

COMMITTEE OF THE REGIONS: FROM ADVISORY BODY TO THE SECOND CHAMBER OF THE EUROPEAN PARLIAMENT?*

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Abstract

The EU decision-making system is a unique combination of the power of the states and supranational institutions. The relationship between the institutions and the states allows us to establish several competing theoretical explanations while trying to describe and explain this mutual relationship. One of the most influential theoretical explanations is the institutionalism of rational choice and the associated principal – agent model. This article is based on the analysis of the youngest EU advisory body, the Committee of the Regions (CoR). The article examines the evolution of the relationship between principal (Member states) and agent (CoR) and the trend that can be observed in this process.

Keywords: Committee of the Regions, rational choice institutionalism, Principal – agent model.

1. Introduction

The Committee of the Regions (CoR) is the youngest of the advisory bodies of the European Union (EU). It was founded in 1993 under the Treaty on European Union, at the request of some member states (MS). The CoR was incorporated into the legislative process in the first half of the 1990s. Initially, its powers were limited and its impact can be considered as minimal. However, a long time has passed since 1993 and European integration has evolved. The development was affected by primary law review, judgments of the Court of Justice of the European Union (CJEU), political developments in the EU and its MS, and events in the international arena. These changes have had an impact on the operation of the CoR. As the EU is a dynamic environment and the shape of the EU has a continual tendency to transform, it can be assumed that CoR's position will continue to change. There are interesting views outlining the development of the EU towards a system that will be more comparable to the nation state, whether in the form of a federation along the lines of the U.S.A. or any other model that could be used as the working environment of European multi-level governance. Considering CoR's future in this new system, there are several possible scenarios. The first alternative is integration of the CoR into the European Parliament (EP) as its second Chamber representing the interests of the Regions (Clifton, 2008). The second option speaks of its transition to EU institution, which should equal or have similar decision-making powers as the main institutional triangle. Both changes would likely have a positive impact on the CoR, which would be directly involved in decision-making and could thus better promote the interests of the regions. However, these views are not the only ones, and in addition there are also voices calling for the cancellation of CoR or freezing its advisory status (Christiansen and Lintner, 2005).

Other than its political relevance, analysis of CoR's development is also interesting from a theoretical point of view. The relationships between institutions and bodies of the EU and MS are often looked at through the lens of rational institutionalism, in particular by applying the principal – agent (PA) model. EU institutions in this context are perceived as being in the service of the MS. The aim of this article is to determine the extent to which the PA model is relevant in the case of CoR and the extent to which the relationship between agent (CoR) and principal (Member states) has transformed.

2. Methodology, structure and resources used

This article is a unique case study (Gerring, 2006) characterized by an effort to examine a phenomenon or event without trying to generalize. In this case, the primary objective is to examine the CoR and its operation within the EU. The case study is divided into two parts. Own analysis is preceded by a section dealing with the theoretical basis and review of research up to date. The article tests the hypothesis that 'there is a gradual acquisition of independence by the CoR and a transformation of the PA relationship in its favor. The CoR is gradually emerging from a position

of agent of states and is operating as an independent player'. This situation is called abdication, as the principal 'resigned' its primary role and the agent can thus run on its own. The hypothesis is based on the research of Pollack who applied the PA model to the institutions of the European Communities (Pollack, 1997). Pollack examines the functioning of the model and concludes that the degree of autonomy of the agent is not constant, but there is no status of abdication; there is only an ongoing process of delegating powers. Autonomy, however, is derived from just one factor – the amount and effectiveness of control tools which the principal can exercise over the agent. However, in our article we work on the assumption that in the case of CoR this factor is not the only one. CoR's position largely depends on the ambitions that CoR has, and how it manages to push forward its own initiatives and activities.

The hypothesis is tested by a two-level analytical section. The first one is 'formal' and is based on an analysis of CoR's position in primary law. We analyze the number and nature of areas where the CoR can express its opinion as well as the tools it has and opportunities for blocking and changing EU legislation. This section presents the development trend of CoR's competences and the powers that have been granted to it. The second level of analysis could be described as 'real'. Its aim is to determine whether / to what extent the CoR is active and whether it seeks to strengthen its position. The analysis is based on the assessment of five factors:

1. Activity in the adoption of primary law revisions: we monitored CoR's activity during preparations for the Intergovernmental Conferences (IGCs), respectively how was the CoR involved, what it promoted, what was its success etc.
2. CoR's own activity: the aim is to determine the number and nature of individual projects the CoR created, what it intended, what was their purpose, and what were the results.
3. Co-operation with interest groups and participation in networks: we monitored the rate of co-operation with interest groups and CoR's activity in networks.
4. International co-operation: we assessed whether the CoR connects with other regional organizations outside the EU.
5. Control mechanisms of MS: we analyzed which are the tools available to member states in order to control CoR.

In order to confirm the hypothesis, it is necessary to demonstrate CoR's increasing efforts to strengthen its position and at the same time the decreasing control of the MS. Thus, our analysis should reveal an upward trend in the first four factors and on the contrary a decreasing trend in the fifth factor.

Overall, the present analysis is based on the allocation of points that are used in different variations depending on the type of data. Simple methods of scoring are used to evaluate the increase in formal CoR competencies in primary law revisions and the assessment of control tools of MS. The granting of new powers in primary law is reflected by assigning 1 point for each new competency acquired in the revision. Points are added together and the result is the total number of points for the competencies

in the individual treaties¹. The degree of control by MS is ranked in the opposite way – an existing mechanism for the MS receives 1 point. If the mechanism remains, it still continues to have 1 point, if the tool is removed, this 1 point is replaced with 0 value.

Table 1: The system of scoring factors

ANALYSIS SECTION	SYSTEM OF SCORING
Formal level – increase of competencies in primary law	New competence = 1 point
Real level – requirements, activities, collaboration, networking	New activity = 1 point; repeated activity = + 1 point
Real level – control mechanisms of MS	Existing control mechanism = 1 point; removed control mechanism = 0 points

A more complicated issue is evaluating the increase in CoR's real activity. In this case, we did not use a 'simple' counting, based on a binary system (0, 1); instead we used a system based on counting up points for repeated requirements or activity. If demand or activity appeared again in the next period², the score is increased by 1. This method of counting is used repeatedly in subsequent periods³. The reason for this method is that a significant indicator of CoR's efforts is its insistence on demands. Moreover, CoR repeating its demands is not only a formal step in the individual IGC, but it is an expression of the ongoing effort of CoR to change the situation in its favor, which is, in most cases, supported by practical steps in the form of intensifying cooperation with partners or development of new initiatives.

3. Theoretical background and previous research

Rational institutionalism theory was first used in the 1970s, in studies of voting patterns in the U.S. Congress. This research started a period of its application to phenomena occurring in various forms of political systems (Pollack, 2006, p. 33). The foundation of the theory of rational institutionalism became a PA model representing its key element. The PA model was primarily used in economics and was originally known as the problem of the relationship between principals and agents within the theory of delegation. It was then brought into the study of politics and international relations, as it was believed that it could explain problems arising in the creation of any type of

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- 1 The analysis also includes the Treaty establishing a Constitution for Europe, even though it did not pass the ratification process. The treaty represents a significant milestone, as almost all changes included in it were subsequently incorporated into the Treaty of Lisbon.
 - 2 Evaluated periods are restricted by signatures of primary laws revisions, as the latter period added is from signing of the Lisbon Treaty to 2012.
 - 3 Other than evaluating CoR's proposals' using the scoring system, we also take into account their presence in the respective treaty. The reason is to determine the percentage of successful CoR demands. To avoid bias, the point system is modified to match the way of adding points for individual repeated demands. If MS have adopted a repeated CoR demand in the second period (where it received 2 points), they gain additional 2 points for its approval. On the contrary if not adopted, the requirement is 2 points, but points for MS remain at 0 value.

contract, or a situation in which policymakers delegate some of their powers to sub-national or supranational levels (Kassim and Menon, 2003, p. 122). The basic setup of the PA model is that the principal delegates a certain amount of competence and/or responsibility to an agent, for carrying out certain roles. It is in the interest of the principal to increase profits and reduce costs by moving them on to an agent (Kassim and Menon, 2003, p. 122).

From a theoretical perspective the model is simple, as it only involves the relationship of two participants. When applied we must take into account the fact that the environment in which the agent and the principal are found is not ideal. Ultimately, the mutual relationship between principal and agent is influenced by factors that may have a negative effect on the distribution of powers and interests of participants. The relationship affects mainly the asymmetric distribution of information, which favors the agent (Kassim and Menon, 2003, p. 122). It can lead to the fact that an agent having more relevant data available will behave inappropriately in relation to the principal and cause him increased costs or other complications. The uneven distribution of information represents a fundamental problem that needs to be dealt with by the principal. The principal's uneven access to information may involve the risk of bad decisions. A tool that can ensure avoidance of this risk is regular control. To be effective, it is important to be focused on different levels and various participants and to control the system's settings, as well as an agent's activities and its outputs (Kiewiet and McCubbins, 1991).

The listed characteristics are shared by most authors. Disputes arise when considering how the relationship between an agent and a principal can change. One group argues that the delegation of competences can lead to a state of abdication (Lupia and McCubbins, 2000). The principal resigns, stops controlling the agent, which then becomes a full participant. The second group argues that such a situation cannot occur and delegation is always delegation. The agent's autonomy may not remain constant, depending on the conversion of the external and internal conditions (Pollack, 1997).

The PA model is often used for research into the delegation of powers. If an object of interest is a nation state and its structures, then authors examine the functioning of delegation in different types of political arrangements (Strøm, 2000; Mitchell, 2000) or the method of delegation in national hierarchy (Müller, 2000; Huber, 2000; Andeweg, 2000; Saalfeld, 2000). In the case of delegation to a supranational body, we need to determine how are the states able and why are they willing to delegate sovereignty to another entity followed by a transfer of control. That is why the PA model is often applied to the EU political system. In case of the EU, research is complicated by the multilevel structure in which the number of principals⁴ can be identified. By default,

⁴ There are also cases of multiple delegations (existence of several principals and agents), so there is an overlap of roles and interests, resulting in a large complexity of the system (Coen and Thatcher, 2008; Gailmard, 2009).

states are perceived as principals and transnational institutions as agents (especially the European Commission and the CJEU). Scholars thus monitor the transformation of competencies and acquisition of independence (Pollack, 1997; Morgul, 2011). Secondly, research focuses on the position of the European Parliament (EP) and the Council of the EU, then subsequently on delegation of powers of MS on regulatory agencies (Pollack, 1997). Least attention is paid to the advisory bodies, and not only in the context of application of the PA model⁵.

4. Formal autonomy of agent – development of primary law

4.1. The EU Treaty

The EU Treaty laid the foundations of the CoR and defined its role in the EU. The provisions concerning the CoR were brief; all the information fitted into one article (198 a-c), which provided for the structure, number of members, range of activity as well as fundamental powers of the CoR (TEU, 1992).

The provisions act as if the MS ‘by the way’ established an advisory body, which was supposed to correspond with the already existing European Economic and Social Committee (EESC)⁶ and to act as an ‘assistant’ to the Council of the EU and the European Commission (EC). The CoR consisted of 189 members, its term of office lasted four years; the Presidency was elected and nominated for half the period. Members of the CoR could be nominated repeatedly. It is interesting that the provision obliges members of the CoR to act independently regardless of their nation-state of origin and defend only the interests of the EU (TEU, 1992).

The powers of the CoR were clearly established. Its status was defined as advisory, acting in very specific areas relevant to regional policy. It was considered that cooperation was essential in order to create and/or accelerate joint action of the EU. It also was an area that did not fit into the first pillar and was completely in the hands of the MS (TEU, 1992). The Treaty allowed for CoR to be consulted also in other cases, and gave it space for its own initiatives. If we evaluate the CoR’s position in Table 2, it receives 4 points.

Table 2: CoR’s evaluated score under the TEU

CHANGES	POINTS
CoR as an advisory body to the Council and EC	1
Activity in 5 areas	1
Voluntary consultations	1
CoR’s own-initiative	1
TOTAL	4

5 Exceptions are, e.g. McCarthy, 1997 or Hönnige and Panke, 2012, writings mapping the impact of advisory bodies on EU legislation.

6 Connection between CoR and EESC is specified in Protocol No. 16 of the EU Treaty, which says that CoR’s operation and its structure follows EESC (TEU, 1992).

4.2. The Treaty of Amsterdam

CoR's structure and term remained the same; however, due to the previous enlargement of the EU the number of its members increased to 222 (ToA, 1997). More significant was the increase in number of areas where the CoR acquired a consultative voice. Five other areas were added to the original five, increasing range of competencies by 100%. Another change was the extension of the advisory role for the European Parliament (ToA, 1997). The last change was the lifting of Protocol No. 16, which bound the operation and management of the CoR with the EESC. According to this protocol the CoR could not decide independently on its administrative and budgetary matters (CoR, 2009a). By lifting of the Protocol, CoR separated itself from the EESC and was allowed to start 'living its own life'. This was also supported by the fact that from the Treaty of Amsterdam onward, the CoR was not subject to approval of the Rules of Procedure by the EU Council (ToA, 1997). Taking into account all changes, the result is Table no. 3, with 8 points.

Table 3: CoR's evaluated score under the Treaty of Amsterdam

CHANGES	POINTS
Status under the previous Treaty	4
CoR as an advisory body for the EP	1
Powers extended to 5 more areas	1
Administrative and fiscal autonomy	1
Rules of procedure are not subject to the approval of the Council	1
TOTAL	8

4.3. The Treaty of Nice

The Treaty of Nice retained all CoR's powers and it did not add other areas or otherwise changed its position. It established the increase in the number of members to 317, valid after EU's enlargement to 25 MS and it defined a cap of 350 members after the upcoming accessions of Romania and Bulgaria (ToN, 2001). In addition, it brought a minimum of adjustments related to the internal functioning of the CoR, and in particular the procedure for the appointment of new members and alternates. Until then, there had been no rule determining who can and who on the contrary cannot feature in the CoR. Since 2003, only representatives of regions and cities could get into the CoR and were able to remain in office only as long as their political mandate was valid (ToN, 2001). This measure was directed at strengthening links between regional and local levels and the level of the EU. It also changed the way in which members of the CoR were approved by the Council – unanimity was replaced by QMV. However, these changes were rather 'cosmetic' improvements and did not significantly affect the CoR. The total number of points shown in Table 4 is 10.

Table 4: CoR's evaluated score under the Treaty of Nice

CHANGES	POINTS
Status under the previous Treaty	8
Connection to regional or local mandate	1
Change the way of members nomination	1
TOTAL	10

4.4. The Constitutional Treaty

Innovations brought by this Treaty consisted both in formulations used and in the emphasis placed on the importance of regional and local levels, as well as in practical steps. Concerning rhetoric, MS were aware of the need to devolve decision-making to these levels. Therefore, they emphasized respect for regional, local and national identity. The Constitutional Treaty recognized the importance of local and regional government for the first time, which aimed to contribute to the building of a European identity. Also, territorial cohesion was added to its goals, which in reality was to bring greater attention to European regions and regional adaptation of policy differences (CT, 2004).

The treaty also increased CoR's power. For the first time, the MS extended application of subsidiarity to the regional and local level and the CoR thus became protector of lower levels of governance and controller of EU decision-making institutions (CT, 2004). To make its activity effective, the CoR was given power to give incentive to CJEU, namely in cases that experienced a breach of subsidiarity or if the CoR was not consulted by institutions when adopting new legislation. Control was added to the CoR's advisory capacity. As it was established that the principle of subsidiarity is mandatory throughout the negotiations on the legislation draft, the CoR could thus get involved deeper into decision-making processes and have the opportunity to influence them (CT, 2004). The last change was an extension of the mandate to 5 years and at the same time extension of the mandate of its President and Presidency for 2.5 years. The aim of the measure was the gradual alignment of the CoR's term with the term of EP and EC, which should establish greater consistency in EU policy-making (Dublin Regional Authority, 2004).

Table 5: CoR's points evaluated score under the Constitutional Treaty

CHANGES	POINTS
Status under the previous Treaty	10
Extension of the application of the principle of subsidiarity to CoR	1
Possibility to take an initiative to the CJEU	1
Extension of its term – compliance with the EP and EC	1
TOTAL	13

4.5. The Lisbon Treaty

The Lisbon Treaty confirmed the extended application of the principle of subsidiarity. CoR controls the institutions in this area and in case of a suspected breach of the principle of subsidiarity it gives incentive to CJEU. The treaty also confirmed the

proposal to extend the term of CoR and recognizes the growing importance of regions and cities (LT, 2007). The last change broadens CoR's activities by 3 additional policies. The number of areas in which the CoR now acts as an advisory body ascended to 13. Thus, the CoR received under the Lisbon Treaty the highest number of 14 points.

Table 6: CoR's points evaluated score under the Lisbon Treaty

CHANGES	POINTS
Status under the previous Treaty	13
Activity extended to other 3 areas	1
TOTAL	14

5. Real autonomy of agent – analysis of factors

5.1. Activity in the primary law revision

The IGC process preceding each primary law change is important in the distribution of responsibilities to institutions. The IGC is thus a tool where states and institutions can present their vision of future development and seek to agree on other arrangements favorable to their position. This process is significant as it shows the ambition of institutions or bodies. When comparing the objectives and results of their efforts, we can see how successful the participants were in promoting their interests. The CoR first presented its opinion in 1996 (CoR, 1996), when it expressed support for institutions in promoting its own proposals. The CoR commented in two areas that were its concern. The first area was the principle of subsidiarity – the CoR considered its adoption as a good step; on the other hand, it was concerned about the principle's application. The first objection was that the content of article 3b vaguely defined subsidiarity and did not specify how its compliance should be tracked and monitored (CoR, 1996). At the same time the CoR considered the process of protection of subsidiarity, starting with problems in overseeing subsidiarity compliance in an initial stage of the legislative process, and afterwards trying to determine the actors and specific means it could employ to warn on subsidiarity violations. In this manner, the CoR presented several proposals. The first one was the reformulation of article 3 stating that subsidiarity applies not only to sharing of competences between EU and MS, but that the Treaty provided for its validity across various levels of government. The purpose of the second proposal was upgrading the CoR to a supervisory body for breach of subsidiarity. In this sense, CoR should be involved in the monitoring process and in the event of an infringement it should be able to lodge an appeal to the ECJ (CoR, 1996). The CoR had already demanded the right to submit a case to the ECJ. It is worth mentioning that the CoR also tried to ensure that regions with legislative powers have more rights than rest of its members and are able to address the ECJ not only for the protection of subsidiarity, but also to defend their rights against the state.

The second area was represented by CoR's powers and its position was based on its definition in the EU Treaty. The CoR requested administrative and budgetary autonomy, as well as independence in adopting its own rules of procedure. The CoR requested its members be tied up with the regional and local levels (CoR, 1996), and

wanted to broaden its range of activities and extend its advisory role also for the EP and, last but not least, CoR required the right to receive explanations from EU institutions in cases where its opinion on legislation was not taken into account. Overall, 11 points are the result of scoring, but only less than half of these proposals were considered in the Treaty.

Table 7: CoR's demands prior to the Amsterdam IGC and their consideration into the Treaty

REQUIREMENTS	POINTS	TREATY
Change to formulation of subsidiarity	1	0
Distribution of responsibilities between governing levels	1	0
CoR as the controlling body of subsidiarity	1	0
Lodging ECJ appeal – subsidiarity	1	0
Lodging appeal to ECJ – regions with legislative powers	1	0
Administrative and fiscal autonomy	1	1
Independent adoption of the Rules of Procedure	1	1
Interconnection of CoR's mandate with regional and local level	1	0
Consultative role – EP	1	1
Justification of failure to take into account CoR's position	1	0
Extension of powers	1	1
TOTAL	11	4

The subsequent Treaty of Nice did not represent a huge increase of competences for CoR. This doesn't mean that the CoR did not try to change its status. Prior to the IGC, the CoR followed the preparations and issued a series of documents related to the proposed changes. The first one was issued in 1999 and the CoR repeated some of the requirements that hadn't been considered in the past (CoR, 1999). The CoR demanded reformulation of subsidiarity, division of responsibilities for its protection and linking of the CoR's mandate within the regional and local levels. CoR's requirement to have the right to appeal with its submission to the ECJ persisted, mainly for the protection of subsidiarity and/ or the protection of their rights in the case of regions with legislative powers. Moreover, the CoR wanted to change its status and to be recognized as an institution of the EU under Article 7 (1) of the EC Treaty (CoR, 1999). This statement is important as the article defines the basic institutional structure of the EU. In this document, the CoR made clear for the first time its ambition to fully integrate itself into the decision-making process.

In the second document, the CoR mentions extension of its activities to various areas and where it requires MS to adopt respect for regional and local government as one of its basic principles. The CoR also insisted that institutions had to explain their actions, if its opinion was not taken into account when adopting legislation. This obligation was limited to the EC and EU Council. The EP could have done so at its own discretion. The last one was a proposal of the EC to reduce the number of CoR members to match a third of the EP's members. The CoR did not agree with this proposal, arguing that after enlargement the cap should be set at a total of 350 members (CoR, 2000).

CoR's requirements prior to the adoption of the Treaty of Nice are shown in Table 8. The CoR was not satisfied with the status achieved in the previous revision. Its efforts did not meet majority support, which is shown in the disparity of points obtained for demands and the final version of the Treaty.

Table 8: CoR's demands prior to the Nice IGC and their consideration into the Treaty

REQUIREMENTS	POINTS	TREATY
Change to formulation of subsidiarity	2	0
Distribution of responsibilities between governing levels	2	0
CoR as controlling body of subsidiarity	2	0
Lodging ECJ appeal – subsidiarity	2	0
Lodging appeal to ECJ – regions with legislative powers	2	0
Interconnection of CoR's mandate with regional and local level	2	2
Justification of failure to take into account CoR's position ⁷	1	0
CoR's recognition as an institution	1	0
Extension of responsibilities	2	0
Principle of respect for regional and local government	1	0
Maximum number of members 350	1	1
TOTAL	18	3

The Constitutional Treaty was a document aimed at changing the shape of the EU after the Treaty of Nice, but it did not pass the ratification process. In this case also CoR was not passive and in fact it issued a comment to every procedure that MS or institutions made, in the form of opinion or resolution. This means that the CoR commented on the European Council meeting in Laeken (CoR, 2002a), which resulted in the establishment of the Convention. The following year, it commented on the Convention (CoR, 2003a), and finally gave an opinion on the IGC in 2004 (CoR, 2004a). Its views were consistent in all documents and it constantly reiterated the importance of its needs and strived to fulfill them.

The CoR insisted on fulfilling all the requirements that MS were not willing to accept in the past. Despite them, the CoR wanted to adopt additional measures that would strengthen its position. It was an extension of its range of activities to protect the subsidiarity not only through the *ex-post* control but also through an *ex-ante* control, and to monitor the legislative process (CoR, 2004a). The CoR also advocated extension of its term to five years. In addition, it claimed the right to question the EC at its own discretion (CoR, 2004a). The CoR achieved the adoption of a large part of its demands in the Constitutional Treaty, especially those for which it had already militated at a previous IGC.

⁷ This requirement was assigned only 1 point for the Treaty of Nice, even though it appeared repeatedly. The reason for not increasing the number of points is the fact that CoR modified its demand and it was thus perceived as new.

Table 9: CoR's demands prior to the Rome IGC and their consideration into the CT

REQUIREMENTS	POINTS	TREATY
Change to formulation of subsidiarity	3	3
Distribution of responsibilities between governing levels	3	3
CoR as the controlling body of subsidiarity (<i>ex-post</i>)	3	3
Lodging CJEU appeal – subsidiarity	3	3
Lodging appeal to CJEU – regions with legislative powers	3	0
Justification of failure to take into account CoR's position	2	0
CoR's recognition as an institution	2	0
Extension of responsibilities	3	0
Principle of respect for regional and local government	2	2
CoR as controlling body of subsidiarity (<i>ex-ante</i>)	1	1
Extension of term	1	1
Right to address questions to the EC	1	0
TOTAL	27	16

The reflection period lasted approximately two years and in 2007 preparatory work for a new revision began. The CoR also commented on the situation during the reflection period and tried not to persist in its activity (CoR, 2006a). The CoR issued its stance on the IGC in 2007 and formulated its requirements differently than in the past (CoR, 2007a). In the past, it called directly for inclusion of amendments into the Treaty. In this case, on the contrary, CoR demanded that previously agreed changes were retained in all subsequent revisions (CoR, 2007a).

Table 10: CoR's demands prior to the IGC in Lisbon and their consideration into the Treaty

REQUIREMENTS	POINTS	TREATY
Change to formulation of subsidiarity	4	4
Distribution of responsibilities between governing levels	4	4
CoR as the controlling body of subsidiarity (<i>ex-post</i>)	4	4
Lodging CJEU appeal – subsidiarity	4	4
Lodging appeal to CJEU – regions with legislative powers	4	0
Justification of failure to take into account CoR's position	3	0
CoR's recognition as an institution	3	0
Extension of responsibilities to further areas	4	4
Principle of respect for regional and local government	3	3
CoR as controlling body of subsidiarity (<i>ex-ante</i>)	2	2
Extension of term	2	2
The right to address questions to the EC	2	0
TOTAL	39	27

The CoR considered that proposals that were already agreed upon with the MS in the previous IGC were valid and hoped that a situation that would jeopardize its position would not occur. As shown in Table 10, the CoR achieved most of its objectives. The exception is the special status of regions with legislative powers, where MS have been reluctant to support their right to lodge appeals with the CJEU. The CoR was also unsuccessful in an attempt to introduce the obligation of institutions to explain their opinions in absence of its stance on legislation, as well as in attempts to change its status of advisory body and the right to address any questions to the EC.

As it can be seen, the CoR was not passive when primary law revisions were adopted. Prior to each IGC it addressed a set of requirements to institutions and MS. The CoR obviously has never lacked ambition since its first days. It was shown most significantly before the Nice IGC, where CoR mentioned its ambition to become an EU institution and thus escape from its subordinated position. Although these efforts remained unanswered, the fact that the CoR is considering such a change is an important step.

If we look at the percentage of CoR's requirements that were taken into account in Treaty revisions, we can conclude a few interesting facts. Firstly, MS were quite willing to accept the CoR's demands before the IGC in Amsterdam. Then there was a decrease of this attitude, as the Treaty of Nice did not bring the expected result, because less than 17% of CoR's demands were adopted. Then the success rate rose and the best result that the CoR achieved is related to the last treaty revision.

Figure 2 shows CoR's requirements in absolute numbers, the number of requirements that were repeated, and the number of requirements that were accepted. Most demands appeared repeatedly, even two or three times. This indicates that the CoR is not giving up and it insists on its views. This approach appears to be successful, since the percentage of accepted requests is larger with every revision of primary law. A question that results from this analysis refers to the reasons that may have caused the decline in the increase of powers in the Treaty of Nice. There are a few possible explanations – either the CoR was not active enough or it did not put enough pressure, or there were other obstacles from the perspective of MS or the EU.

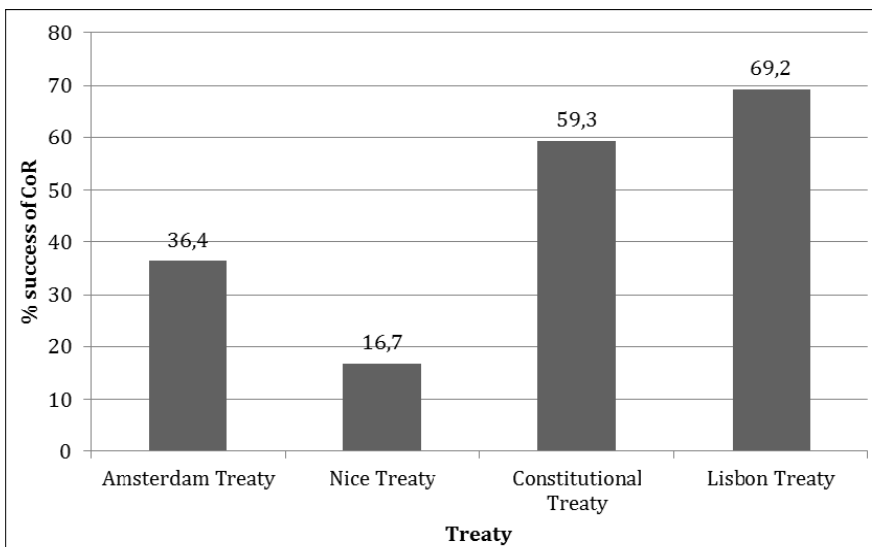


Figure 1: Success of CoR at IGCs

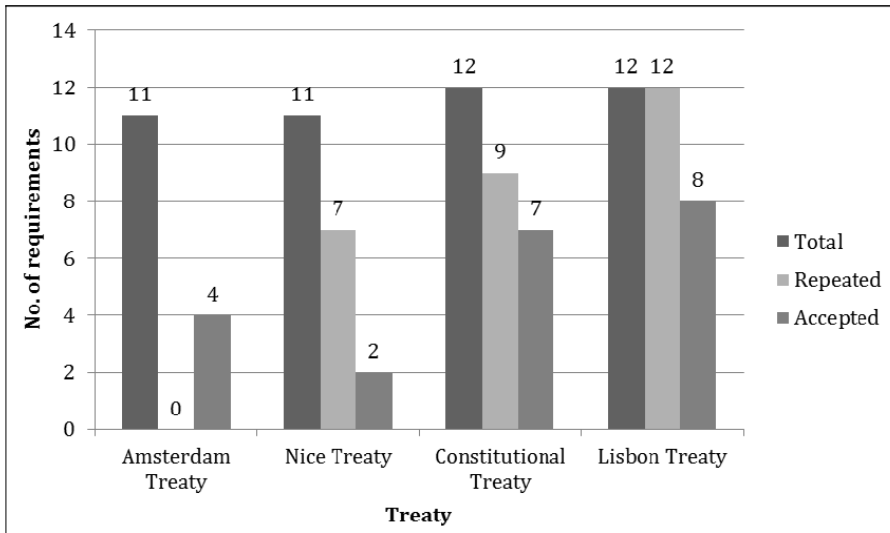


Figure 2: CoR's requests at IGCs

5.2. CoR's own activities

The CoR has carried out its own activities from the very beginning. CoR's own activities were evaluated in terms of their existence and their quantitative increase, as due to their differing nature they cannot be assessed qualitatively.

The first category is organization of events, mostly aimed at regional and local priorities. The first major event was organized by CoR in 1997, and it consisted in a meeting of regional and local representatives – European Summit of Regions and Cities (CoR, 1997). From that first meeting the summit began to take place every three years and it became a traditional event. In 2004, the CoR decided to continue with the presentation of regional and local priorities and started an annual event – Open Days (CoR, 2004b). This event focuses on current EU issues. In addition to these two main conferences, other events are organized, based on CoR's needs and aspirations. These include a conference on public communication EuroPCom (CoR, 2010a) or some regular fora (CoR, 2005).

The CoR is involved in European policies through its website and publications. The general public can access brochures, experts can ask for professional publications to be sent. In addition, through its website CoR informs the public on access to its internal norms and documents (CoR, 2005). Also, in 2003, the CoR published its Code of Ethics following efforts of MS to ensure transparency in the political process (CoR, 2003b). The Code of Ethics can be considered as important because by adopting it the CoR joined other institutions with similar adopted documents.

When evaluating the point system, it is clear that the CoR has intensified its efforts in organizing events and publishing as well as in informing the public. Scoring of activities for each period is shown in Table 11.

Table 11: CoR's own activities

ACTIVITY/ PERIOD	1992 - 1997	1998 - 2001	2002 - 2004	2005 - 2007	2008 - 2012
Summit	1	2	3	4	5
OPEN DAYS	0	0	1	2	3
EuroPCom	0	0	0	0	1
Forum	0	0	0	1	2
Code of Ethics	0	0	1	2	3
Brochures	0	0	0	1	2
Studies	0	1	2	3	4
Total	1	3	7	13	20

5.3. Interest groups and networks

The research of CoR and its cooperation with interest groups⁸ is difficult given the fact that in addition to formal groups, informal groups exist as well. Convincingly, it is only possible to examine the formal level, because at this level there are official records, either on CoR's or interest groups' websites. The second level is difficult to grasp, as there is no record of the debate – a large amount of communication does not take place within institutions, but at the regional and local level. The only source of information is thus represented by members of CoR, who have confirmed that they are regularly contacted by citizens and associations⁹. Interviews also show that hand in hand with reinforcement of CoR's competencies, contact with interest groups at lower levels is also on the increase.

A similar 'shadow group' are stakeholders. The CoR might consider anyone who is affected by present legislation as a stakeholder. The CoR regularly organizes public debates where stakeholders are invited in order to express their opinion (CoR, 2012). The CoR publishes on its web site only the information about proceeding events without publishing the list of attendance. Therefore, it is not possible to determine the participants to these events, the subjects presented, and whether proposals were considered in the final decision of the CoR stance.

It is much easier to assess officially declared cooperation with partners. This is particularly the case of cooperation with associations, which CoR started in 2002 (CoR, 2002b). The first of these associations was the Assembly of Regional and Local Authorities and gradually more such organizations were added. Today, the number of partners is stabilized at 20, where 9 are European associations, and 11 are local associations of smaller groupings. Cooperation is based on action plans. The CoR has signed with some associations a declaration of common interest, where the framework and objectives of cooperation are defined (CoR, 2002).

8 An entity with some interest is perceived as an interest group that wants to influence the political process.

9 Interviews conducted by Lenka Daďová with CoR members and alternate members Beata Balkova, Linda Kopecka, Martin Hakel, Milan Belica, Ondřej Benešík, Petr Osvald, Petr Soukup and Sylva Kováčiková.

Cooperation with associations is followed by so-called interregional groups. At the end of 2012 there were 8 such groups (CoR, 2007b). A certain number of members who meet regularly to solve specific problems are a permanent platform. The current number of groups might not be final and if necessary their number could be increased, as it did in 2009, when the CoR decided to establish the so-called ‘Crisis groups of Automotive Industry’ (CoR, 2009b). The last platform is represented by networks. The CoR established its own system of networks focusing on the involvement of regional and local representatives and obtaining their views and practices. The CoR produces extended thematically focused workplaces that address the most important issues. Currently there are 5 networks arising from 2006 to 2010.

CoR’s institutionalized cooperation would have no results without presentation of its outputs. In 2003, this platform became the so-called ‘structured dialogue’, through which the CoR could introduce proposals of changes or improvements to the EC, resulting from discussions with interest groups (CoR, 2003c). The dialogue takes place at two levels – general, at which President of the CoR meets the President of the EC and discuss year-round program of the EC, and thematic, where there is an opportunity to discuss specific problems with the Commissioner.

Analyzing Table 12, it is clear that CoR’s collaboration with interest groups has undergone development and today it has a strong system involving many interest groups.

Table 12: Scoring of cooperation of CoR and interest groups (IG)

ACTIVITY/ PERIOD	1992 - 1997	1998 - 2001	2002 - 2004	2005 - 2007	2008 - 2012
Association	0	0	1	2	3
Interregional groups	0	0	0	1	2
Structured dialogue	0	0	1	2	3
Networks	0	0	0	1	2
IG and investors	1	2	3	4	5
TOTAL	1	2	5	10	15

5.4. International cooperation

The CoR does not avoid international cooperation, even if it is not its priority. It is connected to only two groups that have extra-European reach. The first is the Euro-Mediterranean Regional and Local Assembly (ARLEM) – a consultative body composed of members of the EU and their counterparts from the Mediterranean region (CoR, 2010b). The second grouping is The Conference of the Regional and Local Authorities for the Eastern Partnership (CORLEAP) representing CoR’s cooperation with lower levels of government in Moldova, Belarus, Georgia, Ukraine, Armenia and Azerbaijan (CoR, 2011).

There are several interesting facts regarding CoR’s international cooperation. Firstly, both organizations were founded late (2010-2011). Previously the CoR did not operate outside the EU and was focused exclusively on promotion of its interests. A turning point seems to be the signing of the Lisbon Treaty, which meant achieving most of CoR’s objectives. Following this success, the CoR reduced pressure on MS

Table 13: Scoring of international cooperation

ACTIVITY/ PERIOD	1992 - 1997	1998 - 2001	2002 - 2004	2005 - 2007	2008 - 2012
ARLEM	0	0	0	0	1
CORLEAP	0	0	0	0	1
TOTAL	0	0	0	0	2

and started to direct its activity elsewhere. Secondly, although CoR speaks about ‘an international cooperation’, this term is slightly exaggerated. From the list of states, it is clear that these countries are a priority for the EU’s foreign policy and the CoR just follows the general direction of the EU. Mediterranean and Eastern Europe are areas where the EU seeks cooperation, because these countries are geographically closest and their problems might pose a risk to the EU.

6. Control mechanisms and their utilization

In order to enforce all of its activities and opinions, the CoR needs freedom in decision making. However, it has been quite difficult to enforce measures that would lead to an increase in its importance in such way that the states would lose control over the CoR. The Treaties contain no control mechanisms that the states should have available against the CoR. There are other ways to maintain control over the CoR and states do not need any explicit provisions of primary law.

The first way is the CoR’s status as an advisory body. By repeated dismissal of changes in CoR’s status in the previous IGCs, MS keep the CoR in a subordinate position with a weak influence. The most powerful control tool is a provision enabling both MS and institutions to ignore CoR’s opinion. MS and institutions – as can be seen in repeated rejection of this demand – do not want to give up completely this control tool or even restrict it partially. In addition, MS retain control by lasting restriction of the CoR’s powers in certain areas. An advisory role of the CoR is present only in those areas where it suits MS; in others, the CoR only has the opportunity to submit an opinion on its own initiative. Thus, the CoR is mute on the most relevant issues regarding EU basic principles. It is only really responsible for issues related to so-called ‘low policies’. However, the CoR has improved its position and weakened some states’ rights by earning the right to the protection of subsidiarity and referral to the ECJ, and by becoming administratively and budgetarily independent, and that its own procedure rules are not a subject of approval by the Council. Disregarding the control of subsidiarity, concessions are small and MS still maintain control where it suits them and enable concessions only where they don’t mind. General conditions and conversion of the control mechanisms are captured in Table 14, which shows the control tools MS keep (1) and which, over time, they have given up (0). As a score can be observed for each period, from 1992 to the present there has been a slight decrease in control of states and the trend is indeed decreasing, but gradually.

Table 14: Overview of control mechanisms

MECHANISM/ PERIOD	1992-97	1998-2001	2002-04	2005-07	2008-12
Advisory Body	1	1	1	1	1
Non-binding opinion	1	1	1	1	1
Limited powers	1	1	1	1	1
Control of subsidiarity	1	1	1	0	0
Administrative and budget control of CoR	1	0	0	0	0
CoR's control of the Rules of Procedure	1	0	0	0	0
Opportunity of CoR to appear before CJEU	1	1	1	0	0
TOTAL	7	5	5	3	3

7. Conclusion

The aim of the analysis was to confirm or refute the hypothesis that ‘there is a gradual acquisition of independence of the CoR and a transformation of principal – agent relationship in its favor’. There was also an assumption that this shift is caused by the range of activities developed by CoR to enhance its competencies, and the decrease in member states’ control. The analysis was preceded by an analysis of primary law, which showed that MS addressed solutions for CoR to be involved as much as possible in the preparation of new legislative proposals, without having to review its status. On one hand they want to use the CoR’s activity, and on the other hand, they are still not willing to accept the fact that CoR could be promoted among the decision-making bodies and its opinion would be obligatory. Thus, strengthening of CoR competencies is led by a compromise.

The shift of formal powers can be seen in Figure 3. Firstly, there has been a constant increase in CoR’s competencies. While the increase of competencies was lowest in the Treaty of Nice, which didn’t bring any changes for CoR, the highest growth rate occurred with the Treaty of Amsterdam. Secondly, the graph shows an interesting fact that there has never been any removal of CoR’s acquired powers, so the trend of development of competencies based on the primary rights has always been upward.

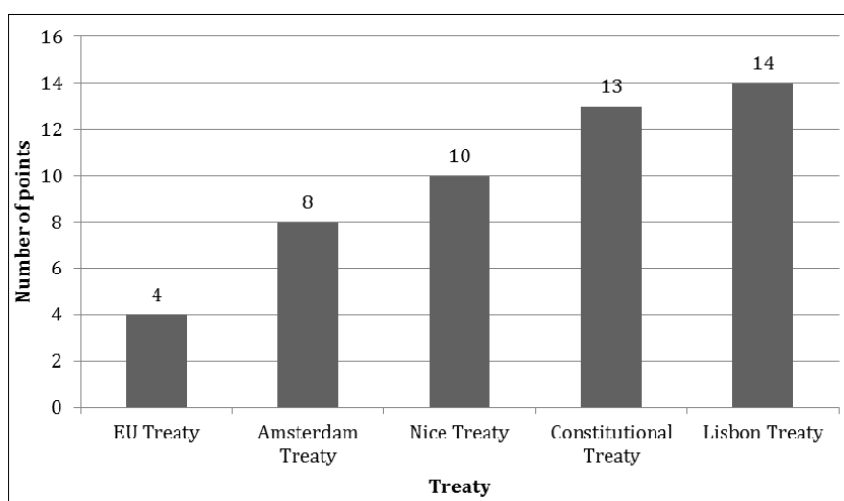


Figure 3: The development of CoR's competencies through primary law revisions

Analysis of all the factors is summarized in Figure 4, which shows an upward trend for the first four factors and a declining trend for the last factor. Thus there is a confirmation of the established hypothesis.

The first factor was the CoR's activity in the adoption of primary law revisions. The analysis has shown CoR's great interest in strengthening its position. On the contrary, the CoR does not only persist in its activity. Over time, the CoR increased its pressure on MS, which is demonstrated by the continuous increase of its requirements. A clear upward trend was shown for the first factor. The second factor accounted for CoR's activities. As shown in Figure 4, this trend is also increasing, which shows that the CoR seeks to create a customized presentation that will be sustainable in the long term. Another factor, cooperation between CoR and interest groups and its activity in the networks was analyzed. Moreover, cooperation with associations and inter-regional networks also falls under this category. The development trends are also increasing. Finally, the CoR developed activities linking EU regions with regions outside the membership area. The trend of cooperation captured in Figure 4 is interesting and growing, but because of the late start of partnerships, it is uneven.

The last factor analyzed was control of MS. The states maintain supervision of the CoR by freezing its status as an advisory role, while the CoR has been trying to modify this since the IGC in Nice. MS retreated from strict control of the CoR through oversight of its budget and the rules of procedure and also admitted some additional rights. This trend of capturing control powers is slightly downward, but the MS reduce control of the CoR only in those areas where it suits them.

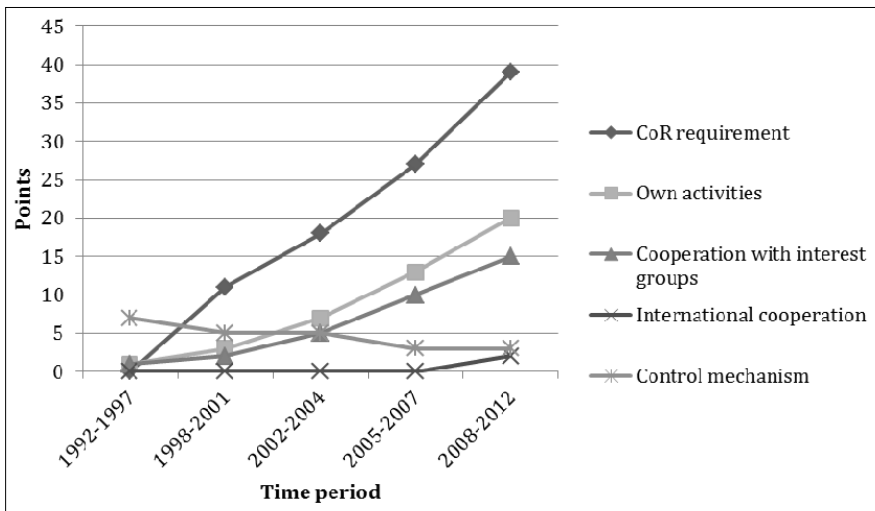


Figure 4: Development trends of the CoR

Other than confirming our hypothesis, the present analysis raised several questions, limitations and directions for further research. First, using an abstract model means accepting a certain bias as models work with precisely defined systems and

when assigned specific roles, but they are unable to adequately reflect a more dynamic reality. The second limitation was the selection of factors analyzed based on a certain amount of expertise and data available from primary and secondary sources. Evidently there are also other factors that were not included in the research, even though they could influence the CoR – external circumstances can be an example. Further research could therefore be aimed at identifying these factors and the way in which they affect CoR's position in the EU. Based on it, various scenarios for future development of this authority can be re-analyzed and interesting comparisons of present results and further research could be made.

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