-in-zahlen-2019-pdf.pdf?__blob=publicationFile

9. Information from Lobbypedia: https://lobbypedia.de/wiki/BMW Accessed 5 May 2020.

10. LobbyControl. Lobbyreport 2017. https://www.lobbycontrol.de/produkt/lobbyreport-2017/

11. See Frag den Staat: https://fragdenstaat.de/anfrage/lobbykontakte-in-bezug-auf-eu-vorhaben-zur-kraftstoffsenkung-bei-autos/ Accessed 5 May 2020.

12. See Frag den Staat: https://fragdenstaat.de/anfrage/lobbykontakte-in-bezug-auf-eu-vorhaben-zur-kraftstoffsenkung-bei-autos/30467/anhang/bkana-vda4.pdf Accessed 5 May 2020.

13. Die Zeit. Gift für das Klima. 5 September 2013. https://www.zeit.de/2013/37/autoindustrie-bundesregierung-lobbyismus/komplettansicht

14. See Frag den Staat: https://fragdenstaat.de/anfrage/lobbykontakte-in-bezug-auf-eu-vorhaben-zur-kraftstoffsenkung-bei-autos/30467/anhang/bkana-vda3.pdf Accessed 5 May 2020.

15. See Frag den Staat: https://fragdenstaat.de/anfrage/lobbykontakte-in-bezug-auf-eu-vorhaben-zur-kraftstoffsenkung-bei-autos/30467/anhang/bkana-vda.pdf Accessed 5 May 2020.

16. Information from Lobbypedia: https://lobbypedia.de/wiki/Eckart_von_Klaeden Accessed 5 May 2020.

17. Die Zeit. Gift für das Klima. 5 September 2013. https://www.zeit.de/2013/37/autoindustrie-bundesregierung-lobbyismus/komplettansicht

18. Stuttgarter Zeitung. Europäer schnüren CO_2-Deal auf. 14 October 2013. https://www.stuttgarter-zeitung.de/inhalt.treffen-der-eu-umweltminister-europaeer-schnueren-co2-deal-auf.fc45100a-9e72-4eb8-a753-13156ff3e386.html

19. Stuttgarter Zeitung. Europäer schnüren CO_2-Deal auf. 14 October 2013. https://www.stuttgarter-zeitung.de/inhalt.treffen-der-eu-umweltminister-europaeer-schnueren-co2-deal-auf.fc45100a-9e72-4eb8-a753-13156ff3e386.html

20. Die Zeit. Peter Altmeier warnt EU-Kommission vor strikteren Abgasregeln. 7 February 2020. https://www.zeit.de/wirtschaft/2020-02/green-deal-peter-altmaier-autoindustrie-abgasregeln-klimaschutz

21. ZDF heute. Autoflotten in der EU - Keine strengeren Klimavorschriften. 10 April 2020.

22. Süddeutsche Zeitung. Autobranche will EU-Klimapläne bremsen. 2 April 2020. https://www.sueddeutsche.de/wirtschaft/auto-grenzwerte-2020-klimawandel-1.4865763

23. Die Zeit. Angela Merkel will klimafreundlichen Wiederaufbau nach Coronakrise. 28 April 2020. https://www.zeit.de/gesellschaft/zeitgeschehen/2020-04/angela-merkel-europaeische-energiepolitik-eu-klimaziele-coronavirus

24. BMWi. Dialogprozess Gas 2030 – Erste Bilanz. 9 October 2019. https://www.bmwi.de/Redaktion/DE/Downloads/C-D/dialogprozess-gas-2030-erste-bilanz.html

25. BMWi. Kommission 'Wachstum, Strukturwandel und Beschäftigung'. January 2019. https://www.bmwi.de/Redaktion/DE/Downloads/A/abschlussbericht-kommission-wachstum-strukturwandel-und-beschaeftigung.pdf?__blob=publicationFile&v=4

26. European Commission. Commission proposes update to Gas Directive. 8 November 2017. https://ec.europa.eu/info/news/commission-proposes-update-gas-directive-2017-nov-08_en

27. Corporate Europe Observatory. Captured States: when EU governments are a channel for corporate interests. February 2019. https://corporateeurope.org/en/2019/02/captured-states

28. Abgeordnetenwatch.de. Wie die Gaslobby arbeitet. 8 February 2018. https://www.abgeordnetenwatch.de/blog/lobbyismus/wie-die-gaslobby-arbeitet

29. Parliamentary question Drucksache 19/283 answered on 15 December 2017: http://dip21.bundestag.de/dip21/btd/19/002/1900283.pdf

30. See Nord Stream website https://www.nord-stream.com/about-us/our-shareholders-committee/ Accessed 1 May 2020.

31. Lutz, M., Nagel, L.. Karrieresprung aus Berliner Ministerium zu Gazprom. Welt. 9 October 2016. https://www.welt.de/politik/deutschland/article158636618/Karrieresprung-aus-Berliner-Ministerium-zu-Gazprom.html

32. Stratmann, K., Koch, M. „Offensichtliche Trickserei": Nord Stream 2 will EU-Regulierung entkommen. Handelsblatt. 07 November 2019. https://www.handelsblatt.com/politik/international/gasversorgung-offensichtliche-trickserei-nord-stream-2-will-eu-regulierung-entkommen/25199448.html

33. BMWi. Dialogprozess Gas 2030 – Erste Bilanz. 9 October 2019. https://www.bmwi.de/Redaktion/DE/Downloads/C-D/dialogprozess-gas-2030-erste-bilanz.html

34. Umweltbundesamt. Roadmap Gas für die Energiewende – Nachhaltiger Klimabeitrag des Gassektors. April 2019. https://www.umweltbundesamt.de/publikationen/roadmap-gas-fuer-die-energiewende-nachhaltiger

35. Think Step. Treibhausgas-Profile für Erdgas-Transporte,Vergleich zusätzlicher Erdgas-Importe nach Europa durch die Nord Stream 2 Pipeline und LNG-Importalternativen. Produced for Nord Stream 2 AG. 24 March 2017. https://www.nord-stream2.com/de/download/document/87/

36. BMWi. Globale Führungsrolle sichern: Vertreter aus Wissenschaft, Wirtschaft und Zivilgesellschaft diskutieren Ideen für die Nationale Wasserstoffstrategie. Press release. 05 November 2019. https://www.bmwi.de/Redaktion/DE/Pressemitteilungen/2019/20191105-globale-fuehrungsrolle-sichern.html

37. Schulz, F. German EU-Presidency: Empty wording on the Green Deal. EurActiv. 17 April 2020. https://www.euractiv.com/section/energy-environment/news/german-eu-presidency-empty-wording-on-the-green-deal/

38. DBI GUT. Emissionen. https://www.dbi-gut.de/emissionen.html

39. Van Renssen, S. EU turns to methane emissions in fight against global warming. EurActiv. 3 December 2019. https://www.euractiv.com/section/energy-environment/news/eu-turns-to-methane-emissions-in-fight-against-global-warming/

40. Invest in European Leadership, Invest in Sustainability, Invest in European Decarbonisation Technology. 20 April 2020. https://www.euturbines.eu/cms/upload/Joint_letter_Covid-19_Recovery_plan.pdf

41. Keating, D. 'We need this dinosaur': EU lifts veil on gas decarbonisation strategy. EurActiv. 18 September 2019. https://www.euractiv.com/section/energy-environment/news/new-gas-possibilities-in-focus-as-commission-prepares-decarbonisation-strategy/

42. Corporate Europe Observatory. The firepower of the financial lobby. 9 April 2014. https://corporateeurope.org/en/financial-lobby/2014/04/fire-power-financial-lobby

43. Financial Times. Yield-crazed investors pile into US subprime car loans. https://www.ft.com/content/59f3a084-0d80-11ea-bb52-34c8d9dc6d84 Accessed 26 February 2020.

44. European Commission. Deepening the Economic and Monetary Union. December 2018. https://ec.europa.eu/commission/sites/beta-political/files/delivering-on-capital-markets-union-euro-summit-dec2018_en.pdf

45. Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017.

46. Standard & Poors. Ten Years After The Financial Crisis, Global Securitization Lending Transformed By Regulation And Economic Growth. 21 July 2017. https://www.spratings.com/documents/20184/1393097/SF10Years

47. Letter by Banken der Automobilwirtschaft, Comité des Constructeurs Francais d'automobile and VDA to the trilogue negotiators, document obtained via freedom of information by Corporate Europe Observatory: https://bit.ly/2PswXWi Accessed 26 February 2020.

48. Letter from the German Ministry of Finance to DG Financial Services – Securitisation. 17 November 2015. https://corporateeurope.org/sites/default/files/2020-05/17%20November%202015_0.pdf

49. German Ministry of Finance. Notification of the meeting of the Council Working Group on Financial Services Briefing ahead of Council meeting. 17 January 2017. https://corporateeurope.org/sites/default/files/2020-05/17.1.2017.pdf

50. Martin Dale. ECON agrees compromise amendments on STS/Risk retention. 28 December 2016. https://www.martindale.com/banking-financial-services/article_Cadwalader-Wickersham-Taft-LLP_2238694.htm

51. German Ministry of Finance. Briefing ahead of Council meeting. 17 May 2017. https://corporateeurope.org/sites/default/files/2020-05/17.5.2017.pdf

52. See article 30.4, Regulation Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R2402&from=en

53. Corporate Europe Observatory. Carmageddon: EU driving financial markets the wrong way. 23 October 2017 https://corporateeurope.org/en/economy-finance/2017/10/carmageddon-eu-driving-financial-markets-wrong-way

54. Fitch Ratings. Car market shutdown will affect Auto ABS assumptions. 20 April 2020. https://www.fitchratings.com/research/structured-finance/car-market-shutdown-will-affect-uk-auto-abs-assumptions-20-04-2020

55. Bloomberg. Which bills will you stop paying first? 1 April 2020. https://www.bloombergquint.com/opinion/auto-abs-will-lose-out-as-virus-forces-choice-between-homes-cars

56. Federal Ministry for the Environment, Nature Conservation and Nuclear Safety. Sustainable Finance-Beirat startet Konsultation seines Zwischenberichts. 5 March 2020. https://www.bmu.de/meldung/sustainable-finance-beirat-startet-konsultation-seines-zwischenberichts/

57. French Government. A further step towards greening the financial system. 2 July 2019. https://www.gouvernement.fr/en/a-further-step-towards-greening-the-financial-system

58. Clean Energy Wire. Germany's finance industry struggles to marry climate action and business strategy. 5 September 2019. https://www.cleanenergywire.org/news/germanys-finance-industry-struggles-marry-climate-action-and-business-strategy

59. Financewatch. Member-states attempt to sabotage EU's sustainable finance efforts. 30 September 2019. https://www.finance-watch.org/member-states-attempt-to-sabotage-eus-sustainable-finance-efforts/

60. Financial Times. Is Germany blocking nuclear because of gas? 4 December 2019. https://ftalphaville.ft.com/2019/12/02/1575325247000/Is-Germany-blocking-nuclear-because-of-gas--/

61. Handelsblatt. EU einigt sich auf Kriterien für grüne Finanzprodukte. 5 December 2019 https://www.handelsblatt.com/politik/international/eu-taxonomie-eu-einigt-sich-auf-kriterien-fuer-gruene-finanzprodukte/25306000.html?ticket=ST-847382-6W1mkd3sBNv2j3z7aDwx-ap1

62. The Guardian. The European Green Deal will bypass the poor and go straight to the rich. 19 February 2020. https://www.theguardian.com/commentisfree/2020/feb/19/european-green-deal-polish-miners

63. Auerbach, Marc for the Greens/EFA Group in the European Parliament. Toxic Tax Deals: When BASF's tax structure is more about style than substance. November 2016. https://www.greens-efa.eu/en/article/news/corporate-tax-avoidance-6465/

64. Centre for International Corporate Tax Accountability & Research (CICTAR), in cooperation with the European and Global Services Union Federations (EPSU & PSI) and Netzwerk Steuergerechtigkeit. Fresenius Failing to Care: Global Tax Dodging by a German Healthcare Multinational. January 2020. https://www.netzwerk-steuergerechtigkeit.de/pressemitteilung-fresenius-und-steuervermeidung-21-1-2020/

65. Meinzer, M. Why the German government's blockade of corporate transparency is harming all of us. Tax Justice Network. 23 October 2018. https://www.taxjustice.net/2018/10/23/why-the-german-governments-blockade-of-corporate-transparency-is-harming-all-of-us/

66. Meinzer, M. and Trautvetter, C. Accounting (f)or Tax: The Global Battle for Corporate Transparency. Tax Justice Network. 24 April 2018. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3200651

67. Meinzer, M. and Trautvetter, C. Accounting (f)or Tax: The Global Battle for Corporate Transparency. Tax Justice Network. 24 April 2018. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3200651 ; Cobham, Alex & Janský, Petr & Meinzer, Markus. (2019). A half-century of resistance to corporate disclosure. Transnational Corporations. https://www.researchgate.net/profile/Petr_Jansky2/publication/334570311_A_half-century_of_resistance_to_corporate_disclosure/links/5d36bfc04585153e59197ec1/A-half-century-of-resistance-to-corporate-disclosure.pdf

68. Meinzer, M. and Trautvetter, C. Accounting (f)or Tax: The Global Battle for Corporate Transparency. Tax Justice Network. 24 April 2018. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3200651

69. Text translated from the original German. Meinzer, M. and Trautvetter, C. Accounting (f)or Tax: The Global Battle for Corporate Transparency. Tax Justice Network. 24 April 2018. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3200651

70. Amendments adopted by the European Parliament on 4 July 2017 on the proposal for a directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (COM(2016)0198 – C8-0146/2016 – 2016/0107(COD)). https://www.europarl.europa.eu/doceo/document/TA-8-2017-0284_EN.html?redirect

71. For an overview of the lobby battle on pCBCR in the European Parliament see: Corporate Europe Observatory. Accounting for Influence: how the Big Four are embedded in EU policy-making about tax avoidance. July 2018. https://corporateeurope.org/en/power-lobbies/2018/06/tax-avoidance-industry-embedded-eu-tax-policy

72. European Parliament debate on "Disclosure of income tax information by certain undertakings and branches". 4 July 2017. https://www.europarl.europa.eu/doceo/document/CRE-8-2017-07-04-ITM-003_EN.html

73. 2019/2882(RSP) Resolution on the state of play on the proposal for a directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (2016/0107(COD)), known as public country-by-country reporting. https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2019/2882(RSP)&l=en

74. Neate, R. 12 EU states reject move to expose companies' tax avoidance. The Guardian. 28 November 2019. https://www.theguardian.com/business/2019/nov/28/12-eu-states-reject-move-to-expose-companies-tax-avoidance

75. See for example: https://www.campact.de/konzernsteuer/

76. See for example: https://twitter.com/OlafScholz/status/1172219263073095682

77. For an excellent discussion of this campaign see: LobbyControl. Erbschaftssteuer: Wer sind die Lobbyisten der Reichen? 21 September 2016. https://www.lobbycontrol.de/2016/09/erbschaftssteuer-wer-sind-die-lobbyisten-der-reichen

78. See: https://www.familienunternehmen.de/likecms.php?function=set_lang&lang=en

79. Dutt, Verena, Spengel, Christoph, Vay, Heiko. Der EU-Vorschlag zum Country-by-Country Reporting im Internet: Kosten, Nutzen, Konsequenzen. Stiftung Familienunternehmen. 2017. https://www.zew.de/publikationen/der-eu-vorschlag-zum-country-by-country-reporting-im-internet-kosten-nutzen-konsequenzen/

80. See this analysis of commonly-used myths regarding tax transparency: https://steuermythen.de/mythen/mythos-21/

81. Grieve, M. Familienunternehmen fürchten Angriff auf deutsche Wirtschaft. Handelsblatt. 18 September 2017. https://www.handelsblatt.com/politik/deutschland/veroeffentlichung-von-steuerdaten-familienunternehmen-fuerchten-angriff-auf-deutsche-wirtschaft/20334210.html

82. See the speech of Fritz Güntzler (CDU): https://www.fritz-guentzler.com/index.php/component/content/article/10-berichte/newsletter/762-gesundheit-ist-ein-menschenrecht?Itemid=101 Accessed on 11 March 2020

83. Parliamentary question Drucksache 19/18306 answered on 23 March 2020: https://dip21.bundestag.de/dip21/btd/19/183/1918306.pdf

84. Undated email from President Reinhold von Eben-Worlée of the Die Familien Unternehmer: https://mt.familienunternehmer.eu/e-mails-2019/erfolg-bei-industriestrategie-und-country-by-country-reporting/?webview=1&cHash=b81303ec5c44d81ddf22fe254192c4de

85. Neate, R. 12 EU states reject move to expose companies' tax avoidance. The Guardian. 28 November 2019. https://www.theguardian.com/business/2019/nov/28/12-eu-states-reject-move-to-expose-companies-tax-avoidance

86. German Government Draft Presidency programme 1 July to 31 December 2020. 17 March 2020. https://www.politico.eu/wp-content/uploads/2020/04/Germany-presidency-targets.pdf

87. "Economic support for large firms aimed at mitigating the impact of COVID19 must be accompanied with tax and corporate transparency." A letter from MEPs to the Competitiveness Council. 12 April 2020.

88. European Commission. Digital Taxation: Commission proposes new measures to ensure that all companies pay fair tax in the EU. Brussels. 21 March 2018. https://ec.europa.eu/commission/presscorner/detail/en/IP_18_2041

89. Ekins, G. European Countries Push Forward on Digital Taxes Despite Pleas to Wait. Tax Foundation. 9 February 2018. https://taxfoundation.org/european-countries-push-forward-digital-taxes-despite-pleas-wait/

90. Fanta, A. Wie Deutschland die EU-Digitalsteuer mitverhinderte. Netzpolitik. 20 January 2020. https://netzpolitik.org/2020/wie-deutschland-die-eu-digitalsteuer-mitverhinderte/

91. Valero, J. The EU's digital tax is dead, long live the OECD's plans. EurActiv. 8 March 2019. https://www.euractiv.com/section/economy-jobs/news/the-eus-digital-tax-is-dead-long-live-the-oecds-plans/

92. EurActiv. France and Germany aim to keep digital tax alive with new proposal. 4 December 2018. https://www.euractiv.com/section/digital/news/france-and-germany-aim-to-keep-digital-tax-alive-with-new-proposal/

93. BDI. Position paper on Taxation of Digital Business Models, EU proposals on "taxation of the digital economy": digital tax and digital presence. September 2018. https://issuu.com/bdi-berlin/docs/201809_position_bdi_taxation_of_dig

94. Freedom of information request by Alex Fanta, Netzpolitik. 21 January 2020. https://fragdenstaat.de/anfrage/austausch-zur-digitalsteuer/#nachricht-449613

95. Bild. Scholz knickt vor Google, Facebook & Co. ein. 4 September 2019. https://www.bild.de/bild-plus/politik/inland/politik-inland/digitalsteuer-scholz-knickt-vor-google-facebook-co-ein-57067090,view=conversionToLogin.bild.html

96. Schirdewan, M. Bundesregierung blockte Digitalsteuer. 20 January 2020. https://www.dielinke-europa.eu/de/article/12588.bundesregierung-blockte-digitalsteuer.html

97. German Government Draft Presidency programme 1 July to 31 December 2020. 17 March 2020. https://www.politico.eu/wp-content/uploads/2020/04/Germany-presidency-targets.pdf

98. Information from https://www.oecd.org/tax/martin-kreienbaum.htm Accessed 18 March 2020.

99. Böcking, D. Scholz setzt aufs Prinzip Hoffnung. Spiegel. 23 April 2019. https://www.spiegel.de/wirtschaft/soziales/olaf-scholz-verhindert-deutsche-digitalsteuer-a-1264062.html

100. Fanta, A. Wie Deutschland die EU-Digitalsteuer mitverhinderte. Netzpolitik. 20 January 2020. https://netzpolitik.org/2020/wie-deutschland-die-eu-digitalsteuer-mitverhinderte/

101. Böcking, D. Scholz verteidigt Zögern bei Digitalsteuer. Spiegel. 12 November 2018. https://www.spiegel.de/wirtschaft/soziales/olaf-scholz-spd-finanzminister-verteidigt-zoegern-bei-digitalsteuer-a-1237880.html

102. Aldrick, P. Hurley, J. Tech giants use pandemic in effort to dodge tax. The Times. 14 April 2020. https://www.thetimes.co.uk/edition/news/tech-giants-use-pandemic-in-effort-to-dodge-tax-vjflbwvhz

103. Corporate Europe Observatory. Shutting down ePrivacy: lobby bandwagon targets Council. June 2018. https://corporateeurope.org/power-lobbies/2018/06/shutting-down-eprivacy-lobby-bandwagon-targets-council

104. Netzpolitik. Altmaier, Bär und Braun: Über Datenschutz redet die Regierung am liebsten mit der Industrie. December 2018. https://netzpolitik.org/2018/altmaier-baer-und-braun-ueber-datenschutz-redet-die-regierung-am-liebsten-mit-der-industrie/

105. Horizont. Stellen Sie sich auf das schlimmste anzunehmende Übel ein! December 2017. https://www.horizont.net/medien/nachrichten/E-Privacy-Experte-Markus-Plank-Stellen-Sie-sich-auf-das-schlimmste-anzunehmende-uebel-ein--163651

106. Horizont. Das Ende der Digitalwirtschaft? August 2017. https://www.horizont.net/medien/kommentare/Neue-ePrivacy-Verordnung-Das-Ende-der-Digitalwirtschaft-160252

107. ePrivacy; DE comments (doc. 5358/17). WK 8705/2017 INIT. 18 August 2017. https://corporateeurope.org/sites/default/files/2020-04/DE%20position%20ePrivacy%20August%202017.pdf

108. WOK-Consult. Wirtschaftliche Auswirkungen der Regelungen der ePrivacy-Verordnung auf die Online-Werbung und werbefinanzierte digitale Geschäftsmodelle. November 2017. http://www.wik.org/index.php?id=938

109. Die Bundesbeauftragte für den Datenschutz und die Informationsfreiheit (BfDI). E-Privacy: Datenschutz darf nicht von kommerziellen Erwägungen gesteuert sein! December 2017. https://www.bfdi.bund.de/DE/Infothek/Pressemitteilungen/2017/22_ePrivacy%20WIK-Studie.html

110. ePrivacy: DE comments (doc. 11001/19). WK 8864/2019 INIT. 25 July 2019. https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2019/07/SKM_C45819072517140.pdf

111. German Government Draft Presidency programme 1 July to 31 December 2020. 17 March 2020. https://www.politico.eu/wp-content/uploads/2020/04/Germany-presidency-targets.pdf

112. The Economist. Big tech's covid-19 opportunity. 4 April 2020. https://www.economist.com/leaders/2020/04/04/big-techs-covid-19-opportunity

113. Reventlow, N.J. Why COVID-19 is a Crisis for Digital Rights. EDRi. 29 April 2020. https://edri.org/why-covid-19-is-a-crisis-for-digital-rights/

114. Digital Europe. The digital sector is supporting the fight against coronavirus – here's how the EU could help us. 20 March 2020. https://www.digitaleurope.org/news/blog-the-digital-sector-is-supporting-the-fight-against-coronavirus-heres-how-the-eu-could-help-us/

115. Inkota Netzwerk. Hazardous pesticides from Bayer and BASF – a global trade with double standards. April 2020. https://webshop.inkota.de/node/1607

116. Horel, S. Intoxication: Perturbateurs endocriniens, lobbyistes et eurocrates: une bataille d'influence contre la santé. Paris. 2015. https://www.editionsladecouverte.fr/catalogue/index-Intoxication-9782707188694.html

117. Corporate Europe Observatory. A Toxic Affair: How the chemical lobby blocked action on hormone disrupting chemicals. 19 May 2015. https://corporateeurope.org/en/food-and-agriculture/2015/05/toxic-affair-how-chemical-lobby-blocked-action-hormone-disrupting

118. Information from a Bundestag parliamentary answer, Drucksache 18/9459. 24 August 2016. http://dipbt.bundestag.de/dip21/btd/18/094/1809459.pdf

119. Joint DE – UK position paper. Regulatory definition of an endocrine disrupter in relation to potential threat to human health. Proposal applicable in the regulatory context of Plant Protection Products, Biocidial Products, and Chemicals targeted within REACH. 16 May 2011. http://www.bfr.bund.de/cm/343/regulatory_definition_of_an_endocrine_disrupter_in_relation_to_potential_threat_to_human_health.pdf

120. Pesticide Action Network. Sagen Sie der EU, warum Sie wegen hormonell wirksamer Chemikalien besorgt sind! 2 March 2020. https://pan-germany.org/edcs/bis-9-maerz-2020-sagen-sie-der-eu-warum-sie-wegen-hormonell-wirksamer-chemikalien-besorgt-sind/

121. Giegold, S. Trilog-Ergebnis zur Neufassung der Trinkwasser-Richtlinie. 19 December 2019. https://sven-giegold.de/wp-content/uploads/2019/12/PDF-Medienbriefing-Trinkwasser-19.Dez-2019-.pdf

122. Corporate Europe Observatory. Toxic residues through the back door. 16 February 2020. https://corporateeurope.org/en/2020/02/toxic-residues-through-back-door

123. Note from Anne Bucher to Arūnas Vinčiūnas, Head of Cabinet to Vytenis Andriukaitis. "Handling of request for import tolerances for active substances falling under the cut-off criteria laid down in Regulation (EC) No 1107/2009." March 2019. https://webgate.ec.europa.eu/dyna/extdoc/getfile.cfm?fileid=090166e5c4af2fda

124. Inkota Netzwerk. Hazardous pesticides from Bayer and BASF – a global trade with double standards. April 2020. https://webshop.inkota.de/node/1607

125. BUND. Note: Mangelhaft. Das EU-Zulassungsverfahren für Glyphosat. 2015. https://www.bund.net/fileadmin/user_upload_bund/publikationen/umweltgifte/glyphosat_zulassung_studie.pdf

126. BUND. Note: Mangelhaft. Das EU-Zulassungsverfahren für Glyphosat. 2015. https://www.bund.net/fileadmin/user_upload_bund/publikationen/umweltgifte/glyphosat_zulassung_studie.pdf

127. Corporate Europe Observatory. The Glyphosate Saga, & "independent scientific advice" according to Germany, the UK & France. 2 April 2015. https://corporateeurope.org/en/food-and-agriculture/2015/04/glyphosate-saga-independent-scientific-advice-according-germany-uk

128. BUND. Behörden im Dienst der Chemieindustrie. 21 November 2019. https://www.bund.net/fileadmin/user_upload_bund/publikationen/umweltgifte/umweltgifte_glyphosat_recherche_zulassung.pdf

129. Michael Schmitz, P., Garvert, H. Die ökonomische Bedeutung des Wirkstoffes Glyphosat für den Ackerbau in Deutschland. Journal für Kulturpflanzen. 2 February 2012. https://ojs.openagrar.de/volltexte/Kulturpflanzenjournal/2012/Heft05/XML/Webdaten/02_schmitz_and_garvert/schmitz_and_garvert.html; Mal, P., Hesse, J.W., Michael Schmitz, P., Garvert, H. Zurückgenommener Artikel: Konservierende Bodenbearbeitung in Deutschland als Lösungsbeitrag gegen Bodenerosion. 1 September 2015. https://ojs.openagrar.de/index.php/Kulturpflanzenjournal/article/view/12609

130. LobbyControl. Verdeckte Finanzierung: Monsantos Lobbystudien zu Glyphosat. 5 December 2019. https://www.lobbycontrol.de/2019/12/monsanto-glyphosatstudien/

131. LobbyControl. Monsanto und Glyphosat: Zulassungsbehörden auf den Prüfstand! 27 April 2017. https://www.lobbycontrol.de/2017/04/monsanto-und-glyphosat-zulassungsbehoerden-auf-den-pruefstand/

132. BUND. Behörden im Dienst der Chemieindustrie. 21 November 2019. https://www.bund.net/fileadmin/user_upload_bund/publikationen/umweltgifte/umweltgifte_glyphosat_recherche_zulassung.pdf

133. BUND. Behörden im Dienst der Chemieindustrie. 21 November 2019. https://www.bund.net/fileadmin/user_upload_bund/publikationen/umweltgifte/umweltgifte_glyphosat_recherche_zulassung.pdf

134. General Court of the European Union. Press release No 25/19. Luxembourg. 7 March 2019. https://curia.europa.eu/jcms/upload/docs/application/pdf/2019-03/cp190025en.pdf

135. LobbyControl. EU-Lobbyreport: Lobbyismus in der EU: Eine Bilanz. 2019. https://www.lobbycontrol.de/wp-content/uploads/EU-Lobbyreport2019.pdf

136. Interview with Joachim Rukwied, chair of Deutscher Bauernverband. 25 October 2017. https://www.deutschlandfunk.de/glyphosat-emotionale-kampagne-wissenschaftlich-nicht.694.de.html?dram:article_id=399056

137. Request for access to documents. 26 April 2018. https://fragdenstaat.de/anfrage/kommunikation-zwischen-dem-landschaftsministerium-und-lobbyisten-zum-thema-glyphosat-1/

138. Chemistry World. US judges slash damages in glyphosate cancer lawsuit. 31 July 2019. https://www.chemistryworld.com/news/us-judges-slash-damages-in-glyphosate-cancer-lawsuits/3010783.article

139. S. Díaz, J. Settele, E. S. Brondízio E.S., H. T. Ngo, M. Guèze, J. Agard, A. Arneth, P. Balvanera, K. A. Brauman, S. H. M. Butchart, K. M. A. Chan, L. A. Garibaldi, K. Ichii, J. Liu, S. M. Subramanian, G. F. Midgley, P. Miloslavich, Z. Molnár, D. Obura, A. Pfaff, S. Polasky, A. Purvis, J. Razzaque, B. Reyers, R. Roy Chowdhury, Y. J. Shin, I. J. Visseren-Hamakers, K. J. Willis, and C. N. Zayas (eds.). Summary for policymakers of the global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. IPBES secretariat. Bonn, Germany. 2019. https://doi.org/10.5281/zenodo.3553579

140. Carpenter, G & Heisse, C. Landing the Blame: Overfishing in the Baltic 2020. New Economics Foundation. 2020. https://neweconomics.org/2019/12/landing-the-blame-overfishing-in-the-baltic-sea-2020

141. Our Fish. Thrown Away: How illegal discarding in the Baltic Sea is failing EU fisheries and citizens. 2018. https://our.fish/en/2017/11/13/thrown-away-how-illegal-discarding-in-the-baltic-sea-is-failing-eu-fisheries-and-citizens/

142. Sumaila, U.R. & Tai, T.C. Ending overfishing can mitigate the impacts of climate change. Working Paper #2019-05. 2019. https://fisheries.sites.olt.ubc.ca/files/2019/11/2019-05-Sumaila_Ending_overfishing.pdf; Our Fish. Study Summary. It's there for a reason: Why Ministers must not exceed scientific advice on fishing quota 2019. https://our.fish/publications/why-ministers-must-not-exceed-scientific-advice-on-fishing-quota/

143. BMEL. 'Bericht an Die Europäische Kommission Nach Artikel 22 Der Verordnung (EU) Nr. 1380/2013 Über Das Gleichgewicht Zwischen Den Fangkapazitäten Und Den Fangmöglichkeiten Der Deutschen Fischereiflotte Im Jahr 2018'. 27 May 2019. https://www.portal-fischerei.de/fileadmin/SITE_MASTER/content/Dokumente/Bund/Flotte/Flottenbericht_2018.pdf

144. Thünen-Institut. Die Deutsche Fischereiflotte: Wenige Große Und viele Kleine. https://www.thuenen.de/de/thema/fischerei/die-deutsche-fischereiflotte-wenige-grosse-und-viele-kleine/

145. Bundesanstalt für Landwirtschaft und Ernährung. 'Die Hochsee- Und Küstenfischerei in Der Bundesrepublik Deutschland im Jahre 2016'. https://www.ble.de/DE/Themen/Fischerei/Fischwirtschaft/fischwirtschaft_node.html#doc8982022bodyText1

146. Own calculations based on BLE numbers: Bundesanstalt für Landwirtschaft und Ernährung. 'Die Hochsee- Und Küstenfischerei in Der Bundesrepublik Deutschland Im Jahre 2017' and company reports retrieved from https://www.unternehmensregister.de/ureg/

147. Doggerbank Seefischerei GmbH Kutterfisch. 'Nachhaltigkeitsreport 2016/2017 Der Kutterfisch-Zentrale GmbH Und Doggerbank Seefischerei GmbH'. Accessed 25 July 2019 http://cuxhaven.kutterfisch.de/downloads/nh_bericht_kutterfisch_doggerbank.pdf ; Bundesanstalt für Landwirtschaft und Ernährung. 'Die Hochsee- Und Küstenfischerei in Der Bundesrepublik Deutschland Im Jahre 2017'.

148. New Economics Foundation. Who gets to fish? The allocation of fishing opportunities in EU Member States. 2019. https://neweconomics.org/2017/03/who-gets-to-fish/

149. New Economics Foundation. Who gets to fish? The allocation of fishing opportunities in EU Member States. 2019. https://neweconomics.org/2017/03/who-gets-to-fish/

150. European Commission. Study on ownership and exclusive rights of fisheries means of production. 2019. https://op.europa.eu/en/publication-detail/-/publication/e1163c18-714a-11e9-9f05-01aa75ed71a1/language-en

151. Our Fish. From Commons to Companies: How Germany handed over it's fishing sector to the P&P group. 2019. https://our.fish/wp-content/uploads/2020/03/How-Germany-handed-over-its-fishing-sector-to-Europe%E2%80%99s-biggest-fishing-company.pdf

152. Profundo. Direct and Indirect EU Support for the Members of the Pelagic Freezer-Trawler Association (PFA). 2011. https://www.abc.net.au/cm/lb/4198152/data/profundo-research-project-data.pdf

153. Our Fish. From Commons to Companies: How Germany handed over it's fishing sector to the P&P Group. 2019. https://our.fish/wp-content/uploads/2020/03/How-Germany-handed-over-its-fishing-sector-to-Europe%E2%80%99s-biggest-fishing-company.pdf

154. Parker, R.W.R., Blanchard, J.L., Gardner, C. et al. Fuel use and greenhouse gas emissions of world fisheries. Nature Clim Change 8, 333–337. 2018. https://doi.org/10.1038/s41558-018-0117-x

155. Deutscher Hochseefischerei-Verband. Jahresbericht Des Deutschen Hochseefischerei-Verbandes 2018. 14 March 2019. https://www.deutscher-fischerei-verband.de/downloads/DHV%20Jahresbericht%202018.pdf

156. Deutscher Hochseefischerei-Verband. Jahresbericht Des Deutschen Hochseefischerei-Verbandes 2018. 14 March 2019. https://www.deutscher-fischerei-verband.de/downloads/DHV%20Jahresbericht%202018.pdf

157. abgeordnetenwatch.de. Profil von Dr. Gero Hocker, FDP – Bundestag. Accessed on 25 July 2019. https://www.abgeordnetenwatch.de/profile/dr-gero-hocker

158. For a list of meetings and events see: Our Fish. From Commons to Companies: How Germany handed over it's fishing sector to the P&P Group. 2019. https://our.fish/wp-content/uploads/2020/03/How-Germany-handed-over-its-fishing-sector-to-Europe%E2%80%99s-biggest-fishing-company.pdf

159. European Ombudsman. Recommendation of the European Ombudsman in case 640/2019/FP on the transparency of the Council of the EU's decision-making process leading to the adoption of annual regulations setting fishing quotas (total allowable catches). 25 October 2019. https://www.ombudsman.europa.eu/en/recommendation/en/120761

160. Corporate Europe Observatory. Fishing for influence: Press passes give lobbyists EU Council building access during fishing quota talks. 4 May 2017. https://corporateeurope.org/en/power-lobbies/2017/05/fishing-influence

161. Corporate Europe Observatory. Fishing for influence: Press passes give lobbyists EU Council building access during fishing quota talks. 4 May 2017. https://corporateeurope.org/en/power-lobbies/2017/05/fishing-influence

162. See delegation list: https://corporateeurope.org/sites/default/files/2020-05/Delegation%20list%20for%20Norway-EU%20shared%20stock%20consultations_2017negs%20for%202018.pdf ; Valentino, S. Ending overfishing in northern Europe: A fishy game. VOX europ. 2 September 2019. https://voxeurop.eu/en/2019/fishing-5123735

163. European Commission, Ref. Ares(2019)303688 - 18/01/2019 https://our.fish/wp-content/uploads/2019/02/FOI_No-EU-access_Ares_2019_303688_norway.pdf

164. European Union. "AGREEMENT between the European Union and the Kingdom of Norway on Reciprocal Access to Fishing in the Skagerrak for Vessels Flying the Flag of Denmark, Norway and Sweden" (Official Journal of the European Union, July 30, 2015). Accessed 11 September 2019 https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016PC0413&from=EN

165. New Economics Foundation, Our Fish et al. Covid-19 Blue Recovery – Setting the Right Safety Net: A Framework for Fisheries Support Policies in Response to Covid-19. 30 April 2020. https://our.fish/publications/covid-19-blue-recovery/

166. PR Newswire. German Pharma Companies Are Meeting the Corona "Stress Test". 6 April 2020. https://www.prnewswire.com/news-releases/german-pharma-companies-are-meeting-the-corona-stress-test-301035956.html

167. Corporate Europe Observatory. In the Name of Innovation. 25 May 2020. https://corporateeurope.org/en/in-the-name-of-innovation

168. McDonald, D. Trump's attempt to buy a coronavirus vaccine shows why big pharma needs to change. The Guardian. 16 March 2020. https://www.theguardian.com/commentisfree/2020/mar/16/trump-coronavirus-vaccine-big-pharma-president-drugs-industry-profit

169. ZDF heute. Corona-Medikament - Spahn: Impfstoff wird für ganze Welt entwickelt. 15 March 2020. https://www.zdf.de/nachrichten/politik/corona-spahn-interview-100.html

170. For more information on compulsory licensing, see: https://www.wto.org/english/tratop_e/trips_e/public_health_faq_e.htm

171. EPHA. The Top 4 Issues in Medicines Policy for 2020. 6 February 2020. https://epha.org/the-top-4-issues-in-medicines-policy-for-2020/

172. See video on Twitter: https://twitter.com/DrRimmer/status/1262718696314638336

173. Musman, T. Update on Patent-Related Measures in Germany in View of Corona Pandemic. Kluwer Patent Blog. 2 April 2020. http://patentblog.kluweriplaw.com/2020/04/02/update-on-patent-related-measures-in-germany-in-view-of-corona-pandemic/

174. Clifford Chance. Compulsory licensing and new provisions affecting IP holders during the Coronavirus crisis in France and globally. April 2020. https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2020/04/compulsory-licensing-and-new-provisions-affecting-ip-holders-during-the-coronavirus-crisis-in-france-and-globally.pdf

175. EFPIA. Europe's COVID-19 battle: supply, support and the search for diagnostics, vaccines, treatments and cures. 18 March 2020. https://www.efpia.eu/news-events/the-efpia-view/blog-articles/europe-s-covid-19-battle-supply-support-and-the-search-for-diagnostics-vaccines-treatments-and-cures

176. Financial Times. Health crisis makes trade more important, not less. 28 March 2020. https://www.ft.com/content/4a3bf282-701c-11ea-9bca-bf503995cd6f

177. Comments made by senior official at Directorate General 1 'Drugs, Medical Devices, Biotechnology' bei Bundesministerium für Gesundheit, via Linked-In. April 2020.

178. Nicolás, E.S. Will coronavirus change EU's pharma supply chain? EUObserver. 21 April 2020. https://euobserver.com/coronavirus/148120

179. Bundesregierung. Die Beteiligung Deutschlands am europäischen Gesetzgebungsprozess: https://www.bundesregierung.de/breg-de/themen/europa/die-beteiligung-deutschlands-am-europaeischen-gesetzgebungsprozess-479728. Accessed 7 May 2020.

180. Gesetz über die Zusammenarbeit von Bundesregierungund Deutschem Bundestag in Angelegenheiten der Europäischen Union – EUZBBG. Accessed 7 May 2020. https://www.bundestag.de/resource/blob/194644/3bb22495d486c0808721839b96dbc1a3/euzbbg_juli_2013_en-data.pdf

181. Hölscheidt, Sven. Die Mitwirkungsrechte des Deutschen Bundestages in europapolitischen Angelegenheiten. IEP Berlin. Handbuch zur deutschen Europapolitik. 2016. http://iep-berlin.de/wp-content/uploads/2016/07/09_Mitwirkungsrechte-des-BT-in-EU-Angelegenheiten_H%C3%B6lscheidt_MJ_Aber-Keine-FREIGABE.pdf

182. Calliess, Christian und Timm Beichelt. Auf dem Weg zum Europäisierten Bundestag: Vom Zuschauer zum Akteur? Bertelsmann-Stiftung. 2013. https://www.bertelsmann-stiftung.de/fileadmin/files/BSt/Presse/imported/downloads/xcms_bst_dms_37438_37439_2.pdf

183. Deutscher Bundestag, Unit PE5 ("Management of EU-related Documents"). Europapolitische Aktivitäten des Deutschen Bundestages in der 19. Wahlperiode. 29 May 2020.

184. Deutscher Bundestag, Unit PE5 ("Management of EU-related Documents"). Europapolitische Aktivitäten des Deutschen Bundestages in der 18. Wahlperiode. 30 October 2017.

185. See for example a notification of the Foreign Office from 2018: https://fragdenstaat.de/anfrage/kommunikation-mit-der-vertretung-deutschlands-bei-der-eu-zu-landerbezogenen-berichtspflichten-uber-finanzdaten-von-grounternehmen-1/101061/anhang/180809BescheidVg.336-2018.pdf

186. Information from letter from Council of the EU to Corporate Europe Observatory. October 2018. https://www.asktheeu.org/en/request/5942/response/19142/attach/5/18%201793.en.can.rh%20mf.docx

187. European Ombudsman. Summary of the decision in strategic inquiry OI/2/2017/TE on the transparency of the Council legislative process. May 2018. https://www.ombudsman.europa.eu/en/summary/en/94906

188. Jo Leinen. Yana Toom. Report on the Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the EU. Committee on Constitutional Affairs. Committee on Petitions. December 2018. http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A8-2018-0420&format=XML&language=EN

189. Corporate Europe Observatory. Will Croatian EU Presidency boost transparency in the Council of the EU? 12 December 2019. https://corporateeurope.org/en/2019/12/will-croatian-eu-presidency-boost-transparency-council-eu

190. Paper from the Dutch COSAC delegation on EU transparency. Opening up closed doors: Making the EU more transparent for its citizens. November 2017. https://www.houseofrepresentatives.nl/news/rapporteurs-make-case-more-transparency-eu

191. Permanent Representation of the Netherlands. Non paper - Increasing transparency and accountability of the EU. January 2020. https://www.permanentrepresentations.nl/permanent-representations/pr-eu-brussels/documents/publications/2019/06/18/non-paper---transparency-and-accountability. At the time of writing, the full list of supporting member states are: Belgium, Denmark, Estonia, Finland, Ireland, Latvia, Luxembourg, Slovenia, Sweden and the Netherlands.

192. Corporate Europe Observatory. Hidden contracts? Corporate lobby spending in EU member states in the spotlight. 27 May 2020. https://corporateeurope.org/en/2020/05/hidden-contracts-corporate-lobby-spending-eu-member-states-spotlight

193. The information can be viewed at: https://bruessel-eu.diplo.de/eu-de/staendigevertretungeu/-/2264232

194. Corporate Europe Observatory. Captured States: when EU governments are a channel for corporate interests. February 2019. https://corporateeurope.org/en/2019/02/captured-states

195. Information from the website of the Romanian EU Presidency https://www.romania2019.eu/partners/ Accessed 18 May 2020.

196. Information from the website of the Croatian EU Presidency: https://eu2020.hr/Home/Custom?code=Sponsors Accessed 18 May 2020.

197. European Ombudsman: Recommendation in case 1069/2019/MIG on sponsorship of the Presidency of the Council of the European Union. 2019. https://www.ombudsman.europa.eu/en/recommendation/en/123134

198. Deutscher Bundestag: Parliamentary question, Drucksache 19/16296, answered on 2 January 2020: http://dip21.bundestag.de/dip21/btd/19/162/1916296.pdf

199. Outcome of proceedings of Working Party on Information meeting of 31 January 2020. https://www.asktheeu.org/en/request/council_presidency_sponsorship

200. LobbyControl. Lobby-News Corona: Die fragwürdige Forderung nach einem "Belastungsmoratorium". 20 May 2020. https://www.lobbycontrol.de/2020/05/lobby-news-corona-die-fragwuerdige-forderung-nach-einem-belastungsmoratorium/

LOBBY CONTROL

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