The legislative influence of the Committee of the Regions in EU decision-making

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Abstract

This research is about the Committee of the Regions advisory role and the influence of its Opinion in the EU’s decision-making process, particularly in the co-decision procedure. For this purpose, this study attempts to answer two research questions. The first one refers to the potential of the CoR to influence the legislative institutions considering its position in the EU’s interinstitutional framework. In this part, what is of interest is the development of the CoR’s formal and informal relations with the EU’s institutions and the implications for its advisory role. The second research question refers to how and under which conditions the CoR influences the outcome of the co-decision procedure. To answer this part of the research a quantitative analysis is provided as an attempt to measure the impact of the amendments proposed by the CoR in its Opinions under co-decision and to examine possible explanations for its varying degree of influence.

The results of this research show, that the CoR holds an important position within the EU’s institutional setting. The CoR exploits this position by developing strong relations especially with the Commission and the European Parliament. The relationship of the CoR with the Commission has been formalised since the mid-1990s in the adoption of cooperation agreements. In these cooperation agreements, the Commission provides for more avenues for the CoR to participate in the decision-making process by requesting for its Opinion in instances where it is not required by the Treaty. Likewise, since 2014 the EP has formalised its relationship with the CoR with their own cooperation agreement with the CoR. The outcome of the quantitative analysis confirms, that the CoR has limited influence through its formal Opinion under co-decision. However, the CoR’s advisory role should not be neglected completely, as the explanatory analysis shows that the CoR can influence the co-decision procedure when it issues its Opinion early in the decision-making process and in areas where its Opinion provides for additional legitimacy. Finally, the analysis shows that the CoR has a great ally in the EP, because if the CoR amendment is adopted by the EP, it is more likely to be adopted by the other legislative institutions and be incorporated in the final legislative act.
Declaration

I declare that the work in this thesis is the work of the candidate alone and has not been submitted to any other University or higher institution in support of a different award. Citations of secondary works have been fully referenced.

Signed:

X

Arantza Lasuen
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PART 1  Introduction and Background
Chapter 1

The study of the Committee of the Regions

The Committee of the Regions (CoR) was created in the 1990s with the objective of adapting the decision-making process to the changes brought by the Member states’ territorial reorganization, the development of the European Regional Policy, and the decision to establish a political union. In this context, the CoR came to fulfil two functions, strengthen the democratic legitimacy of the EU decision-making and increase the effectiveness of the European integration process. Therefore, the CoR is supposed to bring the integration process closer to the European citizens through its regional and local representatives.¹

Several authors have commented on the performance of the CoR, some have been sceptical and critical about the new body (Christiansen, Jeffery), others have been more optimistic and positive (Millan, Schobel).² The sceptical authors have continuously pointed the difficulties the CoR faces; such as, the limited consultative powers of the body combined with the tendency of providing Opinions on too many matters, the lack of independent resources, and the heterogeneity of the subnational level. Yet practitioners in the CoR highlight that the mere fact that the CoR exists is significant. Despite its limitations, as it provides with the first official organ where regions and local authorities have a position at the Community level. Loughlin concludes that the CoR is the culmination of the ascension of the regional question and the regions and local authorities of Europe. He recognises that it is important to acknowledge the limitations of the body, but at the same time it needs to be highlighted that the CoR represents a breach in the principles of representation that lies at the base of the EU. With the establishment of the CoR, regions and local authorities are officially represented at the Community level in a body of their own. The Committee, with all its limitations, is still a forum for the representation of subnational interests at the Community level. It also fulfils the function of keeping the regional question on the political agenda and constitutes a channel for exchanging information between the European institutions and the subnational level. Christiansen also points out that the

¹ L. Huici Sancho, (2003), El Comité de las Regiones; su función en el proceso de integración europea, (Barcelona, Publicacions de la Universitat de Barcelona and Generalitat de Catalunya, Institut d’estudis autonòmics), 23-81.
expectations about the evolution of the CoR were divided between the promoters of a regional body within the Community’s institutional structure and those who delegitimized the CoR on the ground that it would lead to further fragmentation of the policy making process. Christiansen argues that neither of the two theses has come true so far; he states that ‘substantive regional interests have so far not been served effectively by the new Committee, and its establishment has not made the European policy process more difficult’. He continues saying that the CoR has nevertheless been at the centre of the regions’ interest because of the significant impact it has had at a symbolic level.

According to Warleigh, several initial expectations of the Committee were excessive, and thus some of the advocates of the Committee have been disappointed by the progress made by the CoR since its establishment. Warleigh also adds that those who were seeking a powerful legislative chamber within the CoR, which could be considered as the catalyst for a federalisation of Europe would not be satisfied by the impact and development of the Committee.

Although there was some interest on the CoR and its evolution initially, nowadays it is difficult to find research focusing on this advisory body. Previous research on the CoR has focused on the study of its internal structure, organisation, and adoption of Opinions, but there are no studies assessing the impact of CoR Opinions and the effectiveness of its advisory role. The aim of this study is to assess the influence of the CoR in the decision-making process as a way of evaluating the functioning of the CoR as a consultative body. In this research, I assess the structural position of the CoR in the formal and informal institutional framework of the EU. I also conduct a quantitative analysis of the adoption of the CoR’s amendments by the legislative institutions and the inclusion of these amendments in the final legislative act. The aim is to answer two research questions. The first one refers to the potential of the CoR to influence the policy position of the legislative institutions in the decision-making process, considering its role and structural position in the EU’s

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The insight to answer this question will be furnished from the results of a document analysis, secondary literature, and information gathered in several interviews conducted with Community officials in Brussels. The second research question refers to how and under which conditions the CoR influences the content of EU legislation. To answer this question, a quantitative analysis is provided to measure and explain the impact of amendments proposed by the CoR in its Opinions under co-decision. The results of the quantitative analysis inform us about whether the CoR has any actual influence in the decision-making process of the EU in practice. The results also indicate which factors explain variation in the CoR’s amendment success.

The results of this study provide information about the potential of the CoR to influence the legislative institutions considering its structural position in the EU’s institutional framework. The qualitative analysis suggests that the establishment of the CoR can be considered as the formal institutionalisation of Multi Level Governance (MLG). Since its establishment, the CoR has reinforced its standing as an advisory body by developing formal and informal relations with the Commission, EP, and Council as the formal body representing regional and local interests. The study provides insights on the formal institutional relations of the CoR with the three legislative institutions. The relations of the CoR with the Commission have been formalised in different protocols and the evolution has been documented in this research. Since 2014, the relationship between the CoR and the EP has also been structured in a cooperation agreement. In this respect, the findings of qualitative part of the study suggest that further research is required, on the CoR’s relations with the EU’s institutions, specifically in connection to its informal relations.

The study provides also fresh insights on the influence the CoR can wield through the adoption by the legislative institutions of the amendments proposed in its Opinions. The quantitative analysis examines the extent of the CoR’s amendment success and the circumstances under which this influence is exerted. The results of the quantitative analysis are not only relevant to the study of the CoR, they are also of relevance for the study of advisory committees within legislative organisations more generally. Based on the informational theory, it is a requirement for the CoR to provide for relevant information and expertise in its Opinions in order for the EU institutions consider these Opinions. In this research, the amendments of the CoR are taken as policy issue definitions. Therefore, the earlier the CoR forwards its Opinion to the
legislative institutions, the greater chances it is expected to have to influence the policy position of the institutions. Results of the analysis show that the speed at which the CoR forwards its Opinion and the time elapsed between the Opinion and the position formation of the legislative institution influences the amendment adoption of the legislative institutions and the final legislative act.

In the next chapter, I give a brief account of the Committee of the Regions’ historical background. The objective of this chapter is to explain the establishment of this advisory body in the Community to understand its special character. The chapter describes the pressure exerted by regional bodies before the reform of the Treaty on the European Union, specifically through the Conferences on Europe of the Regions, and European-wide regional associations. Pressure to establish the CoR also came from certain Member states (Germany, Belgium, Spain) and the European Parliament and the Commission. The chapter then follows with the negotiations of the establishment of the CoR in the intergovernmental conferences on political union. It concludes with a discussion on the finally adopted regulation of the CoR in the Treaty of Maastricht.

The second part of the thesis is dedicated to outline and discuss the structural position of the CoR in the interinstitutional set up of the EU. Chapter 3 discusses different theories applied to the study of European integration and EU policy-making, which from the backdrop to development of Multi-level governance (MLG). MLG explains the Community’s legislative process as an arena where supranational, national, and subnational institutions are present. The chapter gives an in depth analysis of MLG as it highlights the role of regions and informal channels in policy-making of the European Union. Two factors of particular relevance for evaluating the standing and influence of the CoR in the legislative process. There is also a brief discussion on other literature on the EU’s legislative process and its institutions; mainly focused in research studying the role of the EP in the legislative process considering the analogy in the evolution of the EP and the CoR.

Chapter 4 focuses on describing powers, resources, and internal organisation of the Committee of the Regions. The aim of this chapter is to contextualise the CoR in the EU’s institutional framework and its participation in the decision-making process. The chapter starts by explaining the CoR’s, legal status. It follows with its structure, membership and organisation. The chapter concludes with a description of
the most important activities of the CoR, the adoption of Opinions and reports, both on the request by legislative institutions and own initiative.

Chapter 5 deals with the CoR’s interinstitutional relations with the legislative institutions. The chapter first outlines the CoR’s formal relations with the Commission, which are formalised in cooperation agreements, the European Parliament, and the Council of Ministers. The second part of the chapter discusses the informal relations of the CoR with these institutions.

Chapter 6, describes the European Union’s legislative process. The first part of the chapter, discusses the evolution of the powers of the Commission, European Parliament, and Council of Ministers in light different Treaty amendments. Subsequently, it explains the different procedures: consultation, cooperation and co-decision.

Part 3 of the study presents the quantitative analysis. The quantitative analysis sheds some light on the success of the CoR’s amendments under co-decision. Through the quantitative analysis I try to assess under which conditions the CoR influences the policy position of legislative institutions. Chapter 7 discusses the role of framing, expertise, and legitimacy provision. These three explanatory factors provide the basis for the hypotheses to be tested in the quantitative analysis.

Chapter 8 presents the sample selection and methodology of the quantitative analysis. The chapter starts by explaining the sample selection of the study and continues with the operationalisation, describing the measurement of different variables used in the analysis. The chapter concludes with the potential limitations of the quantitative analysis.

In chapter 9, I conduct the quantitative analysis and present the findings. In this analysis, I assess the extent to which amendments are adopted by the legislative institutions and include in the final legislative act. In a second step, taking into account the explanatory and control variables, I examine which explanatory factors affect the CoR’s varying amendment success in multivariate analysis.

Part 4 of the thesis presents the conclusions of the study. In chapter 10, I summarise the study, synthesize the findings of the qualitative and quantitative analysis, and draw conclusions for the evaluation of the CoR as a policy-making body.
Chapter 2

Historical background

In this chapter, I contextualise the establishment of the CoR to better understand the reasons why this Community body was established and why it has this especial character. In the first part of the chapter, I describe the initial blindness of the integration process towards the distribution of powers and structures within Member states, and how over time this neglect was recognised and amended by supranational institutions. In 1988, the Commission established the Consultative Council of Regional and Local Authorities (CCRLA) to be consulted on matters related to regional economic development and regional policy and the European Parliament established the Committee for Regional Policy in 1992. I continue by presenting background information on the establishment of the CoR. I describe the pressure exerted by the regional bodies before the reform of the Treaty on the European Union. This pressure was exerted in three fronts; through the Conferences on Europe of the Regions and European-wide regional Associations; through the European Parliament and the Commission, and through pressure expressed by certain Member states. Subsequently, I describe how the establishment of the CoR was negotiated in the intergovernmental conference on political union and which particular issues were controversial in the negotiations. The chapter concludes with the regulation of the CoR in the Treaty on the European Union.

2.1 Context

The establishment of the CoR by the Treaty on European Union (TEU) added a new advisory body to the existing range of institutions and bodies at Community level. The creation of this body was a reaction to the perceived democratic deficit within the EU at the time, considering that ever since the Community was created, more and more competences had been transferred to the supranational level without considering the internal structures and distribution of powers of Member states. Even though the empowerment of the subnational tier differs among Member states, in all Member states exist some sort of subnational tier, which was affected by the integration process.6

Right from the establishment of the European Economic Community (EEC),
the integration process has suffered from a certain ‘blindness’ towards the internal
structure and distribution of competences of the Member states. This blindness can be
traced back to the adoption of the three founding treaties (ESCS, EC, and
EURATOM). The competences and objectives of the Community were agreed
between the States as intergovernmental treaties, without considering their internal
structure. This inconsistency became common practice overtime with the adoption of
new treaties7 (SEA, TEU, Treaty of Amsterdam, Treaty of Nice and Lisbon Treaty).
As the policy-making powers of the Community expanded over time, regional
authorities became subject to and constrained by Community legislation. In this
case, the ratification of the SEA and the establishment of the 1 January 1993
deadline for the completion of the Single Market, constituted the turning point for
regional authorities to seek for their space at the Community level8. As European
competence expanded, reaching into policy fields which within Member states fell
under the competence of regional governments. Regional governments were unable to
set the terms under which their competences were transferred to the Community.
Central governments convened as the Council regulated policy fields which under
domestic law were regional responsibilities.9 The omission of the subnational level in
the Community’s institutional structure was not only clear in the treaties; it was
reinforced with the jurisprudence of the European Court of Justice (ECJ); and the
establishment of the institutional autonomy principle. According to this principle,
decision-making on the competences transferred to the supranational level is an
exclusive competence of Community institutions. Member states are responsible for
implementing and executing the decisions taken at Community level in accordance
with their internal structures. All institutional relations derived from the application of
the treaties are limited to relations between the supranational and national levels. Thus,
the lack of representation of the subnational level was considered the internal problem
of each Member state.10

7J. Kottman, ‘Europe and the regions’.
University Press), 95-121.
(EUSA Tenth biennial international conference, Montreal).
subsidiariedad, la integración europea y el futuro de las entidades subestatales’, Revista de Estudios
Políticos 90, 299-322.
Considering the deepening of the integration process, the solution applied so far, the so-called blindness, was not any longer the best solution from a supranational perspective. In democratic terms, it was no longer possible to continue ignoring the existence of different subnational realities within the Community. The application of the principle of institutional autonomy brought a paradoxical situation. According to this principle, Member states were responsible for the application and execution of Community decisions considering their internal structures and distribution of powers. In certain cases, subnational entities were the authorities responsible for the application and execution of Community decisions, whereas they did not have the chance to represent their interest at Community level.

Even before the adoption of the Maastricht Treaty, Community institutions began to realize that there was a lack of formal recognition of the subnational tier at the Community level and started to rectify this situation. The Commission anxious to minimize regional disparities within the single market recognized the need to consult not only national governments, but also regional and local authorities. The fact that regional and local authorities are normally responsible for implementing and monitoring Community legislation explains the Commission’s commitment to the regional level. Following the creation of the European Regional Development Fund in 1975, a Regional Policy Committee was created within the Commission to comment on EC regional policy and ERDF allocations. The Commission, acknowledging the need to consider the subnational entities and interests, established the Consultative Council of Regional and Local Authorities in 1988 following the reform of the Structural Funds that same year. This Consultative Council was to be consulted by the Commission over matters relating to regional economic development and all aspects of regional policy. The Consultative Council was composed of 42 members nominated by the three European regional associations: International Union of Local Authorities (IULA), European Assembly of Regions (AER), and Council of European Municipalities and Regions (CERM). The European Parliament adopted in November 1988 a Charter of European Regionalism, aimed at defining regions and their role within Member states. The European Parliament also established the Committee for Regional Policy in 1992 in charge of the ERDF and regional policy.13

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11 Mazey and Richardson, ‘Lobbying’.
12 P. Romus, (1990), L’Europe Regionale (Brussels, Editions LABOR).
13 O’Leary and Fernández Martín, ‘Hacia la Europa de las regiones?’.
2.2 The regional pressure before the reform establishing the Treaty of Maastricht

The pressure exerted by regional and local entities at European and national levels resulted in subnational participation in the Treaties reform debates held in the 1990s. This pressure was exerted at three fronts: subnational interests were expressed directly through the Conferences on Europe of the Regions; and European associations such as the Association of European Regions (AER) or the Council of European Municipalities and Regions (CEMR). Subnational pressure was welcomed by the Commission and Parliament; institutions that at the time were having a direct dialogue with the subnational entities. The position adopted by Member states on this issue depended on the position of the regional and local entities within each Member state. In this respect, the German Länder or the Belgium communities and regions could participate actively in the negotiation and ratification phases of the new Treaty (TEU).

Because of the subnational pressure, it was decided by the European Council held in December 1990 that together with the two intergovernmental conferences, one on economic and monetary union, and the other on political union; it was necessary to study a proper mechanism to consult the subnational tier in relation to certain Community policy areas.

2.2.1 Pressure at the Conferences on Europe of the Regions and by European inter-regional associations

The pressure exerted by AER and CEMR resulted in the establishment of the Consultative Committee of Local and Regional Authorities (CCLRA) within the European Commission in June 1988. The Consultative Committee was characterised by its lack of independence from the Commission. The main characteristics of the Consultative Committee were: a mixture of regional and local authorities; functions limited to issues related to regional development and especially to the Community’s regional policy; a limited number of regional and local representatives; and an allocation of its members by the Commission according to the proposal of three European associations, not the Member states.

Due to the lack of representation of the subnational tier, European regions started to show their dissatisfaction through the Conferences on Europe of the Regions.


14Huici Sancho, ‘El Comité de las Regiones’.
and European wide inter-regional associations, such as, AER and CEMR. In 1989 the first Conference on Europe of the Regions was held in Munich, where all the German and Austrian Länder, the Belgium regions, the Italian regions with special status, and the Spanish Autonomous Communities of Catalonia, Galicia, and the Basque Country, took part in the Conference. These regions demanded the maintenance of the contractual basis of the European Communities; the recognition of the subsidiarity principle, and a possible federal structure for the future Union. They also demanded the participation of the Länder, regions, and autonomous communities in the Community’s decision-making process; together with the right to appeal to the ECJ when their rights have been violated.

In April 1990, a second Conference on Europe of the Regions was held in Belgium. In this conference, the conclusions centred on three main points; the need to establish a federal division of the EU where the regional level would be included in the Treaty reform; a division of competences should be established in accordance with the subsidiarity principle; and the participation of the regional tier in the decision-making process.

In October 1990, a third Conference on Europe of the Regions took place in Italy. In this conference, the regions presented a proposal intended to be introduced in the Treaty. This proposal foresaw the creation of a Regional Council, as a body to assist the Commission and the Council. The competence of the Regional Council was to provide its Opinion when considered necessary by the two institutions. This Regional Council would also have the right to stand in front of the ECJ to defend its competences and the proper application of the subsidiarity principle. Although the Regional Council was a consultative body, in cases where the Council or the Commission would not follow its Opinion, they would have to justify their decision.

In 1990 CEMR in its General Assembly, adopted a resolution demanding the acceleration of the process to create a European Political Union through the adoption of a new Treaty. This resolution stated that European democratic institutions should be established and that the participation of local and regional entities in the decision-making process and the European construction should be guaranteed. According to CEMR’s resolution to ensure the participation of the subnational level, the functions

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of the Consultative Committee of Local and Regional Authorities should have to be strengthened, by establishing it as a body of obligatory consultation.\textsuperscript{16}

Regions were not happy with the establishment of the CCLRA, due to its subordinate character to the institutions and the membership of local authorities. A reflection of this unhappiness was the resolution adopted by the AER in 1990 about the institutional participation of the regions in the Community decision-making process. In this resolution, the creation of a consultative Regional Council was demanded, where all regions, lander and autonomous communities would be represented. In the long term, this Regional Council should develop into a Chamber of the Regions with co-decision-making powers. Three further demands were made in the resolution: the introduction of the subsidiarity principle into the Treaty; the opening of the Council of Ministers to representatives of the regional level; and the right for the Regional Council and also for individual regions to stand in front of the ECJ to protect their competences and the proper use of the subsidiarity principle.\textsuperscript{17} This proposal was similar to the ones presented by the regions in the third Conference on Europe of the Regions and by the AER.

\textbf{2.2.2 Pressure from the Commission and the European Parliament}

The Commission and the Parliament welcomed the idea of establishing a regional body. These two institutions had always been trying to establish direct relations with subnational representatives. The Parliament adopted a resolution for the IGC debates which provided its strategy in relation to the EU. Within this resolution there were three articles related to the establishment, composition, organization and competences of the ‘Committee of the Regions and Local entities of the Community’. The new Committee was described as an organ linked to the Commission, Council, and Parliament, and which could be consulted in matters related to the regions and matters which felt under regional competences. The Parliament favoured the creation of a body where both local and regional entities would be represented. On the other hand, the Commission in a position adopted in relation to the project to reform the Treaty, stated that the IGC should consider the establishment of a body representing only the regional level. The Commission acknowledged that this body would be a fundamental factor in

\textsuperscript{16}Huici Sancho, ‘El Comité de las Regiones’.
\textsuperscript{17}Pérez González, ‘Algunas observaciones’.
Kottman, ‘Europe and the regions’.
the definition of the subsidiarity principle and it would be a new element which could help strengthening the democratic legitimacy of the Community.\textsuperscript{18}

\textbf{2.2.3 Pressure from Member states}

There were also few national initiatives supporting the establishment of a body representing regional government levels in the EEC. Germany presented a proposal in which it was stated that a body should be established to represent regional interests in the Community. The German proposal had many common points with the AER’s proposal and the proposal adopted in the Conference on the Europe of the Regions. In the debates before the European Council of Rome, held in December 1990, most national governments’ positions towards the institutionalisation of the regional reality were almost established. The German proposal did not have huge support; most national governments preferred to establish a regional representation within the Economic and Social Committee (Ecosoc) rather than creating a separate regional organ. In the conclusion of the European Council, under the title ‘democratic legitimacy’, the idea of institutionalising the regional and local interests was acknowledged. This acknowledgement was due to the position of several Member states to establish proper ways to consult regional and local authorities in certain Community policies.\textsuperscript{19}

\textbf{2.3 The Committee of the Regions in the Intergovernmental Conference on the Political Union.}

The TEU is the result of the negotiations of two IGCs; one held on Economic and Monetary Union; and the other on political union. The discussions to establish the CoR were held within the IGC on the Political Union; under the debates on the democratic deficit of European integration.

The importance of regional representation for certain Member states (Germany, Belgium, Italy) was clear from the beginning of the negotiations. This recognition lead to the establishment of a body to represent the regions in the EU. This support was due to the presence in all these Member states of strong regional governments with political powers in the domestic arena.\textsuperscript{20} The difficult issues in the negotiations were the body’s nature, composition, competences and functions. These

\textsuperscript{18}Huici Sancho, ‘\textit{El Comité de las Regiones}’, 54-61.
\textsuperscript{19}Pérez González, ‘\textit{Algunas observaciones}’, 31-58.
\textsuperscript{20}Onestini, ‘\textit{National and Regional Attitudes}’, 201-225.
problems become evident if we compare the different proposals presented in the IGC. The main problem was the heterogeneity of the entities to be represented in this new institution, resulting in composition problems. There were different positions among the national delegations with regard to the status of the organ; some delegations considered that the organ could be established within Ecosoc. There was no agreement either on the nature and competences that the new organ was supposed to have.21

Regarding the composition of the CoR, there were proposals where the new body represented only regions, and in other proposals the regions were mixed with local entities. At the beginning of the negotiations, it was considered that only the regions needed to be represented at the Community level, but during negotiations some amendments were taken on board. First, all the Community’s institutions and bodies have a plenary structure, in their composition all Member states need to be represented. Therefore, the new organ had to include representatives of all the Member states. Consequently, the creation of an exclusively regional body would require the existence of regional entities in all Member states. There were Member states where the local tier oversaw the implementation of Community law, making it a requirement to consider this local tier within the new body. The establishment of this body was also based on the principle of democratic legitimacy of the future EU. This principle is related to the principle of closeness to the citizens, providing the ground for local participation. All these issues made the creation of an exclusive regional body difficult.22 The coexistence of Member states with regional authorities and Member states without this tier, and the impossibility of creating a Community consultative body where not all the Member states were represented, made the creation of a Committee where the composition was mixed among local and regional representatives obligatory.23

Other issues under discussion were the legal status of the new body and its relation to Ecosoc. The common feature of all the proposals was that they foresaw the establishment of a new organ as a body rather than as an institution. Some proposals considered the new organ as an independent body; others considered the new organ to be subordinated to Ecosoc. The second position was rejected by Ecosoc on the grounds

21Huici Sancho, ‘El Comité de las Regiones’, 45-47.
that the addition of local and regional representatives would make its functioning more
difficult and it would result in a loss of democratic legitimacy.\textsuperscript{24}

The last issue related to its competences and powers. There was unanimous
agreement among the national delegations that the new body should only have consultative character. In this regard, the problems were agreeing on matters on which this body should be consulted, and on assessing these Opinions. Regarding the competences that should be allocated to the new body, there were two positions. There was the view that the new body had to be consulted on issues related to the Community’s regional policy or the effects of this policy. The other view held that the new body should be consulted in other policy areas which, according to the internal structures of the Member states, are competences of the regional and local levels. Several national delegations also argued that the organ should have the right to provide its Opinion on its own initiative in matters related to subnational competences.\textsuperscript{25}

Considering these positions, there were three possible options to establish the new body: it could be established as an organ adhered to Ecosoc; it could be an organ dependent on the Commission; and finally, it could be established as a completely independent body.

According to the first option, the regional body would be established within Ecosoc. Its members would be appointed by the European Council, and it would only be consulted by the Commission and the Council in matters stated by the Treaty. This regional body would also be consulted when the Commission and the Council required its Opinion on any other issue.

The second option could be considered a reformed version of the already established CCLRA. The second option suggested that the new body would be auxiliary to the Commission; and it would be consulted on any matter related to legislative proposals on the Community’s regional policy as well as other issues related to regional development, and particularly the negotiation and execution of regional policy.

Finally, the German delegation proposed the establishment of the new regional organ as an independent body. In this proposal, the regional body could be consulted by the Commission, Council, and Parliament in matters related to regional

\textsuperscript{24}Huici Sancho, ‘El Comité de las Regiones’, 69-71.
\textsuperscript{25}Huici Sancho, ‘El Comité de las Regiones’, 68-69.
development and regional policy. The body could also give its Opinion on its own initiative. This proposal foresaw that in cases where the institutions decided not to follow the Opinion of the CoR, they should provide reasons for their decision. The regional body would also enjoy legal standing before the ECJ in cases where the body’s right of participation or the subsidiarity principle had been breached.\textsuperscript{26}

In the IGC negotiations, the proposal that was adopted in the Maastricht Treaty was reached by a common position of the German, French, and Spanish delegations. A final German-Spanish proposal was reached that excluded the right to appeal to the ECJ and incorporated some variations with respect to the cases where the CoR should be obligatorily consulted. According to the German-Spanish proposal, the CoR would be composed of regional and local representatives; it would be consulted obligatorily by the Commission, Council, and Parliament in all the cases stated by the Treaty and whenever Ecosoc was consulted; and the CoR could provide its own Opinion under its own initiative.

The final decision reached in the IGC debates was the introduction of several articles (article 198a, 198b and 198c), which were agreed in the European Council convened in Maastricht on the 9\textsuperscript{th} and 10\textsuperscript{th} of December 1991, regulating the establishment of the CoR in the TEU.\textsuperscript{27}

\subsection*{2.4 The Committee of the Regions in the Treaty on European Union}

As a result of the IGC debates, the Treaty signed in Maastricht established the CoR, which would be part of the Community’s institutional structure. At Maastricht, the Member states agreed in a protocol attached to the Treaty to expand the Consultative Council of Regional and Local Authorities, established by the Commission in 1988 with consultative rights over the formulation and implementation of regional policies, into a Committee of the Regions similar to the existing Economic and Social Committee. The establishment of the CoR was not the only result achieved because of subnational pressure. A definition of the subsidiarity principle was also introduced in the Treaty, as the principle regulating the division of competences between the Community and the Member states; and the possibility that regional representatives could participate in the Council of Ministers representing their Member state was

\textsuperscript{26}Pérez González, ‘Algunas observaciones’, 31-58.
\textsuperscript{27}Huici Sancho, ‘El Comité de las Regiones’, 80-81.
recognised.\textsuperscript{28} As regards the opening of the Council of Ministers to regional ministers, this gain was carefully hedged. Participation at the Council of Ministers was limited to actors at ministerial level; officials from administrative regions were not given the opportunity to act as representatives of Member states in this forum. Regional ministers in the Council had to be in the position to commit their Member state. This was not an automatic empowerment of regional ministers; rather it was a possibility which had to be activated by the central government.\textsuperscript{29}

According to the TEU, the Council and Commission were to be assisted by Ecosoc and CoR, both with consultative powers. The CoR’s constitution and functioning would be outlined by the articles of the Treaty. Although the proposal incorporating the CoR into Ecosoc was discarded; in a way, it was put into practice. The two bodies were regulated equally in the TEU; and a protocol to the TEU specified that Ecosoc and CoR would enjoy a common structure.

The wording of Article 198, which describes the establishment, powers and function of the CoR, seems to satisfy the demands of those governments and regions supporting the creation of the CoR. The greatest omission is the lack of a right of appeal for the CoR to the European Court of Justice.\textsuperscript{30} According to Article 198 TEU, the CoR is an advisory body composed of regional and local representatives. However, the Treaty does not clarify what could be considered local and regional entities; or who could be considered a ‘representative’. The silence of the TEU on this aspect, together with the organizational diversity of the Member states, led to various interpretation problems. At the beginning, the CoR was established with 189 members. Once again, it is worth pointing at the similarity of the CoR and Ecosoc. The two bodies had the same number of members, which were to be selected following the same procedure; and even the allocation of the membership among the Member states was to be the same. In the case of Ecosoc, the Treaty guaranteed the proper representation of the different sectors representing the economic and social interests of Member states as stated in Article 259 of the European Community Treaty, whereas in the case of the CoR the Treaty did not provide any provision to specify the

\textsuperscript{30}Onestini, ‘National and Regional Attitudes’, 201- 225.
distribution of seats between local and regional representatives. The only difference in this respect was that in the case of the CoR, the Council had to appoint the same number of members and alternates.\textsuperscript{31} Therefore, the allocation of seats in the CoR was made in the same way as the allocation of seats in the Community institutions. Considering the CoR’s relation with the principle of democratic legitimacy, it seemed more appropriate to allocate the membership according to the population of each Member state.\textsuperscript{32}

The requirement stating that the CoR’s members had to fulfil their function with complete independence and in the best interest of the Community (Article 198a) was also a copy of Ecosoc’s model. When referring to the internal structure of the CoR, the TEU used the same terminology as used when regulating Ecosoc. Both Committees were to elect their President and Bureau among their members for a period of two years. The Committee was to be convened by the President, and when requested by the Council and the Commission. The Committee could also meet on its own initiative. As regards the structure, there was a difference between Ecosoc and the CoR; the Treaty recognised Ecosoc’s right to establish its own internal statute, whereas the CoR’s autonomy was limited to request the Council to adopt its internal statute by unanimity.

Article 198c of the TEU established the extent of the CoR’s competences. The CoR was established as a consultative body to assist the Commission and the Council. These institutions had to request the CoR’s Opinion in all the cases where the TEU so stated, and in cases where they deemed it necessary. The Treaty also stated that the CoR must be informed when Ecosoc was consulted. In this case, it is the CoR’s discretion the provision of an Opinion. Finally, the CoR was also provided with the competence to give its Opinion on its own initiative.\textsuperscript{33}

\textbf{2.5 Conclusion}

In this chapter, I have described the circumstances under which the CoR was created. The need to overcome the Community’s blindness towards the regional level and to consider the interests of the subnational tier played an important role, especially since in many instances regional or local authorities are responsible for the application and

\begin{footnotesize}
\textsuperscript{31}Huici Sancho, ‘\textit{El Comité de las Regiones}’, 76-81. \\
\textsuperscript{32}Huici Sancho, ‘\textit{El Comité de las Regiones}’, 91-95. \\
\textsuperscript{33}Huici Sancho, ‘\textit{El Comité de las Regiones}’, 76-81.
\end{footnotesize}
implementation of Community policies. I have described the regional pressure before the reform establishing the Treaty of Maastricht and the negotiations of the CoR in the Intergovernmental Conference on the Political Union. I have concluded with a brief discussion of how the CoR was eventually regulated in the TEU. This chapter sets the background for this research. The CoR was created to formally represent the subnational level at the supranational level and to help overcome the democratic deficit of the Community. It was established as an advisory body to the Commission and Council in the legislative process. It is worth studying the development of this body in the interinstitutional setting of the EU by way of assessing its formal and informal relations with the legislative institutions. The study of these relations will allow us to assess the structural position of the CoR in the decision-making process and assess its potential to influence the positions of legislative institutions and the outcome of decision-making. In this way, we can evaluate whether the CoR is in a position to fulfil its advisory role and effectively representing regional and local interests at the supranational level.
PART 2  The role of the CoR in the EU’s institutional setting
Chapter 3
Multi-level governance: a place for the CoR in the EU’s legislative process

In this second part of the research I have tried to shed some light into the potential of the CoR to influence legislation considering its institutional position in the EU’s legislative structure. To complete this qualitative research, I have mainly focused on documentary analysis of secondary sources, primarily books and journal articles on multi-level governance, the Committee of the Regions, the EU’s legislative procedures, the legislative institutions and the interinstitutional relations with the CoR. I have also used information obtained in several interviews conducted in Brussels in 2009. The interviewees included two administrators of the CoR, a representative of a national delegation to the CoR, two members of the EP’s Committee for Regional Development, and three officials of the Commission. In these interviews, I tried to capture the views of the Commission, the EP and the CoR itself in relation to the CoR’s relevance in the decision-making process, its influence and relations with the legislative institutions.  

In this chapter, I discuss different theories applied to the study of European integration and EU policy-making and contrast them to the multi-level governance approach of explaining decision-making in the EU and the participation and influence of the CoR. From the 1950s to the 1990s the study of the EU was dominated by students of international relations and the main theories of European integration, neofunctionalism and intergovernmentalism /liberal-intergovernmentalism. In the first part, I briefly discuss both theories and how they have considered the evolution of the EU. In the second part of the chapter, I discuss rational choice institutionalism as a theory explaining EU decision-making outcomes and the power and influence of different legislative institutions. Rational choice institutionalism models the EU’s legislative process based on formal rules and the participation and powers of each supranational institution, but it neglects the participation in the legislative process of non-legislative institutions such as the Economic and Social Committee and the Committee of the Regions. It also tends to ignore the informal activities and relations of the legislative institutions and its effect on the legislative process. In the third part

34 For further information, see the list of interviewees in Annex I.
of the chapter, I discuss the emergence of the governance approach which considers the EU as a system of governance without government. This approach can be traced back to multi-level governance as the approach explaining the development of EU policies as a process in which three types of actors participate, national, supranational, and subnational. After discussing the main aspects of multi-level governance, I conclude the chapter with a brief summary and the main conclusions relevant to this research.

3.1 International Relations theories
Since it was created, The EU has been at the centre of intense scholarly interest and research. In its early years, the study of the EU was dominated by scholars of international relations applying theories of neofunctionalism and intergovernmentalism. The pluralist approach within IR developed neofunctionalism and the state-centred realist approach developed intergovernmentalism. Neofunctionalists argue that once nation states agreed on an initial integration framework, the process would take on a life of its own, sweeping governments further than anticipated. The concept of spillover is of particular importance in this approach. Neofuntionalists theorise a process of functional spillover, where the initial decision of governments to place a specific policy sector under the authority of central institutions would, due to negative externalities, eventually have the effect of extending this authority to other policy sectors. Haas predicted that sectoral integration would produce the unintended outcome for further integration in other policy sectors. During the 1950s this theory could explain the integration process, more particularly the transition from the ECSC to the EC; but in the early 60s this theory was coming under pressure, due to the veto used by the French president Charles de Gaulle, insisting on the importance of state sovereignty and rejecting the transfer of further authority to Europe. The veto clearly exposed that the national governments still could determine the integration process. This tendency was reinforced with the developments of the 1970s, when the economic recession lead to the establishment of new non-tariff barriers to trade among the EC Member states and with the

establishment of the European Council in 1974.\textsuperscript{38} In 1976, Haas pronounced the obsolescence of the regional integration theory.\textsuperscript{39}

Considering these developments, an intergovernmentalist school of integration theory emerged with Stanley Hoffmann, which emphasised the centrality of nation states in the integration process. Where an issue was of particular interest, national governments would be “gatekeepers” promoting and protecting their interests. Intergovernmentalists recognised the participation of other actors in the integration process, but national governments were seen as the ultimate decision makers.\textsuperscript{40} During the 1990s, intergovernmentalism was reformulated by Moravcsik, who presented a liberal-intergovernmentalist theory of European Integration. Moravcsik’s model can be described as a three-step model combining a liberal theory of national preference formation with an intergovernmental model of EU bargaining and a model of institutional choice. In the first step (liberal stage) national governments formulate and articulate their preferences towards the EU. National preferences reflect the distinctive economics, parties, and institutions of each Member state and are not influenced by their participation in the EU. In the intergovernmental stage, Member states bring their preferences to the EU, where agreements reached reflect the power of each Member state with little or no influence of supranational institutions. In the third stage of his model, Moravcsik presents a rational choice theory of institutional choice, stating that Member states adopt EU institutions only to increase the credibility of their agreements. He argues that delegating sovereignty through EU institutions allows Member states to commit themselves to their promises. Moravcsik assumptions were soon rejected by rational choice and historical institutionalism scholars; they did not accept Moravcsik’s description of the integration process as an institution free model of intergovernmental bargaining.\textsuperscript{41}

These theories tried to analyse the process of European Integration as a whole, trying to generalize from the study of the EU to the study of regional integration more broadly. During the late 1990s, the results of empirical research changed the way in which the EU is being studied. Scholars have largely abandoned the

\textsuperscript{40}Bache, ‘Theoretical Issues’, 19.
\textsuperscript{41}Pollack, ‘Theorizing the European Union’, 357-398.
neofunctionalist-intergovernmentalist discussion of the previous decades in order to apply comparative politics approaches to the study of the EU, institutionalist theories in general, and rational choice institutionalism in particular.\textsuperscript{42}

3.2 Rational Choice Institutionalism

Rational choice institutionalism has its origin in the struggle of American political scientists to explain legislative behaviour and policy outcomes in the U.S Congress. Basically, rational choice scholars noted that policy outcomes would be unstable in a majoritarian model of Congressional decision-making due to the fact that in a simple majority decision-making process legislators could form a varying coalitions to overturn any existing legislation, but researches of the U.S Congress found stability in congressional policies.\textsuperscript{43} In this context, scholars have examined the agenda setting power of congressional committees and parties, formulated principal agent models of delegation to regulatory bureaucracies and courts, and have established the transaction cost approach to the design of institutions.\textsuperscript{44} Within rational choice institutionalism we can find internal debates and variances in outlook, but the main features of this theory can be simplified as follows: first, rational choice institutionalism employs a set of behavioural assumptions. They assume that the relevant actors have a pre-established set of consistent preferences and that they behave strategically to maximise the achievement of these preferences.\textsuperscript{45} Second, rational choice institutionalism has a distinctive image of politics; they perceive politics as a series of collective action dilemmas. These dilemmas can be defined as situations where individuals, acting to maximise the achievement of their own personal preferences, forego the benefits of cooperation and attain an outcome that is collectively suboptimal. Third, one of the most important contributions of rational choice institutionalism is that they highlight the role of strategic interaction in determining political outcomes. They claim that an actor’s behaviour is driven by strategically planned decisions and these planned decisions will be affected by the actor’s expectations about how other actors are going

\textsuperscript{44}K. Shepsle and B Weingast, (1987) ‘The institutional foundations of committee power’, American Political Science Review 81, 85-104.
to act. It is institutions that will structure these interactions, leading actors towards specific decisions and particular outcomes. Lastly, rational choice institutionalism has developed a different approach for the explanation of how institutions originate. By deduction, they specify the function that an institution has to fulfil. Then they justify the existence of the institution by referencing to the values that the institution has for the actors affected by them. Therefore, institutional creation is based in the voluntary agreement of the involved actors.46

Although rational choice institutionalism was initially developed in the context of American institutions, it did not take long for these insights to be applied to other domestic and international contexts. They were quickly taken up and applied by researchers of the EU. Rational choice institutionalist studies of the EU date back to 1988 with Scharpf’s47 work on ‘joint decision traps’ in the EU and other federal systems and followed by work of Tsebelis, Garrett48 and others, who tried to explain the formation and working of EU institutions in rational choice terms. Since, rational choice studies have scrutinised all three functions of government at the EU level. In executive politics, they have studied the delegation of executive powers into the Commission and other agencies and how they exercise these powers; in judicial politics, they have studied the role of the European Court of Justice, compared to the EU Member states’ governments and courts; and in legislative politics, they have studied decision-making within the Council of Ministers and the changing role of the European Parliament.49

The strand of legislative politics within rational choice institutionalism has tried to outline the EU’s legislative process, including the voting powers of Member states in the Council of Ministers50 and the variable agenda setting powers of the Commission and Parliament in the different legislative procedures.51 These rational choice studies focused on formally modelling the decision-making process, lacking

much empirical support, which resulted in criticism by qualitative researchers of EU studies. In the late 90s, several studies appeared using qualitative and quantitative methods testing rational choice models in legislative politics. Based on theories of legislative behaviour and legislative organisation, researchers of EU legislative politics have applied and tested these theories to understand the legislative decision-making process within the Council of Ministers and the European Parliament, together with the power of these two institutions as the EU evolves from being an intergovernmental organisation to become a bicameral legislature.

Considering first the Council of Ministers, several authors have tried to model the relative voting power of Member states under different decision rules, unanimity and qualified majority voting. Other authors have claimed that voting weights are not the sole index of Member states’ legislative influence; these authors argue that Member states governments’ preferences have to be considered when trying to assess their legislative influence. The EP has also been the subject of theoretical modelling and empirical study. Researchers focused on the study of the EP’s legislative organisation and the voting behaviour of its members. The early studies of the EP highlighted the fact that despite the EP’s multinational nature, the best predictor of voting behaviour was not nationality but MEPs’ party group. These studies showed that MEPs were casting their votes based on a two-dimensional conflict space; the national-supranational dimension and the domestic dimension of left and right contestation. Other studies focused on the legislative organisation of the EP, not only on party groups but also on legislative committees, whose members have an important agenda setting role in preparing legislation to be discussed in the Parliament.

During the 1980s and early 1990s, the legislative powers of the EP grew due to the treaty reforms of the EU legislative processes. The EU has undergone three constitutional revisions affecting its legislative processes: the SEA (1987) introduced the cooperation procedure; the TEU (1992), which introduced co-decision I; and Amsterdam, which amended co-decision I to co-decision II. Due to these

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constitutional amendments, the EP matured from being an insignificant consultative institution to a powerful player in the legislative process. It can be argued that there is some sort of parallelism between the CoR and the EP. Up until the establishment of the cooperation procedure, the EP was just a consultative body under the consultation procedure, as the CoR is a consultative body under the co-decision procedure. Judge argues that the means used by the EP to reinforce its powers as an institution are a useful framework of analysis for the CoR. McCarthy considers that the analogy between the CoR and the EP is pertinent because both institutions are representative institutions, advisory, diverse in terms of membership, and the EP was initially established as a weak consultative body.

Steunenberg and Crombez’s studies of the consultation procedure came to the conclusion that the EP had no decision-making powers in this legislative procedure. Varela argues that the general view among scholars is that consultation provides the EP with a limited power of delay, which is stronger when there is pressure for a fast decision. Varela states that the most important contribution to the understanding of the consultation procedure comes from Tsebelis’ analysis of the power of the EP as conditional agenda setter under cooperation. Tsebelis defines this power as the EP’s ability to make a proposal that, if accepted by the Commission, is easier to accept than amend by the Council. He argued that the key to understanding the existence of amendments in any legislative process is incomplete information. Consequently, Varela argues that the argument of the EP’s conditional agenda setting in cooperation can be extended to the consultation procedure. Varela presents a model of the consultation procedure, which includes a lobbying stage and where legislators are unaware of all the policy options available. Legislators know which outcomes they want to achieve but the whole set of available policies is not given to them. In his model, Varela explains how legislators acquire this information. Lobbyists are seen as policy entrepreneurs who are well informed of these policies and try to sell this

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information to the agenda setter, the Commission. According to Varela, only a number of lobbyists will be heard by the Commission due to the increasing marginal cost of assimilating information and the decreasing marginal benefit provided by the information. In this context, the EP as legislative institution with a formal right to be consulted under consultation becomes an indirect channel for lobbyists. In this view, the EP acquires information, which it presents in its opinion and thereby assists the Commission and Council in adopting an informed decision. Varela argues that the resulting EP policy options with the right to be heard by the Commission, although its opinion is not binding, represents a legislative power.\(^{60}\)

In a more recent study, Kardasheva argues that the power of delay of the EP under consultation has been neglected. She states that the studies on the consultation procedure do not consider properly the role of the EP due to its lack of legislative powers.\(^{61}\) Crombez concluded that the EP’s role under consultation could be disregarded.\(^{62}\) Under consultation the EP has very limited legislative powers compared to the Council; the EP has only a consultative role. Under consultation the EP must be consulted on the Commission’s legislative proposal before the Council can adopt it. There is no guarantee whether the Council will consider the opinion of the EP and to what extent. The main argument in Kardasheva’s article is that despite the limited legislative powers of the EP under consultation, the EP can exert some influence through the power of delay. In her study, Kardasheva confirms that the EP’s legislative power in the consultation procedure is very limited, but she argues that the EP has a greater role in legislative issues under consultation than generally acknowledged. Kardasheva states that delay is an important factor for the EP’s legislative influence under consultation but that there are other factors that also need consideration. The urgency of the legislative proposal also increases the EP’s probability of success. She argues that if urgency is due to a Commission’s deadline and it is not urgent for the Council, and there is no consensus reached in the Council, the EP is more likely to influence the legislative outcome. Therefore, when the EP delays the proposal and it is urgent for the Commission but not for the Council, the Commission is likely to support the EP; making it easier for the EP to have its preferences incorporated into

\(^{60}\) Varela, ‘Just a Lobbyist?’, 7-34.
the final legislative act.

Another factor to explain the EP’s amendment success is the type of issue contested. Kardasheva argues that the EP is more likely to succeed when it demands improvements in fundamental rights and freedoms in the proposed legislative text, whereas the EP is less likely to succeed when it is demanding an increase of its legislative powers in its opinion. Another factor in this study explaining the EP’s success under consultation is the EP’s ability to link the decision-making process under consultation to negotiations under co-decision. Kardasheva states that by linking proposals from the two legislative procedures, the EP manages to block progress in legislative packages. As a consequence, the Council reconsiders its position and makes some concessions in favour of the EP’s desired outcome. Another factor identified by Kardasheva is the Commission’s support. According to the results of her study, the EP is more likely to succeed when it has the backing of the Commission.63

There are ample studies researching the role of the EP in the EU’s legislative process. Tsebelis et al, argue that researchers of the EP’s legislative role considered that it was not a relevant player in co-operation. They argue that this view is based in two misunderstandings: first, they equate the EP’s legislative influence with the competence to veto new legislation; and second, they neglect the importance of formal agenda-setting powers. Tsebelis considers that these researchers missed the relevance of the co-operation procedure taking into account the conditional agenda setting power vested in the EP in the co-operation procedure.64 Tsebelis defends that under cooperation EP amendments which have been accepted by the Commission can only be modified or rejected by the Council by unanimity but accepted by qualified majority, providing the Commission and the EP with policy influence in the legislative process. Tsebelis called this influence the EP’s ‘conditional agenda setting power’.65 It can be argued that implicitly this study acknowledges that the EP has no legislative influence under consultation and gains relevance under co-operation through the conditional agenda setting power. Other scholars argued that Tsebelis’s argument had no basis because the EP’s amendments had no special status unless approved by the Commission, and therefore the Commission remained the principal agenda setting

within the EU legislative procedure. Subsequent studies confirmed the predictions of Tsebelis confirming that the EP was more successful in influencing the content of legislation under cooperation than under consultation.

Studies about the influence of the EP increased after the Treaty of Maastricht with the co-decision procedure. This procedure provides for a third round of bargaining between the EP and the Council. If the Council does not accept the EP’s amendments after the second reading, a Conciliation Committee is convened to try to reach a compromise between the Council and the EP. If the Conciliation Committee fails to reach an agreement, the initiative goes back to the Council which can make a take it or leave it offer to the Parliament. Among scholars there is general agreement that the Treaty of Maastricht increased the EP’s legislative powers. Jacobs acknowledges two reasons why the EP is more powerful under co-decision: the EP does not require the Commission’s approval in the final stage of co-decision and the Council cannot overrule the EP unanimously. In contrast, Tsebelis and Garrett argue that the conditional agenda setting power of the EP under co-operation is more important for the EP as regards influencing the legislative outcome than the veto power provided by the co-decision procedure. By contrast, other rational choice institutionalist scholars predicted less powerful agenda setting powers under cooperation and a stronger legislative position under co-decision for the EP.

In 1997, the Amsterdam Treaty amended the co-decision procedure. Crombez analysed the implications of this amendment. Under the Amsterdam version of co-decision the status quo is maintained if the EP and the Council do not reach an agreement in the Conciliation Committee. Crombez in his analysis indicates

that due to this Treaty reform, the Commission lost its formal agenda setting powers to the EP and the Council. He states that the goal was to increase further the influence of the EP under co-decision but this was dependent on the bargaining powers of the EP and Member states in the Conciliation Committee. Selck and Steneunenberg conducted an empirical study on the EP’s proximity to policy outcomes under consultation and codecision. They concluded that the EP is close to policy outcomes in both procedures, but that this is due to its legislative power under co-decision and due to luck under consultation.\footnote{B. Steunenberg, and T. Selck, (2006) Testing procedural models of EU legislative decision-making, In: Thomson, R., Stokman, F., Achen, C. and König, T. (eds) The European Union Decides: Testing Theories of European Decision Making, (Cambridge, Cambridge University Press).}

In this section on rational choice institutionalism, I have focused on the strand of legislative politics and specifically the evolution of the EP’s legislative position in the decision-making process under consultation, cooperation, and co-decision. In this description of the EP’s evolution through rational choice institutionalist lenses, the EP matures from being an insignificant consultative institution under consultation to a full co-legislator in co-decision.

Rational choice institutionalist studies of the EU legislative process and legislative institutions are mainly focused on the effect of formal rules and they do not provide proper consideration of the role played by actors without formal decision-making powers, such as the EU’s consultative bodies, the Economic and Social Committee and the CoR. It can be argued that rational choice institutionalism lacks researching in depth the effects of the increasing participation of subnational actors in the EU. In this respect in the early 1990s a third approach emerged which views the EU nor as an international organisation nor as a domestic political system, but as a new governance experiment beyond the nation state. This new approach pictures the EU as an entity in which the nation state is losing ground to the supranational and subnational levels.

3.3 The governance approach and multi-level governance
Together with international relations and comparative politics approaches, a third approach now coexists, the governance approach. This approach considers the EU as a new system of ‘governance without government’. The governance approach is not a
single theory but a cluster of related theories which highlights common themes. Hix\textsuperscript{74} has argued that the governance approach is a different research agenda with the following major characteristics: first, contrasting with the comparative approach, the governance approach theorises the EU as non-hierarchical networks of public and private actors willing to deliberate and solve issues following informal norms as much as formal ones. Second, studies of EU governance constantly stress the EU’s ability for deliberation, a type of policy making where actors have the flexibility of changing their preferences and where good arguments are as important as bargaining power. Third, governance theorists are concerned with the democratic deficit in the EU. While comparativists use majoritarian models in their arguments, governance theorists emphasise the EU as deliberative democracy in which collective problem solving offers a better alternative to majoritarian rule.

The governance approach can be traced back to the work of Gary Marks on multi-level governance. Marks suggests that intergovernmental and neofunctional theories of the EC are inadequate because they are too narrow.\textsuperscript{75} These theories conceive the institutional building of the EC in a unique dimension going from nation state domination on the one hand to supranational domination on the other. He argues that the debate between these theories is sterile because it does not take into account the mobilisation and empowerment of subnational governments. The approach of multi-level governance has to be contextualised in the period when the SEA was adopted. During this period the Commission won support from national governments for a deep reform of the European Regional Policy in 1988 in favour of the establishment of the single market. Governments accepted the Commission’s proposal, where it was recognised that regional funds should be administered through partnership between supranational actors, national governments and regional or local actors. From the study of this principle and the developments in the structural policy, Marks established the concept of multi-level governance.

Marks defined multi-level governance as ‘a system of continuous negotiation among nested governments at several territorial tiers as a result of the broad process of institutional creation and decisional reallocation that has pulled some previously


centralized functions of the state up to the supranational level and some down to the local/regional level”. Consequently, Marks states that multi-level governance is emerging in the European Community, which is characterised by decision-making across several nested tiers of government.76 “Multi-level”, refers to the interdependence of governments operating in different levels and “governance” refers to the interdependence between governments and non-governmental actors at different levels.77 Aalberts adds that multi-level governance provides a conception of the EU consisting of ‘overlapping competencies among multiple levels of governments and the interaction of actors across those levels’. Aalberts continues stating that multi-level governance brings the private sphere into the political sphere, leading to the loss of its gatekeeping role by the central state. Accordingly, multi-level governance eradicates the traditional distinction between domestic and international policies.78

This new approach started with the presence of three levels of political organisations in the EU: the supranational, the national and the subnational, suggesting that the interaction between these three levels constitutes a new political order. Proponents of multi-level governance examine the policy networks between the three levels, and they suggest that the exercise of power is the consequence of the interdependency of the three levels.79 John states that the proponents of this approach examine the relevance of policy networks between the different levels, and suggests that the exercise of power is the consequence of the complex interdependencies and exchanges between the actors.80

With the adoption of the Maastricht Treaty (TEU), the integration process developed further, eroding nation-states from below and above.81 The Maastricht Treaty provided further functional developments for supranational actors; but the main innovations brought by the TEU were the introduction of the subsidiarity principle, the creation of the Committee of the Regions (CoR), and the possibility for the regions

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to represent their nation-state in the Council of Ministers. According to Warleigh, ‘the subsidiarity principle reflects, in part, the development of the EU to a point at which it is necessary to involve subnational governments in the Union’s policy making, not only because it implements many Union decisions […] but also because European Unification touches policy areas within subnational competence’.

The introduction of the subsidiarity principle was a formal recognition of the need of subnational governments to participate in the decision-making process. The establishment of the CoR can be considered as the formal institutionalisation of the regional level. The CoR is a formally recognised body where local and regional elected representatives participate, although its function is limited to provide Opinions in the Community’s decision-making process. Nowadays, together with the Member states and the supranational institutions, the subnational level has become another actor in the decision-making process.

According to Bache and Flinders the concept of multi-level governance has been developed by different scholars to apply to the Community’s decision-making process. In this context, the development of multi-level governance was considered as a new wave, which explained the European Union as a political system instead of explaining the integration process. In this sense multi-level governance rather than explaining the EU and the integration process; considers the EU and the integration process as a fact and attention is shifted from the integration process to policy making. Thus, similar to rational choice institutionalism, the multi-level governance approach represents a shift from grand theories explaining European integration in favour of middle range theories about EU policy making. Multi-level governance represents the EU as a political system rather than an intergovernmental system. In contrast to rational choice institutionalism, it also introduces new actors into the game, such as regional governments. According to Hooghe, multi-level governance ‘is the only model where regions would be at a governmental level of importance next to national, European and local arenas’.

Bache highlights that the main argument of multi-level governance is that ‘collective decision-making and the independent role of supranational institutions are eroding the sovereignty of national governments in Europe’.\(^8^7\) As a consequence of this erosion of power, governments find it more difficult to control the activity of domestic actors in the international arena. Multi-level governance does not neglect the importance of state executives; but the decision-making competencies are shared by actors at different levels rather than monopolised by the states.\(^8^8\) In other words, supranational actors have independent influence in the policy making which is not derived from their role as state helpers as defended by the state-centric approach. According to this view the political arenas where the decisions are taken are interconnected rather than nested. Consequently, they reject the idea that the subnational arenas are nested within the national policy arena. They argue that subnational actors participate in national and supranational arenas. These scholars agree that the State does not control the relations between domestic and supranational actors, they consider the State just another actor taking part in the decision-making process. They emphasise that the central state is still a powerful actor in the EU, but no longer the sole mediator between the subnational and the supranational arenas.\(^8^9\)

The increase of the participative level of subnational actors in European policy making occurs in everyday activity.\(^9^0\) Subnational actors influence the Community’s policy process through their informative role and their responsibility in implementing EU policies.\(^9^1\) It is suggested that subnational actors are influenced by the decisions taken at the Community level and consequently have mobilized to participate in decision-making at the EU level by opening subnational lobbying offices in Brussels. According to Sutcliffe, in multi-level governance, subnational actors are sometimes as important as central governments and the EU institutions in the Community’s decision-making process.

According to the defendants of this approach the best case study to explain multi-level governance is the implementation of the European Regional Policy. This argument is made for two reasons; on the one hand, regional policy is considered to

\(^{8^7}\) Bache, ‘Theoretical Issues’, 22.
\(^{9^0}\) John, ‘The Europeanization’, 73-74.
be ‘at the leading edge of multi-level governance in which supranational, national, regional, and local governments are enmeshed in territorially overarching policy networks’; and on the other because ‘multi-level governance is prominent in the implementation state’. Sutcliffe recognises that the approach of multi-level governance has more significance in some policy sectors at some policy making stages than in others; for example, bargaining among, the EU, national and subnational actors is very important in the structural funds and within this sector in the implementation stage.

Considering the development of this approach and its establishment, George acknowledges that is not a surprise that multi-level governance has been more extensively applied to the study of the EU than to other areas of study. He also states that this approach has been criticised extensively in its application. Rhodes, Bache and George found two problems to Marks’s analysis of multi-level governance. On the one hand, although the relations between different levels of government are increasing, this does not necessarily mean an effective challenge to centralized decision-making. They argue that Marks only refers to the participation of subnational governments in the decision-making but not to the effect of this participation. They also argue that Marks avoids the term network in his analysis. These authors state that multi-level governance describes the changing structure of the European government, but it does not explain the variations to the previous structure or the reasons why it has changed.

Andrew Jordan has distinguished several critics to multi-level governance: 1) multi-level governance is not new, it is an amalgam of existing theories: Jordan suggests that this approach is related to both neofunctionalism and intergovernmentalism. The aspect of neofunctionalism that multi-level governance revives is the idea that the Commission will form coalitions with subnational actors. He also states that the two theories share a common position on the role of supranational actors. The relationship of multi-level governance with intergovernmentalism is that multi-level governance has taken the place of

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neofunctionalism as the alternative to intergovernmentalism. 2) It is a description of
the European Union but not a theory. Jordan states that multi-level governance ‘lacks
a causal motor of integration or a testable set of hypotheses and suggests that this
approach has to borrow causal accounts from other theoretical traditions. 3) It only
adopts a top-down view of subnational actors. 4) It focuses on certain subnational
actors, to the exclusion of others. 5) It mistakes subnational mobilization at European
level as evidence of subnational influence. 6) It ignores the international level of
interaction.96

In relation to these criticisms of multi-level governance, George adds that
they are of variable validity. George states that situating multi-level governance in the
context of the intergovernmental/neofunctionalist debate allows to improve the
understanding of multi-level governance and to develop a proper definition. He
continues by stating that multi-level governance does not describe the EU, it is a theory
to explain what kind of organisation the EU is. He also recognises that the last three
critics of Jordan should not be considered criticisms, but the limits of multi-level
governance.97

Finally, Bache recognises that overall, multi-level governance has quite a
merit in describing the policy making of the EU, but also states that the evidence shows
that national governments still operate as gatekeepers at various stages of the decision-
making process, not allowing a full emergence of a real multi-level governance
system.98 It can be argued that sometimes the consequence of this gatekeeping is a
political arena characterised by multi-level participation instead of multi-level
governance; subnational and supranational actors participate in the process but do not
influence significantly the decision-making outcome. Bache and Flinders point out
several arguments which signal the states’ response to maintaining their power; first it
is the state’s role to provide the rules for governance. Secondly, state executives have
control over the powers that are transferred. Third, state executives may provide
resources to non-state actors to achieve some objectives. Fourth, states may introduce
reforms to increase their strategic capacity and at the same time increase their

97 George, ‘Multi-level Governance’, 107.
98 I. Bache, Multi-Level governance or Flexible Gatekeeping?, in I. Bache, (1998), The Politics of
European Union Regional Policy: Multi-Level governance or Flexible Gatekeeping?, (Sheffield,
Sheffield Academic Press), 143.
gatekeeping capacity. Aalberts argues on behalf of the nation state that Member states remain ‘deeply entrenched in the EU and play the major role in determining the institutional set-up’ and adds that national actors command significant power comparing the European and subnational actors. Until now, national sovereignty has not disappeared on behalf of a European sovereign state. Aalberts criticises Hooghe and Marks for being unable to reconcile, on the one hand, the state’s weakening as a result of European integration and, on the other hand, the continued existence and importance of the state as a sovereign actor domestically and internationally. Hooghe emphasises that ‘regions and local authorities increasingly participate in European policy-making, and this participation often escapes the control of the traditional gatekeeper, the national state executive’. She states that the European Cohesion Policy has become a matter dealt with by European, national and subnational actors intermeshed with each other in policy networks where the differentiation between the three levels is blurred.

The approach of multi-level governance provides for a more accurate description of the actual decision-making process of the EU, where supranational, national and subnational actors participate in the process following formal and informal rules. The creation of the CoR can be considered as the formal institutionalisation of the subnational level at the supranational level providing for a recognised arena for regional and local authorities in the EU. It is true that the CoR was only given the power to be consulted in certain instances in the decision-making process but it is a formal right which is worth to be researched to assess if the CoR is an influential legislative channel for the subnational tier taking into consideration its limited formal legislative powers. We also have to bear in mind that multi-level governance does not only focus on the formal rules and procedures of the legislative process, informal relations and processes are as important. Therefore, when assessing the influence of the CoR we should not only focus on the formal power given to it but also consider the informal norms and procedures developed within the EU legislative institutions.

3.4 Conclusion
In this chapter I have reviewed different theories and approaches applied to European integration. I started the chapter with a brief discussion of neofunctionalism and intergovernmentalism/liberal-intergovernmentalist theories as the grand theories explaining European integration.

In the next part of the chapter, I have concentrated on rational choice institutionalism as a theory explaining the European Union as a political system with three strands: the legislative, executive, and judicial. In this section on rational choice institutionalism, I have focused on the strand of legislative politics and specifically the evolution of the EP’s power in the decision-making process. Initially, under consultation, the EP was merely an advisory body with little or no legislative influence. This is the position where the CoR is placed these days, the majority of scholars discard the CoR’s role in the decision-making process, arguing that it is just a consultative body without real legislative influence. Rational choice institutionalism focuses on the formal rules of procedure. Therefore, it focuses on the legislative influence of the EP, Commission, and Council in the different legislative procedures, giving no consideration to advisory bodies of the EU. It might be the case that scholars are not giving the CoR proper consideration because it lacks formal legislative powers. Varela’s study of the EP under the consultation procedure provides a model where, despite the fact that EP only provides for a non-binding opinion, its right to be heard in the procedure makes it an attractive channel of influence for lobbyists. In this manner, the EP acquires relevant information, which it can use in its opinion. Taking the EP opinion into account, the Commission and Council make more informed decisions under the consultation procedure. It can be argued that this argument can be transferred to the case of the CoR under co-decision. The CoR has the right to issue opinions, in which can potentially provide information that the legislative institutions are not aware of and in this way influence their positions. If the legislative institutions are unaware of the policy options available due to a lack of information, the CoR can influence the final legislative act through the information provided in its Opinion.

Kardasheva pointed out in her article about the EP that its potential influence under consultation was neglected. In her study, she argues that not only the EP’s power to delay but other factors such as the support of the Commission, the issue type of the legislative proposal, and the ability of the EP to link consultation proposals to co-decision proposals were relevant factors of the EP’s success under consultation. This
might also be the case for the CoR under co-decision. There may be instances under specific factors where the CoR might have the ability to influence the position of the EU institutions and the final legislative act. The quantitative analysis of this research identifies several factors, which increase the influence of the CoR. The factors are legitimacy; the time elapsed between the CoR forwarding its opinion and the adoption of the position of the EU institutions; expertise, type (technical vs substantial) and if the amendments proposed by the CoR affect the recital or body (text) of the legislative proposal.

In the last section of this chapter I have discussed the approach of multi-level governance because it describes the decision-making process of the EU more accurately and comprehensively. The EU is no longer an intergovernmental organisation, together with national actors, there are subnational and supranational actors participating in the decision-making process, following formal and informal norms. In fact, the CoR can be considered as the formal institutionalisation of the subnational tier. The CoR has only an advisory role in the decision-making process and its Opinion has no binding powers. Therefore, the majority of scholars have neglected the study of the CoR because they deem it irrelevant. This was also the case of the EP under consultation but Kardasheva and Varela have demonstrated that the EP was capable of influencing the legislative outcome under specific circumstances. The study of the CoR influence through formal rules in the co-decision process is analysed in the quantitative part of the research. But the CoR also avails of informal rules and processes in its participation in the decision-making process. Thus, the relationships of the CoR with the EP, Commission, and Council, both formally and informally, are worth studying to better assess its influence. The interinstitutional relationship of the CoR with the legislative institutions is further investigated in the next chapters. In chapter 4 of this research, I describe briefly the evolution of its legal status, structure, organization, and functioning.
Chapter 4

The Committee of the Regions

One of the consequences of European Integration is that channels for subnational representation have multiplied. According to Hooghe and Marks, regional governments and subnational actors are no longer constrained solely to political relations with central state actors; nowadays they interact with an array of actors in diverse arenas.\textsuperscript{102} Regions can represent their interests at two different levels: at their Member state level where they lobby their national institutions to promote their interest; and directly at EU level, where regions represent their interest independently from their Member state. Most regions use both paths to represent their interest in order to achieve more results.\textsuperscript{103} Tatham argues that six possible opportunity structures can be identified at supranational level for regions to influence policy making and represent their interests at the European level. These structures are: regional Brussels offices, European networks and associations, the Commission, the European Parliament, the Council of Ministers, and the Committee of the Regions.\textsuperscript{104} All six structures can be considered as tools for regional interest representation. Regions will try to lobby each of them, with the exception of regional offices, to achieve the best possible outcome in the legislative process for their individual regional interest. Despite the existence of all these opportunity windows for regional interest representation, not all regions and subnational authorities can access. Lack of access is due to various reasons, the most evident one being lack of resources and/or infrastructure. Strong regions with prominent political powers and resources would be in the position of accessing these structures directly. Having said this, only the Committee of the Regions through its Opinion represents as a whole the subnational interest of the EU. The subnational level of all Member States is represented in the CoR and the adopted Opinion is the compromise reached among all its members in the plenary session. The objective of this research is to assess the influence of the Committee of the Regions in the legislative process to evaluate the advisory and representative role of the CoR.

Of all the reforms brought about by the Treaty of Maastricht as part of its objective of transforming the European Communities into the European Union, the creation of the CoR could be considered one of the most significant. The CoR introduced a new group of (mainly) elected actors into the Community’s formal decision-making system. According to several scholars, the creation of the CoR should be considered as part of the unification project from an unfinished Common Market to a European Union. Several authors state that the creation of the CoR can be traced back to the belief that a deeper integration requires further legitimacy. Therefore, a newly established body consisting of elected local and regional politicians was to help make the Union’s decision-making more legitimate and at the same time to bring the Union closer to its citizens.

In this chapter, I will describe briefly the evolution of the juridical status, the structure, organization and functioning of the CoR in order to explain this body in the EU’s institutional framework and its participation in the decision-making process.

4.1 Legal status
Although the Treaty on European Union officially created the CoR in 1993, the CoR was not formally established as a consultative body until 1994, when its first plenary session was held. The CoR was initially composed of regional and local representatives, and its role was to advise the Council and the Commission in the Community’s decision-making process. The CoR’s Opinion needed to be requested obligatorily by these two institutions in the cases stated by the Treaty establishing the European Community (ECT); and it could also be requested optionally in any case that these institutions would consider adequate.

The CoR was established as a Community body and not an institution to represent the regional and local levels at the supranational level. The Treaty of Amsterdam increased the fields of mandatory referral, and also provided the European Parliament with the possibility to consult the CoR when it desired to.

The Treaty of Nice stated that the members of the CoR must hold a local or regional electoral mandate or be politically accountable to an elected local or regional
assembly. It also laid down that the members could be appointed by qualified majority voting in the Council of Ministers rather than unanimously. According to the Treaty of Nice, membership of the CoR terminates automatically if the members lose their regional/local mandate on the basis of which they were appointed.

In 2009, the Lisbon Treaty further increased the scope of the CoR’s involvement by broadening the fields in which the CoR has to be consulted mandatorily. The Treaty of Lisbon for the first time provides the European Parliament with the right to consult the CoR under mandatory referral.

Despite the fact that the CoR remains a consultative body and did not become an institution, and that its Opinions have not gained binding power, it is important to highlight that the policy fields where the CoR has to be consulted mandatorily has increased over time. Since the Treaty of Lisbon, all three legislative institutions have the right to consult the CoR under mandatory referral. Prior to Lisbon, only the Commission and Council could consult the CoR under mandatory referral. This discussion shows that the CoR is still a young consultative body, with its structural position within the EU institutional framework still under development. Nevertheless, its structural position seems to be reinforcing.

4.2 The structure of the CoR

In this section, considering that the CoR is the centre of the research I study the structure of the CoR describing its membership and how it has evolved over time, the organisation of the CoR and its functioning, and I conclude with the adoption of its Opinions and reports.

4.2.1 Membership

When the CoR was created by the TEU it was composed of 189 members and the same number of alternates. The amendments introduced by the Treaty of Amsterdam, increased the CoR’s membership to 222 members and the same number of alternates. With the adoption of the Treaty of Nice it was decided that the total number of members of the CoR could not exceed 350. Nowadays, due to the EU’s subsequent enlargements the CoR is composed of 350 members and the same number of alternates from all 28 Member states.

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110 Committee of the Regions, ‘key dates’.
The CoR’s members are appointed by the Council for a four year period, according to a list of candidates proposed by each Member state. With the adoption of the Treaty of Lisbon the term of office of the CoR has been set at five years. After the five year term of office, the members of the CoR can be reappointed as long as they do not resign from their post and they still hold their regional/local mandate according to which they were appointed to the CoR’s office. 111 Each Member state chooses its members in its own way, but the delegations are supposed to reflect the political, geographical and regional/local balance in their Member state. The number of members allocated to each Member state varies according to the population of the Member state, but it is not directly proportional. 112

Members of the Committee are not bound by any imperative instructions and are supposed to fulfil their functions with absolute independence in the interest of the Community. Only the members have the right to vote in the plenary session, this right of vote cannot be delegated to alternates. Since the Treaty of Nice, membership of the CoR terminates automatically if the members lose their local/regional mandate. In this case another candidate will be appointed for the remaining period of the five year mandate. 113

Given the fact that, within the Community, there are completely regionalised but also completely centralized Member states, the CoR needed to be established as a mixed body, representing both regional and local entities. The TEU did not provide any guidelines on how to allocate the number of members among the regional and the local tier. The Treaty provides for absolute freedom for each Member state to appoint its candidates; consequently, it was possible that one Member state would only appoint regional representatives (Belgium), whereas other Member state would appoint local representatives (Greece). 114

112 For further information on the selection of members by each Member state, see Annex II. See also, Committee of the Regions (2009) The Selection process for Committee of the Regions members procedure in the Member states [online], available: http://cor.europa.eu/en/Archived/Documents/840ed860-60ca-4af6-8be9-70b795f42207.pdf [accessed 8 May 2017].
Table 4.1- Number of members of the CoR by Member state

<table>
<thead>
<tr>
<th>Member state</th>
<th>Members at the CoR</th>
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<tbody>
<tr>
<td>Cyprus</td>
<td>5</td>
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<tr>
<td>Luxembourg</td>
<td>5</td>
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<tr>
<td>Malta</td>
<td>5</td>
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<tr>
<td>Estonia</td>
<td>6</td>
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<td>Latvia</td>
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<td>Slovenia</td>
<td>7</td>
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<tr>
<td>Denmark</td>
<td>9</td>
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<tr>
<td>Ireland</td>
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<tr>
<td>Lithuania</td>
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<tr>
<td>Slovakia</td>
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<tr>
<td>Finland</td>
<td>9</td>
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<tr>
<td>Croatia</td>
<td>9</td>
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<tr>
<td>Belgium</td>
<td>12</td>
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<tr>
<td>Czech Republic</td>
<td>12</td>
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<tr>
<td>Greece</td>
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<td>Hungary</td>
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<td>Netherlands</td>
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<td>Austria</td>
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<td>Sweden</td>
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<td>Bulgaria</td>
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<td>Romania</td>
<td>15</td>
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<tr>
<td>Spain</td>
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<td>Poland</td>
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<td>Germany</td>
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<td>France</td>
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<td>Italy</td>
<td>24</td>
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<tr>
<td>United Kingdom</td>
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</tr>
</tbody>
</table>

The process of appointing the CoR’s members can be split into two phases: first, each Member state proposes a list of candidates and alternates, which is forwarded to the Council. The EC Treaty does not clarify how the members have to be appointed; therefore, each Member state has its own procedure to select the list of candidates for the CoR. In the second phase, once the Council has received all the candidates’ lists from all the Member states, it appoints the CoR’s members by qualified majority voting. This competence gives the Council the power to coordinate the proposed national lists, so the composition of the CoR would be adequate, respecting the

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equilibrium among regional and local entities when appointing the membership of the CoR.  

Considering the evolution of the CoR’s membership since it was established, it can be argued that the CoR is fulfilling a representative role for the subnational level in the EU. When it was established members and alternates were only local and regional representatives but the Treaty of Nice made it compulsory for these representatives to be elected, reinforcing the representative role of the CoR and strengthening its legitimacy.

4.2.2 Organisation

The President together with the 27 Vice-Presidents are elected for a period of two years at the first Plenary Session of each term of office. These appointments are made through separate votes. They are elected by a majority vote of members at the first plenary session, but at least two thirds of the members of the CoR need to be present, otherwise the election is void. One vice-president per Member states is elected. The main duties of the President are to represent the CoR and to direct its working. In cases where the President is absent, the first Vice-president would represent the President. If the first Vice-president is absent or unable to attend, the President would be represented by one of the other Vice-presidents.

The Bureau is composed of the President, first Vice-president, the 26 Vice-presidents, the chairmen of the political groups and 28 other members of the CoR appointed to bring each Member states’ representation up to their quota (a total of three members for France, Germany, Italy, Poland, Spain and the United Kingdom; two members for Austria, Belgium, Czech Republic, Denmark, Finland, Greece, Hungary, Ireland, Lithuania, Netherlands, Portugal, Slovakia, Croatia and Sweden; and only one member for Cyprus, Estonia, Latvia, Luxembourg, Malta and Eslovenia). The Bureau is also elected for a period of two years. The Bureau meets at least once every three months. It can also meet at any time the President considers

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117 The number of vice-presidents has been increased to 28 since the last enlargement. The term of office of the president, vice-president and bureau has been increased to two years and a half since 2010.
it necessary, or when at least six members of the Bureau request it. The quorum will be reached when at least half of the Bureau’s members are present and the decisions are taken by majority voting.\textsuperscript{123} The CoR is managed by the Bureau. The Bureau sets the CoR’s working programme at the beginning of each term, monitors its implementation, and it presents the annual and end-of-term assessments. It also coordinates and organises the plenary sessions and the work of the commissions. The Bureau is responsible for the financial and administrative management of the Committee; the Bureau prepares a draft statement of the CoR’s accounts, organises the meetings outside Brussels and manages the payment of the members’ allowances. The Bureau has also political powers, it is responsible for the approval of members’ requests to forward own initiative Opinions and it also allocates the Opinions to the different commissions.\textsuperscript{124}

The CoR is assisted by a Secretariat General, which is under the direction of the Secretary-General. This Secretary-General can attend the Bureau’s meetings and can provide its advice in the meetings but cannot vote. The Secretary-General operates under the President’s authority. The main function of the Secretariat General is to draw up the minutes of the different organs of the Comr.\textsuperscript{125}

The CoR’s consultative work is fulfilled by Commissions. At the beginning of each term, when the plenary assembly meets the commissions are established, on a proposal of the Bureau. The composition of the individual Commissions reflects the national and political composition of the CoR; and the members of the CoR belong to at least one Commission but to no more than two.\textsuperscript{126} At the first meeting of each Commission, the chairman, the first vice-chairman, and up to two vice-chairmen are appointed from amongst the Commission’s members. The chairman, the first vice-chairman and the two vice-chairmen form the Commission’s Bureau.\textsuperscript{127} The main duty of these Commissions is to draw the draft versions of the CoR’s Opinions, reports and resolutions, which are then submitted to the plenary assembly for adoption.\textsuperscript{128} Nowadays, there are six commissions within the CoR: the Commission for Territorial

\textsuperscript{123}Ortuzar Andechaga, ‘Las Regiones’, 32-54.
\textsuperscript{125}Ortuzar Andechaga, ‘Las Regiones’, 32-54.
\textsuperscript{126}Committee of the Regions Rules of Procedure (5/03/2014), Rule 70 and 71.
\textsuperscript{127}Committee of the Regions Rules of Procedure (5/03/2014), Rule 49.
\textsuperscript{128}Committee of the Regions Rules of Procedure (5/03/2014), Rule 50.
Cohesion Policy and EU Budget (COTER), the Commission for Economic Policy (ECON), the Commission for Social Policy, the Education, Employment, Research and Culture (SEDEC), the Commission for Environment, the Climate change and Energy (ENVE), the Commission for Citizenship, Governance, Institutional and External Affairs (CIVEX), and the Commission for Natural Resources (NAT). The number of members in each Commission varies between 102 and 110.\footnote{Committee of the Regions (2016) Commissions [online], available: \url{http://cor.europa.eu/en/activities/commissions/Pages/commissions.aspx} [accessed 6 December 2016].}

The members and alternates of each Member state form a national delegation. Each national delegation adopts its own internal rules and elects a chairman. The President of the CoR has to be officially informed of this election. The Secretary-General makes arrangements within the CoR administration for national delegations to receive assistance (information in their own language facilitates the use of the CoR facilities for meetings). Specifically, the Secretary-General provides national delegations with means for holding meetings before and during plenary sessions. The national delegations are assisted by national coordinators, who are not part of the Secretariat-General. The Secretary-General provides national coordinators with support to enable them to make proper use of the CoR’s infrastructure.\footnote{Committee of the Regions Rules of Procedure (5/03/2014), Rule 8.}

The members of the CoR have also formed political groups, which reflect their political affiliations. The criteria for membership are laid down in the internal rules of each political group. In order to set up a political group within the CoR, it must be comprised of at least 20 members/alternates from no fewer than three Member states, 18 members/alternates from no fewer than four Member states or 16 members/alternates from no fewer than five Member states (in all three cases, half of them must be members). Each member/alternate can only belong to one political group. A political group is dissolved when membership falls below the required number. The President of the CoR is notified when a political group is set up or dissolved. Each political group has its own secretariat staffed by Secretariat-General personnel. The Secretary-General provides each political group with resources for meetings, activities and publications, and for the work of their secretariats. The political groups meet before and during the plenary sessions. They may also hold two extraordinary meetings each year.\footnote{Committee of the Regions Rules of Procedure (5/03/2014), Rule 9.} At the time of writing, there are five political
groups within the CoR: The European People’s Party (EPP), The European Socialist Party (PES), the Group of Alliance of Liberals and Democrats for Europe (ALDE), the European Alliance Group (EA), and the European Conservatives and Reformists Group (ECR).\textsuperscript{132}

There are also a number of regional groupings within the CoR providing for cross-national exchanges of views.\textsuperscript{133} An interregional group is comprised of at least four national delegations or a group of regions working together on the basis of an agreement between Member states to promote trans-border cooperation. Interregional groups carry out their activity autonomously. Each group establishes a Secretariat which manages the group’s work. So far, the Bureau has approved the establishment of twelve groups: the Saar-Lor-Lux Group, the Adriatic-Ionian Group, the Alpine Macroregion, the Insular Regions Group, the Health Group, the Regions with Legislative Power Group, the Baltic Sea Regions Group, the Less Developed Regions Group, the Carpathians Group, the Mediterranean Group, the Cross-border Cooperation Group, the North Sea English Channel Group, and the Future of the Automotive Industry Group.\textsuperscript{134}

4.2.3 The CoR’s functioning

The CoR is convened within a month after the the appointment of its members by the Council. The oldest member, acting as interim president, represents the CoR during the appointment period and chairs the first meeting of the CoR. The interim President, together with the four youngest members and the Secretary-General, constitute the interim Bureau during the appointment of the new CoR.\textsuperscript{135} At the first meeting of the CoR the interim president informs the CoR of the Council’s communication concerning the appointment of the CoR’s new members, after which she or he declares the CoR installed in office for the new term. The interim Bureau remains in office until the elections of the members of the new Bureau are declared.\textsuperscript{136}

\textsuperscript{132} Committee of the Regions (2016) Political groups [online], available: http://cor.europa.eu/en/about/Pages/political-groups.aspx [accessed 6 December 2016].
\textsuperscript{133} Peterson, and Shackleton, ‘The Institutions’, 317-318.
\textsuperscript{135} Committee of the Regions Rules of Procedure (5/03/2014), Rule 11.
\textsuperscript{136} This rule has been amended and since 2010 the CoR is convened for its first meeting by the outgoing President, failing this the outgoing First vice-president, failing this the oldest Vice-president and failing this the oldest member.
The Committe of the Regions’ plenary assembly meets at least once every three months. The dates for the meetings are set by the Bureau during the third quarter of the previous year. If at least one quarter of the CoR’s members request it in writing, the President is required to convene an extraordinary plenary assembly no sooner than one week and no later than one month after the date of the request.\textsuperscript{137} The tasks of the plenary assembly are: to adopt Opinions, reports and resolutions; to adopt the estimates of expenditures and revenues of the CoR; to adopt the political programme of the CoR at the beginning of each term; to elect the President, the First Vice-president and the remaining members of the Bureau; to set up the commissions; and to adopt and revise the rules of procedure of the CoR.\textsuperscript{138}

The Bureau is in charge of setting the agenda on the matters that will be discussed in the plenary assembly. A proposals to modify this agenda or to add an urgent matter for discussion needs to be submitted to the Secretary General no later than three working days before the opening of the plenary session.\textsuperscript{139} It is considered that a Quorum exists at the plenary session if the majority of the members are present. This Quorum can be verified at the request of a member if at least 15 members vote in favour of the request. If the verification of the quorum is not requested, all votes will be considered valid regardless of the number of members present. In cases where it is established that there is no Quorum, all issues on the agenda that require a vote will be postponed to the following plenary session, where the vote will be held without considering the number of members in the session.\textsuperscript{140} At the beginning of its meeting, on a proposal of the Bureau, the plenary assembly allocates the speaking time for every issue on the agenda. The President, acting on a proposal from the Bureau, may propose to the plenary assembly that when debates are on general or specific issues, speaking time should be divided among national delegations and political groups. As a general rule, speaking time is limited to two minutes for comments on minutes, for points of order, and for comments on amendments to the final draft agenda or the agenda. If a speaker exceeds his speaking time, the President after an initial call to order may forbid him to speak.\textsuperscript{141}

\textsuperscript{137}Committee of the Regions Rules of Procedure (5/03/2014), Rule 14.
\textsuperscript{139}Committee of the Regions Rules of Procedure (5/03/2014), Rule 15.
\textsuperscript{140}Committee of the Regions Rules of Procedure (5/03/2014), Rule 21.
\textsuperscript{141}Committee of the Regions Rules of Procedure (5/03/2014), Rule 18.
4.2.4 Adoption of Opinions and Reports

The President of the CoR assigns documents received from the Council, Commission or the European Parliament to the responsible commission according to policy sectors; and sets a deadline for the submission of the commission’s draft opinions or reports. The Bureau needs to be informed of this assignment. In cases where the subject of an Opinion or report falls within the competence of more than one commission, the President designates a lead commission and where necessary propose to the Bureau to set up a working party comprising members of the commissions concerned. If a commission does not agree with the decision of the President it can submit an application for a Bureau decision in this matter.\footnote{Committee of the Regions Rules of Procedure (5/03/2014), Rule 42.}

The development of the CoR Opinion begins in the appropriate commission of the CoR, where a draft is produced. Each commission, on a proposal from the chairman, will appoint a rapporteur to draw up the draft opinion. In certain cases, two rapporteurs may be appointed. In specific cases, the commission may decide to set up working parties and also may decide to call on the services of experts on specific issues.\footnote{Committee of the Regions Rules of Procedure (5/03/2014), Rule 62.} The rapporteur plays a crucial role in shaping the Opinion in this phase. The rapporteur prepares a draft opinion to be considered by the commission. It is at this point that national delegations and political groups have the opportunity to submit amendments via their members in that commission. After discussion of the first draft opinion, members agree to add, amend, or reject changes to the draft.\footnote{M. Farrows and R. McCarthy (1997) Opinion Formulation and Impact in the Committee of the Regions, \textit{Regional and Federal Studies} 7(1), 23-49.} Amendments to the draft opinion need to be sent to the commission secretariat at least five working days before the commission meeting. Only members of the commission can present amendments to the draft opinions. A draft opinion will be deemed adopted when it has been adopted by the majority of the commission’s members. Once a draft opinion or report has been adopted by a commission, it will be forwarded by the commission’s chairman to the President of the CoR.\footnote{Committee of the Regions Rules of Procedure (5/03/2014), Rule 66.} The draft opinion will be tabled for adoption in the next plenary assembly.\footnote{Since 2010 amendments to draft opinion or report need to be send to the commission’s secretariat at least 7 working days before the meeting.}

\footnote{Farrows and McCarthy, ‘Opinion Formulation’, 23-49.}
The plenary assembly needs to adopt the Opinion by a majority of votes cast. The valid forms of vote are ‘for’, ‘against’, and ‘abstention’. Only the votes cast for and against will be considered when calculating the majority.\textsuperscript{147} Only members and duly mandated alternates can table amendments to documents requiring decisions. These amendments must be submitted by at least six members or alternates bearing their names. National delegations with fewer than six members may submit amendments if they have been adopted unanimously in the delegation. Amendments to the draft opinion need to be forwarded to the Secretary-General at least 7 days before the opening of the plenary session.\textsuperscript{148} If the draft opinion is adopted unanimously in the commission it should be submitted to the plenary assembly for adoption without changes unless 32 members or duly mandated alternates or a political group table an amendment. In this case the draft opinion or report is presented by the rapporteur at the plenary assembly and may be the subject of debate.\textsuperscript{149} In urgent cases, where a deadline set by the Commission, Council, or the European Parliament cannot be met under the normal procedure, and the commission responsible has adopted the draft opinion unanimously, the President of the CoR forwards the draft opinion to the legislative institutions for information. The draft opinion is then tabled at the next plenary session for adoption without amendments.\textsuperscript{150} The Opinions or reports of the CoR adopted in the plenary assembly and directed at the Commission, Council, and European Parliament are published in the Community’s Official Journal. Members of the Commission, Parliament, and Council can attend the plenary assembly and participate in the debate.\textsuperscript{151}

Applications for own-initiative Opinions and reports need to be submitted to the Bureau by three of its members, by a commission via its chairman, or by 32 members of the CoR. These applications need to be duly reasoned and need to be submitted at least three working days before of the opening of the Bureau meeting and where possible before the annual work programme is adopted. The Bureau decides on the applications for own-initiative Opinions and reports by a majority of three quarters.

\textsuperscript{147} Committee of the Regions Rules of Procedure (5/03/2014), Rule 22. Since 2010 political groups are entitled to propose amendments to the draft opinions at the plenary assembly.
\textsuperscript{148} Committee of the Regions Rules of Procedure (5/03/2014), Rule 66. Since 2010 amendment proposal need to be forwarded to the Secretary General at least 9 days before the opening of the plenary session.
\textsuperscript{149} Committee of the Regions Rules of Procedure (15/04/2004), Rule 27.
\textsuperscript{150} Committee of the Regions Rules of Procedure (5/03/2014), Rule 26.
\textsuperscript{151} Ortuzar Andechaga, ‘Las Regiones’, 32-54.
of the votes cast. Afterwards the successful Opinion and report applications are referred to the relevant commission for drafting. The President informs the plenary assembly of the Bureau decisions approving and allocating own-initiative Opinions and reports\textsuperscript{152}.

\textbf{Table 4.2- Opinions issued by the CoR between 2003-2006\textsuperscript{153}}

<table>
<thead>
<tr>
<th>Year</th>
<th>Mandatory</th>
<th>Optional</th>
<th>Own Initiative</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003</td>
<td>16</td>
<td>32</td>
<td>9</td>
<td>57</td>
</tr>
<tr>
<td>2004</td>
<td>15</td>
<td>30</td>
<td>5</td>
<td>50</td>
</tr>
<tr>
<td>2005</td>
<td>10</td>
<td>51</td>
<td>9</td>
<td>70</td>
</tr>
<tr>
<td>2006</td>
<td>11</td>
<td>26</td>
<td>3</td>
<td>40</td>
</tr>
</tbody>
</table>

Table 4.2 shows the amount of Opinions issued by the CoR from 2003 to 2006. The first column refers to the number of Opinions issued under mandatory referral, the second column refers to the Opinions issued under optional referral and the third one refers to the Opinions issued by the CoR on its own initiative. The last column is the total amount of Opinions issued by the CoR per year. In the majority of the cases, the CoR provided its Opinion because it had been consulted by the legislative institutions under mandatory or optional referral. Between 84 and 92\% of the Opinions of the CoR are the outcome of consultation by the legislative institutions. Very few Opinions are forwarded by the CoR under its own initiative. Also, the number of own initiative Opinions are decreasing whereas the Opinions due to institutional consultation are increasing. Arguably, the Opinion of the CoR is not a mere formality of the legislative process. If this was the case, the legislative institutions would not request CoR Opinions under optional referral. They would only request Opinions under mandatory referral to abide by the formalities of the legislative process. However, between 56 and 73\% of the Opinions forwarded by the CoR between 2003-2006 fell under optional referral. Thus, legislative institutions are clearly seeking for the input of the CoR in the legislative decision-making process. There might be several reasons why the legislative institutions look for the CoR’s Opinion when it is not mandatory. For example, it might be that the CoR brings legitimacy into the legislative process

\textsuperscript{152} Committee of the Regions Rules of Procedure (5/03/2014), Rule 44.

\textsuperscript{153}Table created by the researcher from information obtained from the archives.

In this table I did not differentiate if the opinions issued were the outcome of referrals under consultation or co-decision.
through its Opinion and participation, or that the legislative institutions are seeking information and expertise in certain policy areas, which they feel the CoR can provide.

**Table 4.3- Co-decision cases between 2004-2007 and participation of the CoR**

<table>
<thead>
<tr>
<th></th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mandatory</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opinion</td>
<td>16</td>
<td>15</td>
<td>6</td>
<td>3</td>
<td>40</td>
</tr>
<tr>
<td>No Opinion</td>
<td>16</td>
<td>24</td>
<td>34</td>
<td>28</td>
<td>102</td>
</tr>
<tr>
<td>Optional</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opinion</td>
<td>1</td>
<td>7</td>
<td>3</td>
<td>9</td>
<td>20</td>
</tr>
<tr>
<td>No Opinion</td>
<td>13</td>
<td>12</td>
<td>16</td>
<td>16</td>
<td>57</td>
</tr>
<tr>
<td>Total consulted</td>
<td>46</td>
<td>58</td>
<td>59</td>
<td>56</td>
<td>219</td>
</tr>
<tr>
<td>No Consultation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Opinion</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>No Opinion</td>
<td>26</td>
<td>25</td>
<td>52</td>
<td>45</td>
<td>148</td>
</tr>
<tr>
<td>Total</td>
<td>26</td>
<td>100%</td>
<td>84</td>
<td>100%</td>
<td>111</td>
</tr>
</tbody>
</table>

Table 4.3 shows that the CoR is consulted on between 53 and 69% of legislative proposals under co-decision. The majority of these consultations fell under mandatory referral but between 17-24% of these cases are optional referrals, which once again shows the interest of the legislative institutions in the Opinion of the CoR. The majority of Opinions forwarded by the CoR under co-decision are response to mandatory consultations; the number of Opinions under mandatory referral has decreased whereas it has increased under optional referral. It might be the case that, initially, the CoR focused on developing its advisory role based on the policy fields that the Treaty deemed that it must be consulted on; and in view of all the optional referrals received from the legislative institutions under the different legislative procedures, the CoR might have shifted its focus in an attempt to reinforce its position in the EU institutional setting by focusing more on the Opinions under optional referral. The CoR is aware that the legislative institutions are seeking its expertise and information. One of its publications clearly states that CoR Opinions enable the EU to benefit from the experience of CoR members at regional and local levels. If the CoR is consulted by the legislative institutions, it is because the legislative proposal has a regional/local dimension.\(^{154}\) Therefore, the CoR in order to reinforce its advisory role is trying to exploit its position as expertise and legitimacy provider.

4.3 Conclusion

In this chapter, I have described the Committee of the Regions. I started by briefly discussing its legal status as a consultative body of the EU’s institutional framework. In the next part of the chapter, I described the membership of the CoR and how it has increased with subsequent Treaty amendments. In this respect it needs to be pointed out that the CoR has strengthened its representative role because the Treaty of Nice made it compulsory for members of the CoR to be elected representatives of the subnational level. I have also discussed how the CoR is organised, mentioning the election of the President and Vice-presidents, the formation of the Bureau, the Secretariat General, the Commissions, national delegations, political groups, and territorial groupings. I have followed by briefly describing the functioning of the CoR, explaining the adoption of Opinions and reports.

From this section, two things should be noted: first, it looks like the process of Opinion formation in the CoR is very drawn out and complex. Also, Opinions are adopted in plenary sessions, which are only held every three months. Thus, Opinions are often forwarded to the EU institutions with considerable delay. The CoR has established a new procedure for urgent Opinions, which are transmitted to the legislative institutions before being adopted by the plenary session. This new urgent Opinion process allows the CoR to participating early in more legislative processes, which might result in greater influence on the positions of the legislative institutions.

Second, Table 4.2 shows that the majority of Opinions adopted by the CoR between 2002-2006 were the result of optional referrals from the legislative institutions. In addition, Table 4.3 indicates that there is a trend where the CoR is focusing more and more on producing Opinions in response to optional referrals than mandatory referrals. The fact that the Commission, Council, and European Parliament do not only request CoR Opinions under mandatory consultation but request them also under optional referral, suggests that the CoR is not deemed an unnecessary advisory body in the legislative process. The legislative institutions seem to be seeking expertise, information, and legitimacy through the Opinions of the CoR. Therefore, the policy influence exerted by the CoR through the amendments proposed in its Opinion is worth analysing. In the next chapter, I focus on the interinstitutional relations of the CoR with the Union’s legislative institutions.
Chapter 5
The CoR’s formal and informal relations with the legislative institutions

In this chapter, I explore the CoR’s interinstitutional relations with the Community’s legislative institutions. I will start with the relationship between the CoR and the Commission, which has been institutionalised through cooperation agreements. I will continue by analysing the relationship with the EP and the Council. In the last part of the chapter I will consider briefly the informal relations of the CoR with the legislative institutions. The purpose of this chapter is to assess the different channels available to the CoR to influence the legislative institutions through formal and informal relations.

5.1 The CoR and the Commission

Several authors, among them Tömmel, argue that new ways of governance emerged (MLG) in Europe as a consequence of the Commission’s actions and strategies to implement and formulate policies and also due to the subsequent reaction of the subnational tier and other actors. According to this author, the Commission used several channels to influence regional policy-making, in order to pursue its strategy of involving the subnational level in European decision-making. One of the channels used by the Commission was the inclusion of regional governments in European decision-making through the creation of advisory bodies, in particular the CoR.

The relationship between the CoR and the Commission is very strong. It could be considered as the foundation of the CoR’s influence. The relevance of the CoR from the Commission’s perspective lies in the fact that it helps to increase its legitimacy. Therefore, it could be said that the Commission sees the CoR as a useful body for its own purposes. As the coordinator of the Irish national delegation in the CoR explained:

“In certain cases when the Commission has a proposal that Member states and even the Parliament does not support, it is useful for the Commission to have the CoR on board. In these cases, the Commission can argue that the proposal is an issue that affects the subnational tier and that they have the support of the CoR. The Commission can be considered the best friend

156Tömmel, ‘Transformation’.
of the CoR. The Commission always defends the CoR’s right to be consulted. It says nice things about it, whereas the Member states do not necessarily, and the Council does not care that much about the CoR.” 158

Since the establishment of the CoR, the Commission goes beyond what the Treaty of Maastricht requires: by informing the Committee of the issues it is going to be consulted on, by sending feedback on the CoR’s Opinions, and by sending staff and Commissioners to the CoR’s plenary sessions. Not only did the Commission support the establishment of the CoR, it still is one of the main supporters of the body within the EU’s decision-making system. 159 According to a Commission official, the relationship between the Commission and the CoR is a question of efficiency and the Commission has the same type of relationship with Ecosoc. 160

The Commission’s desire to structure its relationship further led the Commission to adopt a Communication on relations with the CoR on the 18th of April 1995. 161 The provisions of this document were renewed at the CoR’s 40th plenary session held in September 2001 where a Joint Declaration on closer cooperation between the President of the European Commission and the President of the Committee of the Regions was signed. Both the European Commission and the CoR were interested in going further in their cooperation agreement by attaching a protocol to the joint declaration, whose implementing provisions replaced the ones set in the Commission’s Communication of April 1995. 162 After further negotiation among the CoR and the Commission (revised in 2005), a new Protocol governing arrangements for cooperation between the European Commission and the Committee of the Regions was adopted between the President of the CoR (Peter Straub) and the President of the Commission (Jose Manuel Barroso) on the 17th of November 2005, and subsequently on the 5th of June 2007 an addendum to the protocol was adopted, which replace the protocol of September 2001. 163 In this protocol, the CoR has effectively gained

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158 Interview in Brussels, 28th April 2009.
159 Warleigh, ‘The Committee of the Regions’.
160 Information obtained in the interview held with a Commission official in the DG Regional Policy, Relations with the Committee of the Regions, the European Economic and Social Committee and the Council of Europe on the 28 of April 2009.
161 Huici Sancho, ‘El Comité de las Regiones’.
additional political competences (explained below). Currently, a new protocol is in place governing the cooperation between the European Commission and the Committee of the Regions, signed on the 16th of February 2012 by the President of the CoR Mercedes Bresso and the President of the Commission Jose Manuel Barroso.

The objectives of the Commission and CoR cooperation agreement are: to strengthen the CoR’s consultative role by improving the planning of its work and providing for better follow-up reports; to facilitate dialogue with local authorities; to ensure better implementation of the subsidiarity principle; to support the EU’s external action by improving dialogue with the local level of third countries; and to build up communication to bring Europe closer to the people. On 21 April 1995, Mrs Wulf-Mathies Commissioner for Regional Policy and Relations with the CoR delivered a speech at the CoR's 7th Plenary Session. In this speech she stated that the Commission had decided on several measures to improve cooperation with the CoR, one being the Commission’s commitment to consult the CoR not only in the areas envisaged by the Treaty, but also when the subject in question would affect regional and/or local interests. It is interesting to note that the Commission decided not to restrict itself to requesting the CoR’s Opinion only in the fields where consultation was mandatory according to the Treaty. Consequently, when the matter at stake is affected by one of the following three criteria, the Commission can request the Opinion of the CoR (optional Opinion): firstly, when the matter affects the regulatory or implementation powers of subnational entities; secondly, where the planned legislative provisions will have direct effect on the budget and/or operation of local or regional authorities; and thirdly, where Community measures will have different economic effects in different regions, affecting the economic and social cohesion of the EU. The cooperation protocol adopted in 2007 added other criteria.

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166 Committee of the Regions, ‘Addendum to the Protocol’.
168 Huici Sancho, ‘El Comite de las Regiones’.
to this list, when the measure relates to informing the European public and raising their awareness of EU policies. In the cooperation protocol of 2012, an additional criterion for optional consultation has been added: if the future legislative act has particular sensitivity as regards subsidiarity the Commission may decide to consult the CoR.

Apart from mandatory and optional Opinions, following the adoption of the 2001 protocol, there is a third category of Opinions, so-called ‘outlook reports’ and ‘outlook opinions’. According to the 2001 protocol, the Commission shall encourage the CoR to draw up strategic documents reviewing topics that the Commission considers important. These strategic documents or ‘outlook reports’ would explore topics in depth for which the CoR has appropriate information resources. Similarly, the Commission may request that the CoR draws up ‘outlook opinions’ in areas where the Commission considers that the CoR has relevant competence, knowledge and expertise. In the 2007 cooperation protocol these ‘outlook opinions’ were regulated in more detail. Accordingly, the request for outlook opinions should be accompanied by a specific mandate, appropriate deadlines, and a coherent framework for action. According to one interviewee, when the Commission requests that the CoR forwards an outlook opinion, this is done before the drafting of the Commission’s legislative proposal. Therefore, outlook opinions could be considered as the CoR’s most powerful formally recognised channel to ‘set’ the Commission’s agenda or to influence the drafting of the proposal. The Commission can also request the CoR to take part in studies looking at the impact of certain proposals and, in exceptional circumstances, can request the CoR to participate in impact reports on certain Directives. In the 2012 Protocol a new type of consultation was introduced under the heading ‘New Consultation’, according to which the Commission may invite the CoR to issue a new Opinion about the implications for regional or local authorities of a policy outcome emerging in subsequent stages of the legislative process. If the Commission modifies substantially its proposal subsequent to the initial Committee referral and the Treaty


170 Committee of the Regions, ‘Addendum to the Protocol’.
171 Protocol on the cooperation between the European Commission and the Committee of the Regions.
172 Centre Virtuel de la Connaissance sur l’Europe, ‘Cooperation agreement’.
174 Information obtained in the interview held with the coordonateur of the Irish national delegation in the CoR on the 28 of April 2009.
175 Committee of the Regions, ‘Addendum to the Protocol’.
provides for mandatory consultation of the CoR, the Commission will ensure that the CoR is consulted again.\textsuperscript{176} This new consultation allows the CoR to provide for a second Opinion in the legislative process when the Commission amends substantially its initial legislative proposal and the CoR’s consultation is mandatory.

Cooperation between the Commission and the CoR consists of several different components. One component is the forwarding of the Commission’s annual work programme stating in what matters the CoR is going to be consulted; allowing the CoR's Bureau to programme its own workload, and to allocate the work among the different commissions within the CoR. Each year, the Commissioner responsible for the relations with the CoR presents the strategic priorities for the following year to the CoR. The CoR takes into account the Commission’s priorities and deadlines in the establishment of its own annual policy priorities and the organisation of its own work. In the first semester of each year the CoR adopts a resolution addressed to the Commission outlining the CoR’s position regarding the Commission’s Work Programme for the forthcoming year. This working method has been consolidated over time, becoming one of the fundamental factors of the CoR's consultative function.\textsuperscript{177} Through this resolution, the CoR tries to influence the Commission's annual working programme and shape the topics on which the Commission drafts legislative proposals.\textsuperscript{178}

The Commission’s direct participation is another component of their cooperation. In practice, the Commission’s participation has increased over time. The initial participation foreseen was the participation of Commissioners and officials from their departments in the CoR’s plenary sessions.\textsuperscript{179} Nowadays, the Commission has requested the possibility of explaining its main initiatives to regional and local representatives.\textsuperscript{180} Two types of participation can be distinguished: the participation of the Commission President and Commissioners and the participation of officials from the Commission’s departments. Normally, the Commissioner responsible for relations with the CoR participates in plenary sessions. Once a year, there is also a

\textsuperscript{176} Protocol on the cooperation between the European Commission and the Committee of the Regions.
\textsuperscript{177} Huici Sancho, ‘El Comite de las Regiones’, 248.
\textsuperscript{178} Protocol on the cooperation between the European Commission and the Committee of the Regions.
\textsuperscript{179} Information obtained in the interview held with a Commission official, on the 29/4/2009. This interviewee is a member of cabinet of Vice-president of the Commission Margot Wallstrom in charge of Institutional Relations and Communication.
\textsuperscript{180} Committee of the Regions, ‘Minutes of the 7th Plenary session’.
\textsuperscript{180} Huici Sancho, ‘El Comite de las Regiones’, 248.
meeting organised between the President of the CoR and the President of the Commission or the Vice-President in charge of relations with the CoR to examine their priorities and topics of common interest and to review the application of the cooperation protocol.\textsuperscript{181} The purpose of this meeting is to determine topics on which political cooperation between the CoR and the Commission could develop further. The meeting between the two Presidents is prepared by a previous meeting of the Secretaries General.\textsuperscript{182} As regards the participation of Commission officials in the work of the CoR, the Cooperation Agreement implies that the Commission officials responsible for working with the CoR should participate as much as possible in the plenary meetings they are invited to, setting out the Commission’s proposal, and taking into consideration the position expressed by the members of the CoR.\textsuperscript{183} The Commission’s participation in of CoR meetings, is quite standardised. The Commissioner gives a speech on a specific topic and afterwards he or she answers a set of pre-formulated questions that everybody knows beforehand.\textsuperscript{184}

The good relationship between the Commission and the CoR has led to the joint organization of, and participation in, seminars, hearings and conferences on matters of common interest.\textsuperscript{185} As a consequence, the development of joint activities has been recognised as one of the collaboration modes between the Commission and the CoR in the cooperation protocol signed in 2001. According to this protocol, the Commission and the CoR have decided to go further in their collaboration in order to improve the impact of the activities undertaken by their services in the context of inter-regional and trans-European cooperation and the programmes related to cohesion policy.\textsuperscript{186}

Finally, the Commission has committed itself to providing follow-up reports to CoR Opinions, although giving this feedback is not required by the Treaty. According to the speech given by Commissioner Wulf-Mathies at the Committee’s Plenary Session in 1995, the Commission would forward a written report on steps taken by the Commission on the CoR’s recommendations.\textsuperscript{187} In the protocol adopted

\textsuperscript{181}Centre Virtuel de la Connaissance sur l’Europe, ‘Cooperation agreement’.
\textsuperscript{182}Committee of the Regions, ‘Addendum to the Protocol’.
\textsuperscript{183}Centre Virtuel de la Connaissance sur l’Europe, ‘Cooperation agreement’.
\textsuperscript{184}Information obtained in the interview held with a Commission official, on the 29/4/2009.
\textsuperscript{185}Centre Virtuel de la Connaissance sur l’Europe, ‘Cooperation agreement’.
\textsuperscript{186}Centre Virtuel de la Connaissance sur l’Europe, ‘Cooperation agreement’.
\textsuperscript{187}Committee of the Regions, ‘Minutes of the 7th Plenary session’.
in 2001, the Commission agrees to forward substantive replies to the CoR, explaining why the recommendations of the Opinions have or have not been considered, so the CoR can prepare impact assessments of its work. It continues by stating that the recommendations accepted by the Commission shall be incorporated in its amended proposal. The Commission has fulfilled its commitment regarding the follow-up reports. Every three months, the Commission forwards a follow-up report to the Committee of the Regions outlining the amendment proposed by the CoR to the Commission’s legislative proposal and the Commission’s decision on the amendments of the CoR, justifying why it did or did not incorporate the CoR recommendations into its proposal.

In the 2007 cooperation agreement, three particular roles specific to the CoR are recognised: first, the CoR is considered an intermediary for local authorities; therefore, the Commission recognises the role played by the CoR as a link between the EU institutions and subnational authorities. The Commission also believes that the CoR should play a particular role in the implementation of the subsidiarity and proportionality principles. Accordingly, it is stated that the CoR’s work should evolve in collaboration with the Commission to create a subsidiarity culture, based in MLG, where decisions are taken at the closest level to the citizen, by the most appropriate means and where they can most effectively achieve their objective. Lastly, the Commission recognises that the CoR may play a relevant role in the external dimension of the EU. As a consequence, the CoR, at the request of the Commission, should develop activities in several spheres of external EU action where subnational authorities have recognised powers. In this role, the CoR’s cooperation with the Commission would focus on areas such as: supporting the enlargement process and participating in pre-accession policy; supporting the neighbourhood policy; promoting subnational democracy in third countries; promoting decentralised cooperation, cross-border cooperation; and supporting the Union policies and positions as an observer at international conferences about policies which concern the CoR’s mandatory rights of consultation.

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188 Centre Virtuel de la Connaissance sur l’Europe, ‘Cooperation agreement’.
190 Committee of the Regions, ‘Addendum to the Protocol’.
191 Protocol on the cooperation between the European Commission and the Committee of the Regions.
“The 2007 cooperation agreement can be considered a fair deal for the CoR. It provides for a certain role for the CoR, it gives a place in the institutional process. The CoR is a player in the process, and they play an important role concerning regional policy. They have added value as a body, not only considering its advisory function to the legislators, but also the other way around, informing the regions and keeping the regions close to Europe”.

From the initial Commission’s Communication on relations with the CoR in 1995 to the latest cooperation agreement in 2012, we can see the enhancement of the CoR’s consultative role. The Commission not only consults the CoR on issues envisaged by the Treaty under mandatory referral, the Commission also commits to consult the CoR under optional referral when the issue at stake falls under specific criteria. In the 2001 cooperation agreement, a new type of Opinion was introduced named ‘outlook opinions’, which are requested prior to the drafting of the legislative proposal if the Commission considers that the CoR has relevant competence, knowledge, and expertise. With the adoption of the 2012 cooperation agreement, a new opportunity for a second Opinion in the legislative process is given to the CoR. In instances where the Commission has to request the CoR Opinion under mandatory referral and the Commission amends its legislative proposal substantially after the first referral to the CoR, the Commission commits to request a new Opinion from the CoR on the amended legislative proposal. The Commission has also committed itself to forward its annual work programme to the CoR in advance, highlighting in what matters the CoR is going to be consulted, so the CoR can organise its workload. The Commission also participates directly in the CoR plenary sessions and Bureau meetings. Commission members are entitled to take the floor at the plenary session when the legislative proposal being debated falls under their responsibility. The Commission also provides follow-up reports on the effect of CoR Opinions every semester so the CoR can prepare impact assessments on its Opinions. In all these instances, the Commission goes beyond what is prescribed by the Treaty, emphasising the relevance of the Opinion of the CoR to the Commission in the legislative process.

5.2 The CoR and the European Parliament
The relation with the Parliament has not always been very good, despite the fact that this institution was quite supportive in the debates to establish the CoR. The tension

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192 Interview with Commission official in Brussels, 29th April 2009.
between the CoR and the Parliament is due to two reasons: first, the Parliament was concerned that the CoR would become a direct rival, and second, the view taken by some MEPs of the workings of the CoR. The Parliament feared that the CoR would become the second Chamber of Parliament if the federalisation of the Community would occur. It has to be borne in mind that the CoR does not represent local and regional citizens. Consequently, it only has indirect democratic legitimacy, whereas the European Parliament is the only institution elected directly by European citizens.193

According to a CoR administrator, at the beginning, there was a lot of competition between the CoR and the EP, because the EP struggled a lot to establish its fields of competences and to acquire more weight in the legislative process.194 In this respect, the coordinator of the Irish delegation to the CoR stated that there was a lot of friction at the beginning, because when the CoR was established in 1994, the EP saw it as a threat to its institutional position. For example, the Spanish representatives to the CoR were much more powerful and high profile than the Spanish MEPs.195 Several MEP’s opinion of the CoR is not very good; there is a view within Parliament that the Parliament’s Regional Committee is more useful to represent regional interests at the Community level than the CoR. This position can be contradicted because the MEPs have a broader amount of issues to discuss than the regional tier.196

Another factor which made the relations between the Parliament and the CoR difficult was the non-recognition of the CoR’s consultation by the EP in the Treaty of Maastricht. Only the Treaty of Amsterdam introduced the possibility of voluntary consultation for the Parliament to request the Opinion of the CoR. The lack of recognition by the TEU for the Parliament to consult the CoR and the rivalry between the Parliament and the CoR have been a big burden in the establishment of cooperative relations between the two. Although Article 12 and 38 of the CoR’s statute state that the Parliament’s representatives can participate in the CoR’s plenary sessions and commission meetings; following Article 198c of the TEU, Article 42 of the Statute did not include the Parliament among the institutions which the CoR should forward

195 Information obtained in the interview held with the coordinateur of the Irish delegation to the CoR, on the 28/4/2009.
its Opinions to. However, in practice, the CoR’s interest in establishing cooperative relations with Parliament led the CoR to forward its Opinions to the EP anyway.

As mentioned above, even though the Parliament was one of the greatest supporters of the establishment of the CoR, once this body was created, some tensions developed between the two of them. Their relations have also been affected by issues related to the internal organization of the CoR; mainly due to the coexistence of political groups and national delegations within the CoR. Parliament’s competences in the budget allowed it to condition the CoR’s internal organization. For example, in January 1996, the CoR requested the creation of twelve positions for the national delegations and for the political groups. However, Parliament only approved four positions for the national delegations and six for the political groups.

Despite all these tensions between the CoR and Parliament, cooperative relations have been established on issues of common interest. At this point, it is necessary to emphasise that the Parliament and the CoR are both composed of elected representatives, who are not members of national governments, which could help to develop relations in common matters. There has been some degree of institutional cooperation between the Parliament and the CoR. First, working relations have been established between the Parliament’s committees and the CoR in connection to the CoR’s Opinions. Second, a process has been established to follow the working of the Parliament and consequently to complete the analysis of the CoR’s Opinions impact assessment. Third, at the political level, relations between the CoR’s President and the European Parliament have been intensified.

Among the relations of the CoR with the Parliament, the special relations established with the Parliament’s Regional Committee need to be highlighted. According to members of the Regi Committee, the relationship between the CoR and the Regi Committee is now very good. Committee members try to consider the Opinion of the CoR in the legislative process, even if it is not a formal requirement. They try to get the CoR’s perspective. CoR administrators confirm the very good relations with the Regi Committee, suggesting that they do a lot of work together, but also point out that a similar degree of cooperation does not exist with other Committees of the EP. The Regional Committee has been more open to the CoR’s

197 Information obtained from an MEP of the REGI Committee on the 28/4/2009.
198 Information obtained from an interview with an Administrator within the Commission for Territorial Cohesion of the CoR, on the 27/4/2009.
concerns than the Parliament as a whole. To the good relations established with the Regional Committee, it has to be added the close connection with the Parliament’s Committee on institutional matters. For the relations with the Committee on institutional matters, there has been appointed one member of the CoR and one from the Committee to maintain these relations. As a consequence of this close relation with the Committee on institutional matters, the CoR was able to influence the debate on institutional reforms due to the enlargement of the Community.\footnote{Huici Sancho, ‘{*El Comité de las Regiones*}’, 254-259.}

Informal relations have also been established between the political parties of the Parliament and the CoR. Some MEPs have also established links with the CoR informally in cases where the two of them are reporting on the same legislative issues.\footnote{Warleigh, ‘{*The Committee of the Regions*}’, 25-28.} Finally, it has to be borne in mind that due to the amendment introduced by the Treaty of Amsterdam, the ECJ provided the Parliament with the right to consult the CoR. This amendment provided a new basis for the establishment of contacts between the CoR and the Parliament. An example of this new cooperation was the Parliament’s decision to consult the CoR on the Parliament’s report on the limitation of competences between the EU and the Member states. The fact that the Parliament consulted the CoR on one of the most important issues in the debates of the 2004 IGC is quite significant.\footnote{Huici Sancho, ‘{*El Comité de las Regiones*}’, 254-259.}

As the relations between the EP and the CoR have evolved positively over time, on the 5th of February 2014, a cooperation agreements between the European Parliament and the CoR has been signed.\footnote{Cooperation Agreement between the European Parliament and the Committee of the Regions signed on the 5th of February 2014, [online] available: \url{http://cor.europa.eu/en/about/interinstitutional/Documents/ep-cor_a245.pdf} [accessed 11 January 2017].} This cooperation agreement highlights the reinforcement of the regional and local authorities in the EU and the strengthening of the institutional, political, and legislative roles of the EP and the CoR brought about by the Treaty of Lisbon. The main objective of this cooperation agreement is to reinforce the democratic legitimacy of the EU and to pursue territorial, social, and economic cohesion in the Union. According to the cooperation agreement, the CoR is to prepare impact assessments on exiting legislation and to provide them to the EP with all relevant information and materials from the national, regional, and local levels. The CoR can propose recommendations for improvements to existing
legislation in these impact assessments. The CoR’s Opinions are to be based on the annual legislative work programme of the Commission and should be submitted to the EP in good time, before the amendment procedure has started, and all materials need to be shared with the EP. The EP has the option of defining priority topics where deepened input from the CoR would be valuable. In the case of priority topics, an intensified cooperation between the CoR and the EP will be established. A member of the CoR is to be invited to parliamentary committee meetings, where the CoR member can present the CoR’s Opinion on the matter. Equally, EP rapporteurs will be invited to participate in the CoR. The legislative cooperation and the work plan between the EP and the CoR is to be discussed twice a year between the Chairman of the Conference of Committee Chairs of the Parliament and its counterpart in the CoR. The Cooperation Agreement also foresees the CoR as a partner of the EP in the run of the European elections.203

The relationship of the CoR and the EP over time has evolved favourably. Although initially there was some rivalry, their interinstitutional relationship was formalised in a cooperation agreement in 2014. This Cooperation Agreement can be considered as the first step in the formalisation of the relationship between the EP and the CoR and it might be the basis for further cooperation in other areas.

5.3 The CoR and the Council of Ministers

The relations between the Council and the CoR are quite limited. The Council has always shown indifference towards the CoR; it can be said that the CoR could get the Council’s support if the CoR would demonstrate an increase in efficiency in the decision-making process. The problem here is how to assess the CoR’s effect on the efficiency of decision-making; the Council might simply not be aware of the CoR’s impact in the legislative process.204 Even though Article 307 TFEU provides the Council, the Parliament, and the Commission with the right to consult the CoR any time these institutions consider, the number of times the Council has consulted the CoR has been very small compared to that of the Commission. Whereas the Commission consults the CoR to increase its democratic legitimacy; this is not the case for the Council. The Council, as the most important institution in the decision-making process with the power to take the final decision, does not favour the creation

of cooperation processes with the CoR, considering that such processes would limit its decision-making powers.

Taking into account the institutional structure established by the Treaty, it can be quite difficult for the CoR to develop interest in the Council. Accordingly, to establish a dialogue between the Council and the CoR, it is necessary to reinforce the existing connections; connections which favour the coordination of the Council’s and the CoR’s work programmes, the participation of Council members in the CoR’s work, and the position adopted by the Council in the impact assessment of the CoR’s Opinions. In relation to the first connection, it has to be borne in mind that the Council’s work programme is defined every six months by the Member state in charge of the Council’s presidency. Nevertheless, there is a practice in place between the Council and the CoR that, when the Council’s work programme is set, one representative of the Council’s presidency explains the main issues of the programme in the CoR’s assembly. Due to the participation of the Council presidency in the CoR’s plenary sessions, a strong relation has been created, which is complemented by the participation of Council representatives in meetings of the Bureau. In relation of the second connection it has to be highlighted that the Council does not participate in the CoR’s works. Even though the CoR requested the Council to provide an assessment of the impact of its Opinions, the Council declined to take on this obligation.205

So far, the CoR and the Council have not established a cooperation agreement; and in the legislative process, the CoR has little to no access to Council proceedings. Arguably, the establishment of a formal relationship between the CoR and the Council could greatly benefit both of them. The CoR could try structuring its cooperation with the Council in a way similar to the agreements reached with the Commission and the EP. The CoR could focus initially on improving relations with the Council in areas where it is required to provide an Opinion. A formal cooperation agreement would also improve the exchange of information between the Council and the CoR.206

5.4 Informal relations of the CoR with the legislative institutions

Although this research focuses on the influence of the CoR in the legislative process and specifically in the co-decision procedure, the qualitative evidence highlights that the CoR’s means of influence are not limited to providing its formal Opinion in the legislative process. According to an administrator of the CoR, the Commission and EP really want to know what the regions think, not about the specific details of the regulation/directive, but the general view of the CoR on the legislative proposal. The Opinion of the CoR might not be very consequential in itself, but what goes with it is important. The meetings that the CoR has with the EP and the Commission to discuss draft proposal and proposals, the conferences they go to, the subsequent invitations they get where the CoR can discuss and promote its Opinion, is at least as relevant. The administrator highlighted that if the CoR would only produce Opinions, none of the legislative institutions would really pay attention. He argued that in the EU dynamics, it is very important to be active.\textsuperscript{207}

“All this activity is sort of lobby but it is what every EU institution does, the Members States, the Council, the EP… they try to talk to people, they try to convince people. Even the Commission does it, they hold meetings behind closed doors with Member states trying to gain their support, and the CoR does attend these meetings. These informal interactions provide regions with an opportunity to be extremely active in the decision-making process via the CoR. If a member of the CoR is really active, it is easy to get contacts with the EP and Commission and be part of the game.”

Another Administrator of the CoR states that the CoR tries to influence the EP and the Council more than the Commission. This administrator states that the CoR has two ways of influencing these institutions; through the formal channels with the CoR’s Opinion or through informal networking activities. There are a whole lot of different events like the Open Days, structural dialogues, conferences, and so on, which provide the CoR with opportunities to get involved in the work of the legislative institutions.\textsuperscript{208} Similarly, a spokesperson from the Commission argued that the legislative game of the EU is not only about what is reflected in the formal Opinion of the CoR. There are political relationships where the influence is more subtle, behind

\textsuperscript{207} Information obtained from an interview with an Administrator within the Commission for Territorial Cohesion of the CoR, on the 27/4/2009.

\textsuperscript{208} Information obtained from an interview with an Administrator within the Commission for Constitutional Affairs, European Governance and the Area of Freedom, Security and Justice of the CoR, on the 27/4/2009.
the scenes; there are different ways of influencing the legislative institutions; and one of the mistakes when studying the CoR is that people focus too much on the legal competences of the CoR. They focus on the Opinion that is sent to the EU institutions rather than on the real outcome of the CoR’s work. He argued that the important thing is to be engaged in the political game, making you positions heard, and there are lot of channels to do this. 209

The CoR is also shifting its role as an advisory body. One interviewee stated that the CoR turned its back on its advisory role, in the sense that it has become more a representative body than an advisory body. He argued that the CoR, rather than providing expertise based on experiences of the regional and local levels, it is turning its Opinions into political statements. 210 An administrator of the CoR pointed out that the CoR remains an advisory body but that its influence has shifted. He argued that the CoR does not only focus on influencing the legislative process. A lot of members of the CoR are convinced that the new role of the CoR is to set the agenda, to give some vision. The CoR selects certain topics and tells the other institutions and the Member states that in those areas they have to work closely with local and regional authorities. 211 For example, an MEP of the Regi Committee mentioned an instance where the CoR forwarded an own initiative report on the effect of the Cohesion Fund on Costal Zones. The ideas presented by the CoR in this report was carefully considered by the Regi Committee and it worked together with the CoR to influence the Commission to develop a legislative proposal. 212

5.5 Conclusion

In this chapter I have studied the CoR’s formal and informal relations with the legislative institutions. The legislative institution that has developed by far most formal relations with the CoR is the Commission. These relationships have been formalised in a sequence of cooperation agreements adopted between the Commission and the CoR over time. The Cooperation Agreement with the Commission provide the CoR with different channels to influence the legislative process. The Commission does

209 Information obtained from an interview with a Spokesperson for Regional Policy in the European Commission DG Communication, on the 30/4/2009.
210 Information obtained from an interview with the coordinateur of the Irish Delegation to the CoR, on the 28/4/2009.
211 Information obtained from an interview with a CoR Administrator within the Commission for Territorial Cohesion on the CoR, on the 27/4/2009.
212 Information obtained from an interview with an MEP member of the Committee for Regional Development on the 28/4/2009.
not only request CoR Opinions when the Treaty foresees it, but the Commission has also committed to request Opinions when it considers that the legislative proposal has a direct effect on the regional or local level. The Commission can also request outlook opinions from the CoR before drafting a legislative proposal, providing the CoR with the opportunity to influence the Commission at a pre-legislative stage. The agreement also foresees for a re-consultation of the CoR in instances where the Commission’s legislative proposal is amended substantially during the legislative process. The Commission agreed not only to a wider set of consultation channels for the CoR but also forwards in advance its work programme, signalling on which issues the CoR is going to be consulted, so the CoR can organise its workload. The Commission has committed to forward follow-up reports on the CoR Opinions so the CoR can prepare impact assessments of its Opinions. Over time, the EP and the CoR have also established formal ties but they are not as developed as the relations with the Commission. Since 2014, the EP and the CoR have also formalised their relationship with the adoption of a cooperation agreement. According to this agreement, the EP can request form the CoR impact assessments of existing legislation. These impact assessments provide the CoR with the opportunity to recommend improvements of such legislation. The cooperation agreements also foresees priority subjects, for which CoR input would be particularly valuable for the EP. As regards the Council, there is no cooperation agreement in place between the CoR and the Council and they have not established continuous formal relations between them.

Concerning informal relations, by their very nature, are quite difficult to document. They refer to different types of activities that occur around meetings held to adopt legislation, but also at conferences, open days, informational meetings, and other events that are held in Brussels at different times of the year. The relevance of informal relations is undeniable. According to practitioners, they provide the CoR with considerable opportunity to influence the legislative process and the institutions. However, informal channels are most useful for expressing the CoR’s general opinion and direct the attention to broader objectives that the legislative institutions should consider; they are less suitable for influencing the specifics of particular legislative proposals.
Chapter 6
EU legislative process: actors and procedures

In this chapter I explain the EU’s legislative process and the role and function of the three legislative institutions. The first section of the chapter provides a description of the evolution of the treaty framework governing the role and interactions of the EU institutions bodies over time. The second section discusses the functions and organizational structures of the EU institutions to understand their role in the legislative process. In the last section, a brief description of the main legislative procedures (consultation, cooperation and co-decision) is provided, considering in particular the implications of the different procedures for the participation and influence of the CoR.

6.1 The EU Institutions

The EU’s decision-making process involves in three institutions: the Council of the European Union, which represents the Member states; the Commission, which represents the Community; and the European Parliament, which represents the EU’s citizens and whose members are directly elected by them. There are also two advisory bodies participating in the decision-making process, which are the Economic and Social Committee (Ecosoc) and the Committee of the Regions. As it is the focus of this research, the CoR has been explained in depth in the previous chapter.

The Council of the European Union, also known as the Council of Ministers, can trace its origins to the Special Council of Ministers provided for in the 1951 Treaty of Paris, which established the European Coal and Steel Community (ECSC). According to the Treaty of Paris, the predominant institution of the Community was to be the High Authority, a supranational government with quite strong powers. The Special Council of Ministers was created to represent Member states’ governments in an attempt to balance the power of the High Authority. Six years later, when the founding treaties (EEC and Euratom) of the European Communities were negotiated and adopted, the Council of the European Communities was born. The Treaties of 1957 provided that the Council should have the power to take decisions and ensure the

coordination of the general economic policies.\textsuperscript{215} The treaty drafters had pulled back from the supranational emphasis shown in the Treaty of Paris. In the institutional framework of the EEC and Euratom, the power is shared between the Council and the Commission. The Treaties of Rome established a double executive consisting of these two institutions, which required partnership in order to function; the European Parliament did not occupy an influential political position until later.

In 1965, the Merger Treaty was agreed and came into force in 1967, which established a single Council and a single Commission for the three European Communities, in an attempt to streamline the institutional framework of the European Communities. The Merger Treaty followed the path of the Treaties of Rome in so far as it balanced the power of the Member states against the powers of the Commission. The two budgetary treaties in the 1970s altered the responsibilities of the Council. Firstly, the establishment of the Community’s own resources provided the Council with the power to determine the expenditure. Secondly, the European Parliament gained budgetary power; sharing this decision-making right with the Council.\textsuperscript{216}

In 1985, an intergovernmental conference was held to reform the Treaties. The outcome of the ICG was the adoption of the Single European Act (SEA), which came into force in 1987. The SEA introduced two major Treaty changes affecting the Council: first, qualified majority voting was extended to more policy areas, especially the areas dealing with the single market, second, the European Parliament acquired legislative powers under ‘cooperation’, which were to be shared with the Council.\textsuperscript{217} The cooperation procedure increased the Parliament’s participation in the legislative process by introducing a second reading in to the areas of the internal market, regional development, social policy and research.\textsuperscript{218}

In 1992, the Treaty on European Union came into force as a consequence of the ICG concluded at Maastricht. The TEU introduced the ‘three pillar’ structure of the European Union: the first pillar enclosed the three existing communities (ECSC, EEC and Euratom), maintaining the role of the Community institutions. The balance of power between the Commission and the Council was maintained, although qualified majority voting in the Council was extended to further areas. As regards the balance

between the Council and the EP, it was shifted in favour of the Parliament. This shift resulted from a further increase of the EP’s legislative powers under the new co-decision procedure.\textsuperscript{219} The co-decision procedure allows for up to three readings in the decision-making process on legislative proposals in the areas of the internal market, consumer protection, education, health and environment. The co-decision procedure provides, the Parliament with the power to reject the Council’s position; but in order to avoid this kind of situations, the TEU foresees the establishment of a Conciliation Committee, where the Council and the Parliament try to reach a common agreement.\textsuperscript{220}

The second pillar covered the Common Foreign and Security Policy (CFSP) and the third pillar covered Justice and Home Affairs (JHA). The institutional design is different for the second and third pillars, because when dealing with policies covered by these pillars the Council is in a predominant position. Under the second and third pillars, the Council was established as the key actor in policy-making, together with the European Council. Although the Commission kept its power to forward proposals, under these two pillars, the Council had also a right to initiate legislation. The Council did not have to share its legislative powers with the Parliament. Straddling all three pillars, the European Council was given the duty of providing the political guidelines for the whole Union.\textsuperscript{221}

In the late 1990s, some of the innovations brought in by the TEU were further revised through the Treaty of Amsterdam, which came into force in 1997. The main changes brought in by this Treaty were the partial communitarization of the third pillar (JHA) and the provision of more legislative powers to the EP under the co-decision process, which was also simplified.\textsuperscript{222} As the Treaty of Amsterdam left several problems unresolved, such as the impact of enlargement on the Union, another ICG was held which culminated in the adoption of the Treaty of Nice in 2001. The Treaty of Nice provided a new voting system for the Council, in an attempt to balance the influence of small and large Member states by changing the voting weights of the Member states and redefining majority thresholds.\textsuperscript{223}

\textsuperscript{220} Sherrington, ‘The Council of Ministers’, 16.
\textsuperscript{222} Sherrington, ‘The Council of Ministers’, 16.
The Treaty of Lisbon was signed by the EU Member states on 13 December 2007, and entered into force on 1 December 2009. The TEU remains as such and continues to include Common Foreign and Security Policy and gives legal personality to the Union. The Community Treaty becomes the Treaty on the Functioning of the European Union (TFEU) and includes the former third pillar. These two treaties are to have the same legal value, but the Union replaces and succeeds the Community. Euratom continues to be a separate Treaty, which has been modified by a Protocol annexed to the Treaty of Lisbon. The main innovations brought about by the Treaty of Lisbon involve the recognition of the European Council and the European Central Bank as formal institutions of the Union, the creation of a semi-permanent President of the European Council, the establishment of a European External Action Service, and the new post of High Representative for Foreign Affairs and Security Policy. The power of the EP has been further extended with new policy areas falling under co-decision, which has been renamed to ‘ordinary legislative procedure’. The EP has also acquired the power to approve international agreements of the EU. Qualified majority voting in the Council is redefined to include a double majority voting threshold with revised voting weights. A qualified majority is reach if at least 55% of the members of the Council representing at least 65% of the Union’s population agree to a proposal. Further innovations include the European Citizens Initiative and the new powers for national parliaments.

6.1.1 The Commission
The European Commission has often been seen as the only institution representing the EU’s interest. In general terms, the following are the Commission’s main functions: the Commission is the initiator of Community legislation; the Commission is the guardian of the Community legal framework, ensuring that Community legislation is implemented; the Commission is the Community’s external representative when negotiating with third parties; the Commission fulfils a mediator function between

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Member states, the EU institutions and other actors. Lastly, the Commission can be considered as the conscience of the EU.\textsuperscript{228}

In order to fulfil these functions, the Commission is organized similar to a government; with an executive (the College of Commissioners), which focuses on the political functions (the promotion of policy ideas for the development of the EU, the initiation of legislation and to represent the EU); a bureaucracy (the directorates-general) performing legislative drafting, administrative and regulatory tasks; and a network of autonomous agencies focusing on monitoring and regulatory jobs.\textsuperscript{229} At the top of the Commission’s structure sits the College of Commissioners, composed of 27 members, one from each Member state. Each Commissioner is responsible for a particular policy portfolio and serves a five-year term. Even though Commissioners are appointed by their national governments, they are not national representatives. They swear an oath of office renouncing any kind of defence of national interests. There are no formal rules regarding the national nomination of Commissioners by Member states, but nominees are discussed with the Commission President and also need to be acceptable to the European Parliament. One of the main duties of the College is to decide on proposals for new legislation to be sent for approval to the Council and Parliament.\textsuperscript{230} The College meets normally once a week; the meeting being chaired by the President of the Commission. College decisions are taken by consensus, but any Commissioner can request a vote. When a vote is taken, decisions are adopted by absolute majority; this absolute majority rule means that abstentions and absences are considered as negative votes. In the event of a tie, the president of the Commission would cast the deciding vote.\textsuperscript{231} Each Commissioner is assisted by a Cabinet, a group of officials appointed by the Commissioner, to whom they are directly responsible. In general terms, the Chefs de Cabinet of all the Commissioners meet regularly to prepare the meetings of the College. If the Chefs de Cabinet reach

\textsuperscript{231} Hix, 'Political System', 41-43.\end{flushleft}
agreement on a matter, this decision is adopted by the Commission without further
discussion.\textsuperscript{232}

The most important figure within the Commission is the President. The
President can influence the appointment of the other Commissioners, has the authority
to allocate portfolios, sets the policy agenda for the Commission, chairs the meetings
of the College, is in charge of the Secretariat-General, and represents the Commission
when dealing with EU institutions and national governments.\textsuperscript{233} The Treaty of Lisbon
has altered the way in which the President of the Commission is appointed, The
European Council acting by qualified majority and taking into account the elections
to the EP, proposes to the EP a candidate for President of the Commission. This
candidate is elected by the EP by a majority of its members.\textsuperscript{234}

The Treaty of Lisbon has established the post of High Representative for
Foreign Affairs within the Commission. The main responsibilities and functions of
this post are as follows: to conduct the Union’s FASP and contribute by proposals to
the development of this policy as mandated by the Council; to preside the Foreign
Affairs Council; to represent the Union on matters relating to the FASP; to ensure
coordination in the civilian and military aspects of conflict management; to ensure the
consistency of the Union’s external action; to be one of the Vice-Presidents of the
Commission, being responsible within the Commission for matters related to external
action. The High Representative is only bound by Commission procedures for
Commission-related responsibilities.\textsuperscript{235} The High Representative for FASP must be
appointed by the European Council with agreement of the President of the
Commission. The President, the High Representative and the other members of the
Commission must then be subject as a body to a vote of consent by the EP. Based on
this consent the Commission shall be appointed by the European Council, acting by
qualified majority.\textsuperscript{236}

Below the College, the Commission is divided into Directorates- General
(DG) and services; which are equivalent to national ministries. Each DG is headed by

Press), 15.
\textsuperscript{233} McCormick, ‘Understanding the European Union’, 74-76.
\textsuperscript{234} Pech, ‘Institutional Development’.
\textsuperscript{235} Christiansen, ‘The European Union’.
\textsuperscript{236} Pech, ‘Institutional Development’.
Article 17.7 TEU
a Director-General, who is responsible to the relevant Commissioner. Each DG is responsible for a policy area and is tied to a Commissioner.237 The DGs fulfil the following functions: policy development, preparation of proposals, distribution of revenues, monitoring legislative implementation, and the provision of advice to the political executive.238 In the implementation and policy formulation stages, the Commission also works with advisory, regulatory, and management committees composed of national government experts (comitology), and with expert committees composed of national officials, specialists appointed by national governments, and representatives of interest groups.239

Due to the Council’s decision to establish a system of committees composed of national governments experts to inspect the Commission’s implementing measures, it can be said that the Commission is not free to shape policy outcomes when implementing EU legislation. The comitology system was established in 1987 by a Council decision and reformed in 1999 by another Council decision. These decisions established three types of committees; advisory, regulatory and managerial and the rules to govern their functioning. The membership of the committees varies according to their role. Therefore, committees composed of national officials monitor the implementation of legislation. Temporary committees set to consider issues where the Commission needs further advice, are composed of representatives of interest groups. Committees composed of experts and scientists give advice in technical matters, especially at the policy formulation stage.240

6.1.2 The Council of Ministers

The Council of Ministers, also known as the Council of the European Union, represents the interest of the Member states. The main functions of the Council are as follows; first, the Council legislates together with the EP under the co-decision procedure; second, it coordinates the economic policies of the Community’s Member states; third, together with the EP, it agrees the Community’s budget; fourth, it defines and implements the CFSP according to the guidelines provided by the European Council; fifth, it coordinates the actions of the Member states in the area of police and

238 Hix, ‘Political System’, 46.
239 McCormick, ‘Understanding the European Union’, 76.
240 Hix, ‘Political System’, 53.
judicial cooperation in criminal matters; and finally, it concludes international agreements on behalf of the EU with third countries and international organisations.\textsuperscript{241}

The Council is composed of ministers (one for each Member state), appointed by the Member state governments, and authorised to commit their governments.\textsuperscript{242} When general matters are being discussed, Member states will be represented by their foreign minister; but membership of the Council varies according to the policy area under discussion. For example, ministers of finance attend meetings of the Economic and Financial Affairs Council.\textsuperscript{243}

To analyse the internal structure of the Council, five elements have to be considered: the ministerial level, the European Council, the Presidency, Coreper, and the General Secretariat of the Council. These five elements of the Council’s structure guarantee the effective functioning of the Council.

At ministerial level, the term Council refers to the General Affairs Council and the other Sectoral or Specialised Councils. When the European Communities were established, all common policies were negotiated within the General Affairs Council. By the 1960s, due to the increase of Community policy making, foreign ministers were unable to fulfil this function. Therefore, the special technical Councils were set to respond to the increasing policy-making demands. The General Affairs Council is considered more powerful and influential than the sectoral Councils because the General Council coordinates and decides a wider range of matters. For example, the General Affairs Council, along with its own workload, also examines proposals that the sectoral Councils fail to resolve. The General Affairs Council meets about once a month. The sectoral Councils cover particular policy area and meet with varying frequency, but usually less often than the General Affairs Council.\textsuperscript{244}

The Council of Europe has to be distinguished from the European Council. The European Council refers to the meetings of the Heads of State or Governments of the EU Member states. The Treaty of Lisbon has provided the European Council with the status of a Union institution. Its decision-making process is based purely in intergovernmental methods. However, the European Council strengthens the role and functioning of the Council of Ministers. The principal function of the European

\textsuperscript{242}Warleigh-Lack, ‘European Union’, 38.
\textsuperscript{244}Sherrington, ‘The Council’, 35-37.
Council is to set the Community’s policy goals, to provide policy guidelines and define the future aims of the EU. The meetings of the European Council can also be used to resolve problems that remained outstanding from Council of Ministers meeting; in other words, when agreement on a particular proposal cannot be reached within the Council of Ministers, it is forwarded to the European Council in an attempt to reach a solution.245 The Treaty of Lisbon has also established the post of the President of the European Council. Following the Treaty of Lisbon, the members of the European Council are the Heads of State or Government of the Member states, together with the President of the Council and the President of the Commission. There is also reference to the High Representative for FASP, who can participate in its work.246

As regards the Presidency of the Council, this position is occupied by each Member state for a period of six months. The rotation of the Presidency gives every Member state the opportunity to chair all Council meetings. It familiarises Member states with the operation of the Council, the other institutions and the decision-making process.247 The objective of the Presidency is to improve the coordination of policy making. In practice, the Member state holding the Council’s Presidency enjoys a privileged position in the negotiation process, which allows it to yield substantial influence on the agenda and the content of policy decisions made by this institution. The main functions of the Presidency are to set and manage the Council’s agenda during the office period; and to act as the representative of the Council externally.

Before convening a Council session, the Permanent Representative of the Member state holding the Presidency and the Director General of the Council’s Secretariat inform the ministerial representative of the Presidency country about the discussions in the Permanent Representatives Committee, the reasons for why a matter has been brought onto the agenda, and the position of each Member state on the matter. This information allows the Presidency to evaluate what can be achieved in the Council’s meeting. The provisional agendas for each Council meeting are also set by the Presidency. Other functions of the Presidency include the chairing of all Council and Coreper meetings; and the communication on behalf of the Council with the other EU institutions.248

The Permanent Representatives Committee, also known as Coreper, was established as part of the internal structure of the Council, although its existence was not acknowledged legally until the Merger Treaty was ratified. The main function of Coreper is to coordinate national positions on all legislative proposals. Coreper is organized into two parts: Coreper I, consisting of Deputy Permanent Representatives; and Coreper II, consisting of Permanent Representatives. Coreper I considers the policy proposals on budgetary affairs, social and environmental issues, transport, fisheries, the freedom of establishment, industrial issues and replies to questions of MEPs. On the other hand, Coreper II deals with proposals of a more political nature, such as, external affairs, relations with developing countries, energy and nuclear issues, institutional issues, and so on. The relevance of Coreper lies in the fact that it speeds up the decision-making process by reducing the Council’s workload. The Council’s agendas are divided into A- and B-points. A-points refer to proposals that do not require further negotiation by ministers because agreement has been reached within Coreper. Therefore, only the formal approval of the Council is needed. On the other hand, B-points refer to all the other issues that require further consideration of the appropriate ministers before they can be approved.249

To conclude with the Council’s structure, a few words have to be said about the General Secretariat. The General Secretariat’s role is to assist the Council under the direction of the Secretary-General. The General Secretariat fulfils the role of administrator and advisor of the Council; performing secretarial duties for the working parties, Coreper and the Council. The General Secretariat is divided into Directorates General, each of which is responsible for a specific policy area. The function of the General Secretariat is central to the Council’s operation, but it is extremely difficult to identify the input of the Secretariat into Council policy-making due to its undocumented nature.250

6.1.3 The European Parliament
The European Parliament is the only EU institutions whose members are directly elected; it represents the peoples of Europe. Unlike the other EU institutions, the EP has not a single location. Most of the EP’s plenary sessions are held in Strasbourg, the official seat of the EP Secretariat is in Luxembourg, and the majority of the EP’s work

is conducted in Brussels. Brussels is host to an increasing number of plenary sessions, party group and committee meetings, MEPs’ offices, as well as party group and committee secretariats. The EP has a single chamber, composed since Lisbon of a maximum of 751 members, including the President of the EP. MEPs are elected by universal suffrage by all eligible voters in the EU for a renewable five-year term. Since the Treaty of Lisbon, the distribution of MEP seats across countries follows a system of digressive proportionality, in line with the population of each Member state, but guaranteeing a minimum number of seats for small countries of 6 MEPs and limiting the number of seats for the largest country to 96 MEPs.

As regards the functions of the Parliament; its legislative powers have to be considered. Despite the fact that the EP cannot initiate legislation, its powers to amend and influence EU legislation have grown over time. Lisbon once again has increased the number of policy areas that fall under co-decision extending the EP’s legislative powers.

Similar to its legislative powers, the Parliament has joint powers with the Council to determine the EU budget. The EP can request amendments to the budget, can ask to cover new areas within the budget, and it can reject the budget. The EP has also supervisory powers over the Commission, such as the right to debate the Commission’s annual programme, to put questions to the Commission, and to approve the appointment of the College of Commissioners. It even has the power to force the resignation of the College of the Commissioners through a vote of censure. The Treaty of Lisbon ensures the parity of the EP and the Council regarding the approval of the Union’s expenditures and solidifies the influence of the EP in the designation and appointment of the President of the Commission, of the new High Representative for FASP, and of the appointing other members of the Commission.

The EP is headed by a president, whose functions are to chair plenary sessions, to allocate legislative proposals to different committees, and to represent the EP in relations with the other institutions. The President is an MEP elected by the other MEPs for a renewable two-and-a-half-year term. The President works closely with the

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251 Hix, ‘Political System’, 89.
chairs of the party groups in the Conference of Presidents to set the agenda for the plenary sessions and oversee the work of the committees.256

The organization and rules of procedure of the EP are determined by the EP itself. According to its rules of procedure, the EP has three organizational structures to facilitate its functioning. The first structure is the parliamentary leadership. There are three leadership bodies: the Bureau of the Parliament, which consists of the President and Vice-Presidents; the Conference of Presidents, which consists of the EP President, the leaders of the party groups and the Chairman of the Conference of Committee Chairmen; and the Conference of Committee Chairmen. Formally, the Bureau deals with internal organizational and administrative matters, but in reality, it also deals with political issues, meeting almost every week. The Conference of Presidents discusses political issues and matters concerning the relation of the EP with the Commission and Council. The Conference of Committee Chairmen is in charge of coordinating the committees’ agendas.257

The second organizational structure is the EP party groups. Party groups are considered the central mechanism for structuring debate and coalition formation within the EP. According to the rules of procedure, in order to form a party group, at least 19 MEPs from at least one fifth of the Member states are needed. Party groups enjoy some privileges, such as secretarial and research staff and financial resources. The relevance of the party groups lies on the fact that their leadership determines political matters within the EP: the choice of EP leadership, the allocation of committee positions, the rapporteur assignments, the agenda of plenary sessions and the policy positions of the party groups. All these factors ensure that individual MEPs and national political parties adhere to the group line in legislative voting. Nevertheless, within the party groups, national delegations have remained central actors, with the larger national delegations in each group dominating the leadership positions.258

The last organizational structure is the EP committees. The main function of the committees is to propose amendments to legislation in the form of a report, which is submitted to the EP plenary session. In the plenary session, amendments to the committee report can be proposed by other committees, a party group, or a minimum

258 Hix, ‘Political System’, 91-93.
of 40 MEPs. The organization of EP committees is based on the specialisation of law-making in different policy areas. Many MEPs join committees that are close in interest to their constituencies, suggesting legislative specialization to secure benefits; other MEPs join committees considering their previous occupational experience, which suggests legislative specialization to secure knowledge and information. The importance of committees within the EP structure means that the position of committee chairman is a desirable office for MEPs, particularly in the case of committees with active roles in the EU decision-making process. The committee’s important role also provides party groups with an incentive to influence the agenda and membership of committees.259

6.2 The Legislative Process

The main EU legislative procedures are consultation, cooperation and co-decision. The first stage of any of these three procedures is the legislative proposal by the Commission, which is the only institution with the right to initiate legislation. The Commission submits the legislative proposal to the EP, Council and the advisory bodies Ecosoc and CoR, when the Treaty requests it or at the Commission’s own discretion. In the first reading, both institutions adopt positions on the proposal. In general, the EP adopts an opinion, which involves amendments to the proposal based on the EP committee that has reported on the legislative proposal. Afterwards the Commission issues a revised legislative proposal considering the amendments proposed by the EP, explaining which EP amendments have been accepted and which rejected. Then the Council examines the Commission’s revised legislative proposal.260

Under the consultation procedure, the Commission submits the revised proposal to the Council and EP, and the Council takes the final decision. The Council can adopt the revised proposal by QMV, amend it by unanimity, or refuse to make a decision, leaving the proposal pending.261 In this process the Council is the strongest actor, but no legislation can be adopted unless the Commission initiates the process.

The first stage of this procedure is the formulation of the Commission’s proposal. Normally, a working group is established within the Commission, made up of people nominated by national governments, whose role is to advise the Commission

259 Hix, ‘Political System’, 93-95.
in the preparation of the legislative proposal. After considering the advice of the working group, the Commission drafts the legislative proposal. In the second stage, the draft proposal is sent to the Council, which sends it to the EP, and sometimes also to the Economic and Social Committee and the Committee of the Regions for their Opinions. After the Council has received these Opinions, the draft proposal together with the Opinions is relayed to the relevant working party. The working group prepares a report on the draft proposal for Coreper and the Council. In the final stage, the draft legislative proposal is adopted by ministers. If full agreement was reached in the working group or Coreper, the draft proposal will be adopted by ministers and become legislation without further debate. If agreement was not reached at lower levels of the Council hierarchy, the draft proposal will be discussed in the appropriate sectoral Council formation. If agreement cannot be reached in the sectoral Council, the draft proposal may be sent to the General Affairs Council, or even to the European Council.262

Under the cooperation procedure, introduced with the SEA, the powers of the EP in the legislative process were increased. However, this procedure has almost been eliminated with the Treaty of Amsterdam. Even when the cooperation procedure was fully active, this procedure was much criticised on the ground that it provided limited power to the EP. If the EP was completely opposed to a legislative proposal, it could still be passed by a unanimous vote in the Council. In the case that the EP proposed amendments to a legislative proposal, and these amendments were adopted by the Commission, the Council could still reject the amendments of the EP by unanimous vote.263

The co-decision procedure is considered as the legislative process where legislation is adopted jointly by the EP and the Council. In the cases where the co-decision procedure applies, the process described under the consultation procedure goes ahead until the point where the Council would have to adopt a decision. At this point, if the Council acting under QMV, accepts the legislative proposal as amended by the Parliament, the proposal will become legislation. If the Council does not accept all EP amendments, the Council adopts a Common Position. Again, amendments to the proposal by the Council that are not acceptable to the Commission require the

unanimous support of all Member states. Then, the Common Position is forwarded to the Parliament, together with a statement reasoning why some EP amendments could not be accepted and a statement explaining the Commission’s position.

This will lead to the second reading at the EP; the EP has three months to act. If the EP accepts the Common Position, or, within three months, takes no decision on the matter, the Common Position is adopted. The Parliament, by absolute majority, can reject the Common Position and the legislative proposal fails. The Council cannot override this EP rejection. The EP can also propose amendments adopted by absolute majority to the Council’s Common Position. In this case, the amended Common Position is forwarded to the Council and Commission. The Commission provides an opinion on the amended version of the Council’s Common Position. The Council then has three months to act. If the Council accepts the amendments of the EP, the proposal is deemed adopted in the form of the Council’s Common Position as amended by the EP. In this case, the Council acts by QMV, unless the Commission gave a negative opinion on the amended Common Position, and as a consequence the Council would have to act by unanimity to adopt EP amendments. In the event that the Council does approve the EP’s amendment to its Common Position, a meeting of the Conciliation Committee has to be convened within a period of six weeks.\(^\text{264}\)

The Conciliation Committee is composed of twenty-five members of the EP, twenty-five members of the Council, and a representative of the Commission with no voting power. The two sides of the Conciliation Committee vote separately, but a decision cannot be reached unless both sides agree. On the side of the Council, a decision is reached by QMV whereas a simple majority is required on the side of the EP. The Conciliation Committee has another six-week period to act. If the Conciliation Committee fails to adopt a joint text, the proposal fails. If the Conciliation Committee adopts a joint text, this joint text goes for ratification in a third reading by the Council and the EP. Within a period of six weeks, the Council has to approve the joint text by QMV and the EP by simple majority in order for it to become law. Otherwise the joint text is deemed rejected.\(^\text{265}\)

Since the Amsterdam treaty, it is possible to conclude a co-decision procedure at any stage. In 1999, the three institutions adopted a ‘Joint Declaration on

Hix, ‘Political System’, 102.
Practical Arrangements for the Co-decision Procedure’. In this declaration, they agreed to cooperate with the view to reconciling their positions as far as possible so that legislative acts can be adopted at first reading. From the 2000s, the three have formed the habit of putting several representatives in charge of negotiating legislative proposals outside of the formal procedure at an early stage in order to shorten the adoption process. The option of concluding the co-decision procedure at first reading was confirmed by a 2007 joint declaration which clarified procedural aspects of the 1999 declaration, stipulating each institutions’ role in the various phases of the co-decision procedure. By means of this declaration, the three institutions promoted the practice of trilogues.266

Trilogues are informal meetings on a legislative proposal between representatives of the EP, the Council and the Commission. The purpose of these meetings is to reach agreement on amendments acceptable to the Council and EP. The participants in the trilogue operate according to negotiation mandates given to them by their institution. During trilogue meetings, each institution presents its position and they debate with the view of reaching a compromise. Any agreement reached is informal and must be approved by the formal procedures within each of the three institutions. Trilogues can be organised at any stage of the co-decision procedure; there are four instances where, following trilogue negotiations, an early agreement can conclude the procedure. A first reading agreement will be reached when the institutions agree on a compromise prior to the EP’s 1st reading vote. This agreement will be adopted as the EP’s 1st reading position, which allows the Council to adopt it without further amendments in its first reading. An early second reading agreement will be reached when the compromise text is reached after the EP’s 1st reading position but before the Council’s 1st reading. The agreement reached is adopted as the Council’s 1st reading position, which allows the EP to accept Council’s position without further amendments in its 2nd reading. A second reading agreement will be deemed reached when the Council and the EP agree on a compromise text before the EP’s 2nd reading vote. The compromise agreed will be adopted as the EP’s 2nd reading position and the Council will accept it in its 2nd reading without further amendments.267

If no early agreement can be reached through trilogues, the procedure follows the formal steps through the co-decision in third reading (as described above) until its conclusion.

6.3 Conclusion
In this chapter I have discussed the internal organisation of the legislative actors, the Commission, the Council and the European Parliament. I have considered the evolution of the European Union’s legal framework and its effect on the role of these institutions and ultimately their influence and power in the legislative process. I have also described the different procedures of the EU’s legislative process. With respect to the CoR, different procedures have different implications for its legislative influence.

Under consultation the possibility of the CoR to influence the legislative institutions is quite limited. The CoR would only have the chance of influencing the Commission greatly if the Commission requests the CoR Opinion in the form of an outlook opinion when drafting the legislative proposal. In consultation, the CoR’s formal Opinion might be requested by the legislative institutions but even if the CoR influences the EP, the influence of the EP in the process compared to the Council is weak. Under consultation, the EP must be consulted but the final decision is taken by the Council.

Under cooperation, the CoR might be requested for an outlook opinion in the drafting phase of the legislative proposal as well. In this procedure, the CoR could be more effective by influencing the EP because the latter is in a stronger position than under consultation. In cooperation there is a second reading and if the EP rejects or amends the Council’s Common Position by absolute majority, unanimity is required for the Council to overrule the EP. There is also the possibility of a second Opinion of the CoR under cooperation, the Commission might request the CoR to provide a second Opinion if it amends the initial legislative proposal substantially and there is a mandatory referral for the CoR Opinion.

Finally, the co-decision procedure is the procedure that provides the CoR with the greatest opportunities to influence the legislative outcome. It might seem that under co-decision the CoR has not much room to influence the legislative proposal due to the increased use of informal trilogues between the three legislative institutions and the fact that trilogues can take place very early in co-decision. It might be that the
increased use of trilogues under co-decision are leading the legislative institutions to resort for the CoR input in the early stages of the legislative process in the form of outlook opinions in the case of the Commission and in the form of priority topics in the case of the EP. Not only has the CoR the possibility of influencing the Commission (if requested) through outlook opinions in the drafting phase of the legislative process; but according to the cooperation agreement the Commission can also request for a second formal Opinion in the legislative process if the Commission amends its initial legislative proposal substantially and there is a mandatory referral for the CoR Opinion. Under co-decision, the EP would be a useful ally in influencing the final legislative act. Since 2014, the relationship between the CoR and the EP has been formalised and the CoR is well situated to exploit these avenues in order to attain its legislative objectives.
PART 3 Amendment Success of the CoR
Chapter 7
Theoretical perspectives

The third part of this research is a quantitative analysis to assess the success of the amendments proposed by the CoR through its Opinion in the co-decision procedure. This part of the research is inspired by a desire to gain a better understanding of what sorts of CoR amendments are actually adopted by the EU institutions. In part three of the research I describe the design and results of the quantitative analysis. The quantitative analysis tries to answer the research question how and under which conditions influences the CoR the co-decision procedure. Chapter 8 describes the sample selection and the operationalization of the variables. Chapter 9 provides the results of the quantitative analysis. But before proceeding with the analysis in chapter 7 I describe the theoretical basis to the main three hypotheses I try to verify through the quantitative analysis in order to shed some light into the research question.

Many political systems rely on committees within their decision-making structures to ensure the effectiveness, legitimacy and/or expertise of the legislative process. In general terms, there are two types of committees: consultative committees and legislative committees. Consultative committees have access to the decision-making process but do not have voting power; therefore, their recommendations and opinions are not binding. In contrast, decision-making committees do not only have access to decision-making, in many instances, they are also able to make binding recommendations. While there are ample studies about decision-making committees at the national level, there are not as many studies about the influence of consultative committees. Studies about consultative committees focus on the internal rules of procedure within the committee and its composition.

This is also the case at the EU level. While there are several studies about the influence and participation of interest groups in the decision-making process, there is a gap in the literature about the influence and role of the consultative committees.

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269 Warleigh, ‘The Committee of the Regions’.
established within the EU’s institutional framework. There are two consultative committees within the EU’s institutional apparatus: the Economic and Social Committee and the Committee of the Regions. For the purposes of this research, the focus lies on the Committee of the Regions. In order to shed some light on this neglected field of EU studies, this study aims to answer to the following research question: How and under which conditions does the CoR influence the outcome of decision-making under the co-decision procedure?

In order to exert influence on decision-making outcomes, several conditions have to be met. First, the CoR has to have an interest to issue an Opinion. According to the Treaty, the EU institutions are obliged in certain cases (specifically stated by the Treaty) to request an Opinion from the CoR in order to proceed with the formal co-decision procedure. However, the CoR is not obliged to provide an Opinion, even if it is requested by the institutions. That is to say, if the CoR has no interest in a given co-decision proposal, it will not forward an Opinion even if requested by the legislative institutions. Second, it is necessary for the CoR to write high quality Opinions on time. In order to shape EU institutions’ positions under co-decision it is necessary for the CoR to provide information and expertise in its Opinion. The Opinion has to be of high quality to be considered by the EU institutions. It is also important that this Opinion is forwarded in the early stages of the process, so that it can still impact the positions of the institutions. If the CoR forwards its Opinion late in the process, the EU institutions will already have their positions adopted and it is less likely that the Opinion will have an impact on them. Third, the CoR can use the co-decision procedure to impact the legislative process only if the EU institutions are willing to consider the CoR’s advice. As the CoR’s Opinion is not binding, in order for this Opinion to influence the co-decision process, it is necessary that the EU institutions are at least willing to consider what the CoR is advising.\textsuperscript{270}

Considering that the research question is how and under which conditions the CoR influences the outcome of decision-making under the co-decision procedure, it is important to define what is meant by influence. For the purposes of this study, influence is defined as the ability of the CoR to shape the position of the EU

institutions in the co-decision process, and thereby the outcome of decision-making. To answer the research, three hypotheses have been identified, based on possible explanations of the CoR’s legislative influence.

First, considering the policy framing perspective and the role of policy issue definitions, a possible explanation for the CoR’s influence would be the timing of the CoR Opinion in relation to the position-formation of the legislative institutions in the co-decision process. The earlier the CoR forwards its Opinion to the legislative institutions, the more possibilities it would have to influence their position. Another factor explaining the influence of the CoR is the informational role it fulfils through its Opinion. Given that the CoR Opinion is not binding, it is a requirement for the CoR to provide relevant information and expertise in its recommendations in order to incentivise the legislative institutions to consider and adopt the CoR’s Opinion. Lastly, the CoR as the body representing regional and local interests at the EU level could be considered as a legitimacy provider when the matter at stake in the legislative proposal relates directly to regional or local interests. It could be argued that when the legislative proposal deals with regional policy issues, the legislative institutions are more willing to consider the CoR’s Opinion because it provides more legitimacy to their own legislative positions.

7.1 Policy framing perspective

The policy framing perspective focuses on the role of policy issue definitions in the policy-making process. According to this perspective, policy issue definitions are not exogeneous to the decision-making process. Each policy issue definition is a result of different and conflicting perceptions; which policy issue definition prevails and which one is disregarded will be the outcome of the policy debate. Therefore, the definition of policy issues influences policy making. In general terms, framing refers to the process of selecting, emphasizing and organizing aspects of conflicting issues according to an analytical criterion. Research on policy framing studies how frames influence the way policy issue definitions are processed, how frames affect which interests play a role during policy drafting, and the type of political conflict and coalition is likely to emerge during the decision-making process.271


The majority of studies on the role of policy issue definitions focuses on agenda setting; but they also realized that policy issue definitions fulfill other functions in the policy-making process, apart from their role in the initial part of the decision-making process.\textsuperscript{272} Weiss claims that ‘policy issue definitions play multiple roles in the policy process’. She clarifies that the analytical role of policy issue definitions have been extensively analysed and that they fulfill two other roles; on the one hand, as weapon of advocacy and consensus and on the other, as an outcome of policy making. The three roles of policy issue definitions listed by Weiss as overture, weapon, and outcome are differentiated according to the function policy issue definitions fulfill during the different stages of the decision-making process.

In the first role as overture, analysts of policy issue definitions agree that good definitions of policy issues are essential to produce useful advice and the development of proper solutions. Policy issue definitions may or may not be considered by policy makers. If policy issue definitions are considered by policy makers, it may or may not lead to changes in decisions, institutions or behaviour. According to Weiss in this overture role ‘policy issue definitions are the beginning of a process with many possible ramifications’. Weiss suggests that to assess if policy issue definitions are fulfilling their role as overture, criteria such as ‘whether the policy issue definition considers the whole problem, whether it implies realistic alternatives or improved outcomes, whether it is clear on the objectives to be achieved, whether the policy issue definition is meaningful to the decision maker’s’ should be considered.

In the second role of policy issue definitions as weapons of advocacy and consensus, Weiss suggests examining the interplay between defining problems and acting on them. This interplay is a dynamic process in which intellectual understanding and institutional behaviour guide one another. Weiss recognises that in this process for a new policy issue definition to be taken on board, it needs to go through ‘the major arteries of the policy making arena’. To ascertain if policy issue definitions fulfill their role as weapons of advocacy and consensus, she proposes different evaluative criteria, such as, ‘which actors are mobilised to participate in the decision-making process and which are excluded, which actors are placed on the offensive and the defensive, which actors are legitimized and strengthened and which not, which group become more

credible and powerful, which decisions are made openly in the legislative arena and which are left for the bureaucratic discretion’.

The last role of policy issue definitions is as policy outcomes, Weiss states that in this role policy issue definitions create a language to talk about problems, locates the responsibility for problems, widens and deepens public or elite interest in particular issues, and mobilizes political participation around issues highlighted by the problem definition. In this final role another analytical criterion is identified by Weiss ‘which political values are moved forward and which are moved backward’. According to Weiss, these last two roles of policy issue definitions are more difficult to understand. ‘At the same time that these two roles as weapons of advocacy and consensus and as policy outcomes pose challenges to researchers, they also pose significant opportunities to policymakers and significant implication for government action’.273 If we consider policy issues as weapons of advocacy and consensus, research from this perspective breaks with the notion that the definition of policy issues only takes place at the initial phase of the decision-making process.274 According to Weiss ‘deliberation over problem definition is not merely the first stage of policy making. It may recur at each successive stage’.275

Daviter identifies two theoretical perspectives focused on the role of policy issue definitions in policy making. The first perspective is based on Schattschneider’s conception of politics.276 According to Schattschneider political conflict and competition structures the development and processing of political ideas and demands. In this sense, the definition of policy issues also influences the organization of interests and the formation of coalitions. Therefore, depending on the issue at stake or the defined policy issues, different actors will have a say in the decision-making process. As a consequence, when the definition of policy issues change and the conflict is shifted, other contestants will enter the decision-making process.277 The second perspective is shaped by the work of Rein and Schön.278 These authors define policy controversy as conflict that can only be overcome when the actors participating in the

decision-making process reflect on the conflicting policy issue definitions and explore the potentials for resolution. Rein and Schön focused their policy issue definition research on policy deliberation, which assists adversial political actors to resolve conflicts and come to a consensus.

The policy framing perspective has also been applied to the study of the EU. There are several studies on agenda-setting in the EU. Scholars within this perspective have continuously stated that, for the study of the EU, the majority of policy issue definitions takes place during agenda-setting and policy formulation. They argue that the EU offers a variety of access venues for agenda-setters and that policy issue definitions are considered simultaneously at different phases of the decision-making process.279 As Peters noted, ‘the existence of many access points to the EU policy-making process makes it relatively easy to get a policy issue definition onto the agenda of at least one participant in the decision-making process’.280 This author acknowledges that the problem arises when the policy issue definition has to spread to a wider range of policy makers, which can block the policy issue definition at some point in the policy process. Therefore, considering the numerous access points of the EU’s decision-making process, it is relatively easy to gain access to it, but it is more difficult to influence the outcome of the process considering the amount of actors that can potentially block policy ideas.

Taking into account the literature on policy-framing, if the amendments proposed by the CoR in its Opinion are taken as individual manifications of a policy issue definition; the earlier the CoR forwards its Opinion in the co-decision process, the greater will its chances be to impact and frame the positions of the legislative institutions. Eventually, if the CoR’s policy issue definitions are accepted by one of the institutions, it will also have a greater chance to impact the final legislative outcome. Therefore, it is important for the CoR to elaborate its Opinions in a timely fashion and forward them to the EU institutions as early as possible during the co-decision procedure. The CoR, in order to have the greatest chance to influence the decision-making process, should forward its Opinion before the EU’s institutions positions are established, or even before the internal decision-making procedures of

these institutions to develop their positions have started. In this case where positions of the EU institutions are not yet formed, the CoR can potentially ‘persuade’ them to follow its recommendations. Therefore, the first hypothesis reads as follows:

The earlier the CoR submits its Opinion in the co-decision process, the more influence it has on the position of the EU institutions and the content of the final legislative act.

If the CoR forwards its Opinion to the European Parliament before the EP’s committee has started to develop its draft report of the legislative proposal, the chances are higher that the EP’s committee will be considering what the CoR is recommending in its Opinion. This will also apply for the Council. Most of the time, the Commission only changes its proposal formally during the decision-making process in response to EP amendments. Thus, in the case of the Commission, the prior adoption of CoR amendments by the EP is a necessary condition for potentially influencing the Commission’s position during the process. If the EP adopts CoR amendments in its legislative report, it is more likely that the Commission will adopt these amendments in its amended legislative proposal than when the EP does not include the CoR amendments in its report. On the other hand, if by the time the CoR forwards its Opinion only when the EU institutions have long started their internal debates to adopt their positions or they have already adopted their positions on the legislative proposal, the CoR would have less or no chances to influence their positions. As the CoR Opinions are not binding, the EU institutions will have few incentives to consider the CoR’s Opinion.

7.2 Informational theory of legislative organization

Theories of legislative organization suggest that committee systems are established to solve coordination problems within the legislature or to improve legislative efficiency. According to Kaeding, for committees to serve this function, several conditions need to be fulfilled. Committees must enjoy some sort of institutional advantage in shaping policy outcomes within their jurisdiction, such as, proposal powers, and at least partial control over the amendment process in the plenary. Two

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approaches explaining the organisation of committees in legislatures, stressing 
distributional benefits and informational gains, respectively, can be distinguished.

The main claim of the distributional approach is that committees consists of 
members with a high demand (desire for a high level of benefits) for the policies in 
their jurisdiction; and that the established rules between the parent institution (plenary) 
and committee give the legislative committee dominance over policy making within 
the specific jurisdiction. In this case, committee assignment is a self selection process, 
members will seek to be appointed into committees that reflect their particular 
interests.283

In contrast, the informational approach suggests that committees are 
established within a legislature to provide for more legislative arenas for policy 
development and output in legislatures that are overburdened. In this case, legislative 
efficiency is enhanced by members’ specialization in the specific policy area of the 
committee.284 Gilligan and Krehbiel question the generalization made by the 
distributive approach of the composition of the committees by homogeneous high 
demanders.285 According to Gilligan and Krehbiel, ‘specialization’ is an important 
feature of informed decision-making. These authors argue that committee members 
may have prior information in the policies that fall within their committee’s 
jurisdiction and that they may develop expertise over time. They argue that committee 
specialization is an efficient manner for the parent institution to obtain reliable 
information about the possible outcomes of a policy. In this line, Krehbiel argues that 
legislative committees are not autonomous entities. They are agents of the institution 
as a collective entity, supplying information that reduces individual legislators’ 
uncertainty about the practical consequences of different policy options.286 
Representative committees are most likely to make policy recommendations that are 
in line with the preferences of the median legislator in the plenary. Thus, the plenary 
has an incentive to ensure that committee assignments reflect the composition of the 
parliament as a whole.

283McElroy, ‘Committee Representation’, 5-29. 
284 McElroy, ‘Committee Representation’, 5-29. 
Heterogeneous Committee’, American Journal of Political Science, 33, 459-490. 
Political Science, 84, 149-163.
These two authors claim that in most legislative decision-making institutions, the relationship between legislative committees and the parent institution is governed by different types of procedures. The common feature of these procedures is that, in general, the parent institution restricts its possibilities to amend the committee’s proposal. They argue that this restriction on behalf of the parent institution enhances the informational role of the committees, as control over policy-making outcomes incentivises the development of expertise amongst members of the committee. Accordingly, the restrictive procedures encourage legislative committees to gather reliable information, at the same time helping in the adoption of informed policies.\textsuperscript{287}

Gilligan and Krehbiel argue that in the cases where there are no restrictive procedures put in place to regulate the relationship between the parent institution and the committees, the parent institution is more likely to adopt an alternative to the committee’s proposal. This unrestricted ability of the parent institution to amend the committee’s proposal could prevent the parent institution from taking informed decisions. Under these circumstances, a committee would forward a proposal that leads the parent institution to make misleading inferences about the relationship between policies and possible policy outcomes. On average, this strategy maximises the committee’s possibility to achieve its preferred outcome, but it frequently results in the adoption of a policy for which other alternatives could have been more beneficial. In this case, as limited information transmission is possible between the committee and the parent institution, the parent institution adopts its final decision under substantial uncertainty, ignoring the committee’s report. Therefore, the committee decides not to acquire relevant information because the rewards in terms of control over policy outcomes derived from specialization are minimal.

As previously stated, in the EU’s legislative system, the CoR is not a legislative committee and there are no restrictive procedures in place according to which the EU institutions cannot amend the CoR’s Opinion. In the case of the CoR, as its Opinions are not binding, legislative institutions are under no obligation to follow its recommendations. In this instance, the CoR as the body representing


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regional and local interests at the EU level needs to ensure that it provides valuable information and expertise in its Opinion so the legislative institutions will consider these recommendations. The CoR’s motivation to provide for quality Opinions lays in the fact that the issue at stake to be decided in the co-decision process affects directly the entities and interests that it represents. In this respect and considering the literature on interest group lobbying at the EU, it can be argued that the CoR is an expert on the policy issues most affecting its interests and have technical, specialist and politically salient information on these topics. There is a huge demand for policy relevant information in the EU resulting from the fact that the EU decision-makers are understaffed, under resourced and pressed for time. Legislative institutions operate in a complex and uncertain environment and often lack information to completely understand policy problems and foresee the consequences of specific policy measures. By contrast, interest groups are concerned with very specific policy areas and are directly in touch with their members who are immediately affected by policies. This is also the case of the Committee of the Regions. Interest groups are specialists who have highly specialised expert knowledge and enjoy information and advantage over the EU legislative institutions. The literature on interest groups argue that decision makers find it necessary to draw on the information provided by interest groups to reduce uncertainties about possible policy outcomes. Therefore, interest groups find themselves in a good position to take advantage of the lack of information on the decision-makers part. Interest groups supply information in exchange for access to the policy making process with the goal of having their voices heard at the EU level and shaping the decision-making process. In the case of the CoR, information is not provided in exchange for access, the CoR has direct access to the decision-making process because it needs to be consulted, which places the CoR in a privileged position vis-a-vis interest groups. When a consultative body, such as

the CoR is given a formal right to be consulted, it becomes an indirect channel for lobbyists to access the policy-making process. Interest groups will try to sell their policies to the CoR, in the hope that the CoR will include them in its Opinion to the legislative institutions. Therefore, the CoR as an expert in regional and local interest and with the added value of information acquired through interest groups together with the right to be heard by legislators in the decision-making process, provides the CoR with the power to influence the legislative outcome. The second hypothesis of this study would be:

The more expertise the CoR provides in its Opinion, the more influence it has on the positions of the EU institutions and the content of the final legislative act.

7.3 Legitimacy

The CoR is not only the body representing regional and local interests at the EU level, it is also composed of elected representatives of regional and local authorities. The Treaty of Nice made it compulsory that the members of the CoR must hold a local or regional mandate or be politically accountable to an elected regional or local assembly. According to the Treaty of Nice, membership of the CoR terminates automatically if the members lose their regional/local mandate on the basis of which they were appointed. As the CoR is the body representing regional and local authorities at the EU level, it could be argued that following the CoR’s Opinion also provides for legitimacy. Legitimacy is a relevant concept in organizational institutionalism. There have been several studies on this concept. For the purposes of this study, we consider Suchman’s definition of legitimacy: ‘Legitimacy is a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions.’ Sociological institutionalism claims that, in certain cases, organizations adopt a new

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294 Varela, ‘Just a Lobbyist?’, 7-34.  
institutional practice, not because it advances the efficiency of the organization, but because it enhances the social legitimacy of the institution as a whole.  

There are several studies emphasizing the CoR’s role as legitimacy provider. These authors state that there is a clear link between the legitimacy crisis of the European project in the early 1990s and the involvement of a wider range of policy recipients in policy making. According to these authors, the EU has tried to increase the involvement of a range of intermediate level of actors in EU policy making in order to remedy the legitimacy deficit. Groups and institutions below the state, which are directly affected by EU legislation, including social and territorial actors, are now represented in the CoR. Christiansen argues that before the CoR was established, the legitimacy deficit in regional policy resulted from the asymmetry of inputs and outputs in the policy process. There was the technocratic and non-transparent nature of the Community regional policy, where important decisions, including budget decisions, were being made by administrators and by committees composed of administrators. He argues that since the CoR was created, regular and public meetings of local and regional elected politicians deliberating and in fact being consulted on regional policy removes the technocratic flavour of this policy field. Therefore, the CoR has provided for a deliberative space where subnational elected politicians are consulted on EU policies.

Therefore, the CoR contributes significantly to the legitimacy of the policy-making process. In fact, legitimacy is gained by all actors involved in the decision-making process. When Commission officials, Council working group members or MEPs are faced with criticism about the involvement of subnational actors, they can point to CoR regional representatives that can be consulted on relevant issues. Similarly, when local and regional representatives are faced with criticism over decisions adopted in Europe, the can argue that they have been there doing their best.

trying to represent their local and regional interests.\textsuperscript{300} As regards the CoR’s role as a legitimacy provider, Warleigh states that the CoR’s importance in the eyes of the Commission rests in the fact that it serves as the Commission’s legitimiser, due to the indirect democratic legitimacy of the CoR. Although other groups can provide the Commission with advise, only the CoR bolsters the Commission in this way. Warleigh states that evidence suggests that the Commission treats the CoR in a way which goes beyond the duties of the Commission as laid down in the Treaty; such as giving advanced notice of the Commission’s work programme and by asking for Opinions on green and white papers.\textsuperscript{301}

Having in mind that the CoR can provide for legitimacy through its recommendations in regional policy; it could be the case that EU intitutions are more willing to consider the CoR’s Opinion in regional policy than in any other policy field under the co-decision process. The CoR as the formal respresentative of regional and local interests in the EU’s decision-making process is expected to exert more influence in regional policy than in any other policy field that falls under co-decision. Therefore, the third hypothesis would be as follows:

**The more legitimacy the CoR provides through its Opinion, the more influence it has on the positions of the legislative institutions and the final legislative outcome.**

7.4 Conclusion

In this chapter, I have identified three hypotheses about the CoR’s legislative influence to be examined in the quantitative analysis of this study. Regarding the policy framing perspective, the EU offers a variety of access venues to the decision-making process, making it quite easy for actors to get a policy issue definition onto the agenda of the legislative institutions. What is more difficult is to spread the policy issue definition to all decision makers, because any one of the legislative institutions can block the policy issue definition during the decision-making process. The CoR forwards its formal Opinion to the three legislative institutions simultaneously. In principle, the CoR has ample opportunity to get its recommendations onto the agenda of at least one

\textsuperscript{300}Barker, ‘Political Authority’, 65-74.

\textsuperscript{301}Christiansen, ‘Second Thoughts’, 93-116.

Christiansen, ‘The Committee of the Regions after its First Year’, 34-64.

of the legislative institutions. But the CoR has a greater chance of influencing and shaping the position of the EU legislative institutions and the final legislative act if it forwards its Opinion in the early stages of the decision-making process. If the CoR only forwards its Opinions when the positions of the legislative institutions are already formed, the legislative institutions are unlikely to consider the CoR Opinions.

Regarding informational theories of legislative organisation, as the CoR Opinion is not binding and there are no restrictive measures set in place between the legislative institutions and the CoR regarding the participation of the CoR in the decision-making process; legislative institutions can only be induced to take into account the CoR’s Opinion if it provides for unbiased information and expertise. The CoR can be considered a specialist in issues affecting directly regional and local interests. In addition, due to the fact that it has direct access to the decision-making process, it also becomes an indirect channel of influence for interest groups, acquiring more specialised information. Therefore, the CoR would have a better chance of influencing the legislative institutions and ultimately the legislative outcome, if its Opinions provide for expertise and valuable information not readily available to the legislative institutions.

As regards legitimacy, the CoR not only represents regional and local interests at the EU level. The CoR is also composed of representatives elected at regional and local level, providing for indirect legitimacy to the legislative institutions in the decision-making process. Arguably, the CoR is more influential in regional issues than in other policy issues under co-decision because its Opinions provide for additional legitimacy. According to this assumption, the EU institutions are more willing to consider the CoR Opinions on regional issues because they provide for legitimacy in this policy issue.

In the next chapter, I will discuss the methods and sample selection used for the quantitative analysis assessing the influence of CoR amendments in the co-decision procedure.
Chapter 8

Sample selection and methodology

Since the Committee of the Regions was established in 1994 most of the studies on this EU body have focused on its development, how it is structured, its political representation and so on. It is clear that there is a lack of research and analysis on the influence of the CoR through its Opinions in the EU’s legislative process.

Detailed information on the CoR’s amendment adoption is non-existent. The Commission reports (although not mandatory) on the Opinions of the CoR, but does not detail what is adopted. There is no attempt to examine the content of the CoR recommendations (amendments) to determine their importance. Not all the CoR amendments are equal; some may have political significance while others are technical and non-controversial. The Commission does not distinguish among amendments in its reports. The European Parliament and the Council do not even make reports on the Opinions of the CoR.

Despite the existence of a great amount of studies about the CoR as the body representing the subnational level of the EU, little effort has been made to assess the influence of this body in the legislative process. In this study, I am trying to assess the influence of the CoR under co-decision, considering that most of EU legislation nowadays is adopted under this procedure. Through the quantitative analysis, I am trying to address the question of how and under which conditions the CoR influences the institution’s policy positions and the final outcomes of the co-decision procedure.

To answer my research question, I have examined the content of over 200 CoR amendments. In a multivariate analysis, I examine potential explanatory factors for the varying success rates of CoR amendments in the decision-making process. The remainder of this chapter outlines the sample selection, collection and coding of the data underlying this analysis.

8.1 Sample selection

To assess the influence of the CoR in the co-decision procedure, I have selected all co-decision cases from 2004 to 2007 where the CoR has issued an Opinion to a legislative proposal. By focusing on the period after 2004, the change in composition of the EU institutions and the CoR after the big bang Eastern enlargement cannot affect the results of my analysis. Prior to 2004, it was easier for the CoR to adopt Opinions because of the lower number of members in the CoR. The amount of Opinions issued
by the CoR has decreased over the years, which could be the result of an increase of members on the CoR due to successive enlargements of the EU. Another factor that could affect the results of this study is the increased number of co-decision cases adopted at 1st and 2nd reading stage of the procedure due to the use of trilogues in co-decision especially from 2004. According to data released by the EP, the increased number of agreements reached in the early stages of the process has affected the average duration of the co-decision procedure. Since the 5th legislative term (1999-2004), where the average total time to adopt co-decision files was 22 months, the average time reduced to 21 months in the period of 2004-2009, and to 19 months in the period of 2009-2014. In contrast, the average time for agreements reached in 1st and 2nd reading has increased by 6 months for agreements reached in 1st reading and by 8 months for agreements reached at 2nd reading.\textsuperscript{302} It might seem that the use of trilogues would be detrimental for the CoR, but in reality, trilogues have provided the CoR with a bigger time span to forward its Opinion. The CoR forwards its Opinion after the Commission introduces its legislative proposal and before the EP adopts its 1st reading position. Since the time in this stage has increased on average by 6 months, the CoR now enjoys more time to forward its Opinion.

The data for the analysis was collected from documents released by the EU institutions. From all the co-decision cases, I have disregarded the cases where the CoR provides for a vague Opinion. By vague Opinion, I refer to Opinions where the CoR just provides broad statements in the Opinion instead of specific amendments referring to particular recitals, articles, or paragraphs in the body of the legislative proposal. I disregarded these co-decision cases because it is very difficult to assess how these Opinions have affected the positions of the EU institutions for a large number of cases. For the purposes of this study, I have focused on specific amendments. Specific amendments aim to change the wording of a particular recital or article, add a new or delete an existing paragraph; add a new article to the legislative proposal or delete articles from the text.

\textsuperscript{302} European Parliament, ‘Codecision and Conciliation’.
Table 8.1- Co-decision cases between 2004-2007 with CoR Opinion

<table>
<thead>
<tr>
<th>Type of Opinion</th>
<th>Specific</th>
<th>Vague</th>
<th>Specific</th>
<th>Vague</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mandatory consultation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2004</td>
<td>5</td>
<td>11</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>2005</td>
<td>8</td>
<td>7</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>2006</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>0</td>
</tr>
<tr>
<td>2007</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>7</td>
</tr>
</tbody>
</table>

Table 8.1 describes the distribution of specific and vague opinions across co-decision cases for which the CoR provided an opinion. Of the 17 cases of co-decision, in which the CoR forwarded an Opinion in 2004, the CoR issued a specific Opinion in 5. The total amount of specific amendments issued by the CoR in these 5 Opinions were 80. In 2005, there were a total of 22 co-decision cases in which the CoR issued an Opinion. In these Opinions, the CoR proposed a total of 65 amendments in 2005. In 2006, CoR Opinions were issued in a total of 9 co-decision cases, of which 6 were specific. The total amount of amendments proposed by the CoR in this year was 42. In 2007, the CoR issued an Opinion in 12 co-decision cases, of which 5 of them were specific Opinions. The total amount of amendments issued by the CoR in 2007 was 38.

During the years analysed, the CoR has only issued 5 or 6 Opinions with specific amendments per year. Thus, to assess the influence of the CoR purely on grounds of Opinions issued with specific amendments could be considered as non-representative of its influence.

Table 8.2- Co-decision cases between 2004-2007 where the CoR was consulted

<table>
<thead>
<tr>
<th>Co-decision cases</th>
<th>Consulted</th>
<th>Not consulted</th>
<th>Total</th>
<th>Opinions of CoR with specific amendments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2004</td>
<td>2005</td>
<td>2006</td>
<td>2007</td>
</tr>
<tr>
<td></td>
<td>46</td>
<td>58</td>
<td>59</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td>26</td>
<td>25</td>
<td>52</td>
<td>45</td>
</tr>
<tr>
<td></td>
<td>72</td>
<td>84</td>
<td>111</td>
<td>101</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>12</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>6.94%</td>
<td>14.29%</td>
<td>5.40%</td>
<td>4.95%</td>
</tr>
</tbody>
</table>

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To get an idea of the selective nature of this sample, Table 8.2 illustrates what proportion of all co-decision files are responded to by the CoR with specific amendments. Indeed, in 2004, the Opinions issued by the CoR with specific amendments represent only 6.94% of all co-decision cases. The Opinions issued in 2005 represent 14.29%; but in the two consecutive years, this proportion falls again, being 5.40% in 2006 and 4.95% in 2007. Although the number of Opinions with specific amendments issued by the CoR has remained constant in these four years, the number of times that the CoR has been requested an Opinion has increased. Thus, in relation to all files adopted through the co-decision procedure, this study’s focus on cases where an Opinion was provided by the CoR overstates its overall influence in the co-decision procedure. Strictly speaking, the results are limited to those co-decision cases where the CoR provides an Opinion with specific amendments.

If we focus only on those co-decision cases where the CoR issues an Opinion each year, we can see that these types of Opinion constitute as substantial proportion of the total amount of Opinions issued per year. In 2004, the 5 specific Opinions issued accounted for 29.41% of the Opinions issued by the CoR. The specific Opinions issued in 2005 accounted for 54.54% of the total Opinions issued for that year by the CoR. In 2006 the amount of specific Opinions of the CoR accounted for 66.66% of its total number of Opinions; and in 2007 the specific Opinions accounted for 41.66% of its total number of Opinions.

Table 8.3- The percentages of specific Opinions for 2004-2007

<table>
<thead>
<tr>
<th></th>
<th>Specific Opinions</th>
<th>Vague Opinions</th>
<th>Total Opinions</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>5</td>
<td>12</td>
<td>17</td>
</tr>
<tr>
<td></td>
<td>29.41%</td>
<td>70.59%</td>
<td>100%</td>
</tr>
<tr>
<td>2005</td>
<td>12</td>
<td>10</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>54.54%</td>
<td>45.46%</td>
<td>100%</td>
</tr>
<tr>
<td>2006</td>
<td>6</td>
<td>3</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>66.66%</td>
<td>33.33%</td>
<td>100%</td>
</tr>
<tr>
<td>2007</td>
<td>5</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>41.66%</td>
<td>58.34%</td>
<td>100%</td>
</tr>
</tbody>
</table>

We also need to bear in mind that the CoR is a relatively young organ, which has only existed for 23 years. Therefore, this study’s assessment of specific Opinions for four years is covering almost 20% of its live span.

To assess the influence of the CoR under co-decision, I collected data from all the co-decision cases from 2004-2007, where the CoR had issued Opinions with
specific amendments. \(^{303}\) I have decided to analyse the influence of co-decision because most of EU legislation nowadays is adopted using this procedure. Although I have defined influence as the ability to shape the position of the EU institutions, it is very difficult to ascertain to what extent this is true. It seems possible that even in the most favourable case, where the CoR issues its Opinion well in advance before the EU institutions have adopted their own position, it could be the case that the EU institutions decide to amend a specific recital or article in line with the CoR Opinion, not due to the Opinion of the CoR, but because the EU institutions have the same positions.

8.2 Operationalization

All amendments proposed by the CoR were entered into a database. Four dependent variables were created: adoption by the EP, adoption by the Council, adoption by the Commission (in cases where the Commission forwards an amended legislative proposal), and adoption by the final legislative act. I decided to create four dependant variables in order to assess the influence of the CoR on each of the legislative institutions and to assess, if the amendment was incorporated into the final legislative act, through which route it got there. It could be the case that one of the institutions is more willing to consider and take on board the Opinion of the CoR than the other institutions. The dependent variable has been categorized in a two-stage process. Firstly, amendments were categorized into five separate types \(^{304}\) (coded 1-5) according to the extent an amendment was adopted by the EU institutions:

1 = adopted (amendment adopted fully word by word)
2 = largely adopted (more than half of the words adopted)
3 = partially adopted (less than half of the words adopted)
4 = modified (change to the proposal, but not in line with the CoR amendment)
5 = not adopted (entirely rejected) \(^{305}\)

\(^{303}\) A detailed appendix with the cases analysed in this study can be found at the end of the chapter.


I decided to follow the coding proposed in this article because I consider that the measurement used for the coding (amendment proposed word by word) is more objective than assessing the meaning of the amendment introduced as done by Amie Kreppel in her article A. Kreppel (1999) What affects the European Parliament’s Legislative Influence? An Analysis of the Success of EP Amendments, *Journal of Common Market Studies* (37,3), 521-538.

\(^{305}\) Examples of each type of amendments can be found at the end of the chapter.
For example, a CoR amendment coded as **adopted** is taken from the amendment proposed to the Commission’s proposal for a Directive of the European Parliament and of the Council amending Directive 97/67/EC concerning the full accomplishment of the internal market of Community Postal Service, also known as the Postal Directive. This Directive provides for a timeline for decisions on further opening the competition of the postal markets. The amendment proposed by the CoR states the following:

"**Member states shall ensure that transparent, simple and inexpensive procedures are made available by all undertakings providing postal services for dealing with postal users’ complaints, particularly in cases involving loss, theft, damage or non-compliance with service quality standards (including procedures for determining where responsibility lies in cases where more than one operator is involved)**."\(^{306}\)

In this case, the CoR proposed that the word ‘all’ should be included to ensure that the same procedures apply to all undertakings providing postal service, not just to those providing universal postal service. This amendment is taken on board by the EP and the Council.

As regards amendments **largely adopted**, an example is the amendment proposed by the CoR to article 8.3 of the Commission’s Proposal for a Decision of the European Parliament and the Council Creating the “Youth in Action” programme for the period 2007-2013. The objectives of the Youth Programme are based in the second paragraph of Article 149 of the EC Treaty, which states that Community action should be aimed at encouraging the development of youth exchanges and socio-educational exchanges. The CoR’s amendment states the following:

"**The Commission and the participating countries shall take appropriate measures in order to promote the recognition of non-formal and informal education for young people, in particular via the issue of a national or European-level document or certificate recognising, in particular, the experience gained by the beneficiaries and attesting to the direct participation of the young people or youth workers in an action under the programme or in a similar action that has gained European recognition. This objective may be strengthened by complementarity with other Community actions as stipulated in Article 11**."\(^{307}\)

\(^{306}\) Amendment proposed by the CoR to Art 19 of case COM(2006)594 2006/0196/COD Proposal for a Directive concerning the full accomplishment of the internal market of the Community postal service.

The CoR proposed in this amendment that in order to gain recognition of informal competences gained by participating in voluntary work, solidarity activities and cultural exchanges, these activities need to be linked with other fields of Community action (Art 11). Article 11 of the legislative proposal regulates the complementarity with other Community actions, ensuring the complementarity of the Youth Action with other areas of Community action. The CoR also considers in its justification that the complementarity should be extended to national policies and instruments regulated in article 12 of the legislative proposal.

“*The Commission and the participating countries shall take appropriate measures to promote the recognition of non-formal and informal education for young people, in particular via the issue of a national or European-level document or certificate recognising, in particular, the experience gained by the participants and attesting to the direct participation of the young people or qualified operatives in youth work and youth organisations in an action under the programme. This aim may be reinforced by complementing other Community actions as provided for in Article 11*”.

This particular amendment was coded as largely adopted by the EP at first reading, the Commission in the amended proposal, the Council in the Common Position, and by the final legislative act.

An example of amendments coded as partially adopted is the amendment proposed by the CoR to Annex 1.2 paragraph 4 to the Commission’s proposal for a Decision establishing the Culture 2007 programme (2007-2013). The general objective of this decision is the achievement of a common cultural area through development of cultural cooperation in Europe. The amendment states as follows:

“Community support may not exceed 50% of the project budget. It may not be less than 60000 euro per year nor more than EUR 200,000 per year. This support shall be granted for a maximum minimum of 12 months and a maximum of 24 months*308*.”

The CoR proposes to amend this article because it considered that there should be more flexibility regarding the minimal level of European Community support (Euro 60000 a year, which means a minimum project size of Euro 120000). In addition, the CoR believes that projects should be allowed to last for up to 2 years.

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rendering the programme more flexible and user friendly for promoters. This particular amendment was largely adopted by the EP:

“Community support may not exceed 70% of the project budget. It may not be less than EUR 30 000 per year nor more than EUR 200 000 per year. This support shall be granted for a period of between 12 and 24 months”.

It was partially adopted by the Council and the final legislative act:

“Community support may not exceed 50% of the project budget. It may not be less than EUR 50 000 nor more than EUR 200 000. This support shall be granted for a maximum of 24 months”.

In the second stage, amendments were separated in two broad categories; adopted or not adopted. Those amendments which were adopted, largely adopted or partially adopted (1, 2 or 3) were counted as adopted. Those amendments which were modified or not adopted (4 or 5) were counted as not adopted. The reason for dichotomizing the adopted variable is a pragmatic one. Dichotomous dependent variables are easier to analyse and interpret than ordinal variables.

8.2.1 Explanatory variables

Several dichotomous variables were also included in the database to measure other aspects of the legislative process that might affect the success of CoR amendments. Three explanatory variables were identified based on the theories.

Considering the policy framing perspective and the role of policy issue definitions, the first possible explanation for the CoR’s influence would be the timing of the CoR Opinion in relation to the position formation of the legislative institutions in the co-decision process. The earlier the CoR forwards its Opinion to the legislative institutions the more possibilities it would have to influence their position. If the CoR’s proposed amendments in its Opinion are taken as policy issue definitions, the earlier the CoR forwards its Opinion in the co-decision process, it will have greater chances to impact and frame the position of the EU institutions. Consideration of the CoR’s policy issue definitions by the EU institutions is a precondition for inclusion in the final legislative act. Therefore, it is important for the CoR to elaborate its Opinions and forward them to the EU institutions in a timely manner.

An explanatory variable time was created to assess if the time at which the CoR forwarded its recommendations had an effect in its influence over the EU institutions. In this study, the period of time elapsed between the CoR’s Opinion and
the position of the institutions has been calculated in days. With these results, the
median was calculated, which was around 6 months (151 days) and decided to
differentiated the amendments proposed by the CoR in two groups: amendments that
were issued by the CoR and EU institutions adopted its position within less than six
months after receiving the CoR’s Opinion (coded as 0) and amendments that were
issued by the CoR and EU institutions adopted their position within more than six
months after receiving the CoR’s Opinion (coded as 1). It seems likely that the speed
at which the CoR’s amendments are forwarded to the legislative institutions and the
time elapsed between the forwarding of this Opinion and the position formation of the
legislative institutions would have an impact on the degree that the amendments are
adopted by the EU institutions. If the CoR amendments are forwarded early in the co-
decision process, the CoR would have more chances to influence the position of the
legislative bodies. The legislative institutions will be more willing to consider the
Opinion of the CoR if they receive the Opinion before they have adopted their own
position on the proposal. If by the time the CoR forwards its Opinion to the legislative
institutions, they have already adopted their position, it is more likely that they would
not consider this Opinion, taking into account that it is not binding.

According to the informational theory, purely consultative committees need
to provide unbiased information and expertise in their recommendations in order for
their amendments to be considered by the legislative institutions. In the case of the
CoR, as its Opinions are not binding, legislative institutions might decide not to follow
its recommendation. In this instance, the CoR needs to ensure that it provides for
valuable information and expertise in its Opinion. The CoR’s motivation to provide
for quality Opinions lays in the fact that the issue at stake to be decided in the co-
decision process affects directly the entities and interests that it represents. In this
respect, it can be argued that the CoR is an expert in the policy issues most affecting
its interests and has technical, specialist, and politically salient information on these
topics.

To assess if the CoR is considered an expertise and information provider by
EU institutions, another explanatory variable expertise was created. Amendments
providing valuable information and expertise were coded as 1 and amendments with
no valuable information were coded as 0. It seems possible that the amendments
forwarded by the CoR with valuable information and knowledge about the topic
(information obtained from the CoR’s amendment justification) are more likely to be
adopted by EU institutions. Therefore, it is important for the CoR to be considered an information and expertise provider by the legislative institutions in order to have more chances to influence the co-decision process.

An example of amendments coded as expertise is the recommendation proposed by the CoR to Article 2 of the Proposal for a Directive of the European Parliament and the Council on the civil liability and financial guarantees of shipowners, also known as Directive on insurance of ship-owners for maritime claims. The purpose of this directive is to establish, at EU level, a civil liability scheme for ship-owners in the event of damage to a third party. The CoR’s recommendation states as follows:

(7) A definition of the word "operator" as used in Article 1 of this Directive should be included\(^{309}\).

In this amendment the CoR proposes to add a definition because it considers that this definition is required to clarify the meaning. The CoR in its justification argues that in many instances local and regional authorities are responsible of implementing the adopted strategies whether in cleaning up polluted areas or assisting those on difficulty. Therefore, the CoR argues that the Maritime package is not giving the necessary importance to the role these authorities play in achieving the intended results.

The CoR is not only the body representing regional and local interests at the EU level, it is also composed of elected representatives of regional and local authorities. The members of the CoR must hold a local or regional mandate or be politically accountable to an elected regional or local assembly. As the CoR is the body representing regional and local authorities at the EU level, it could be argued that the CoR, through its Opinion, is also providing legitimacy. In this regard, another explanatory variable \textbf{regional} was created to measure if the type of topic affects the chances of the CoR to influence the position of the EU institutions. It seems possible that EU institutions will be more willing to consider amendments referring to regional issues than amendments affecting any other issue. All amendments referring to regional issues have been coded as 1 and the rest of the amendments dealing with any other topic have been coded as 0.

\(^{309}\) Amendment proposed by the CoR to Art 2 COM(2005)593 2005/0242/COD Proposal for a Directive on the civil liability and financial guarantees of shipowners.
An example of an amendment referring to a regional issue is the recommendation proposed to article 5 to the Proposal for a Decision of the European Parliament and of the Council concerning the European Year of Intercultural Dialogue (2008). The European Year of Intercultural Dialogue seeks to increase the visibility, efficiency and coherence of all European programmes and actions that contribute to intercultural dialogue. This initiative also aims at integrating intercultural dialogue into other European policies, actions and programmes. The CoR’s recommendation reads as follows:

“Cooperation by the Member states Each Member state shall appoint a national coordination body, or an equivalent administrative body, responsible for organising that State’s participation in the European Year of Intercultural Dialogue. Each Member state shall ensure that this body involves in an appropriate manner the various parties in intercultural dialogue at national level, including local and regional authorities. This body shall ensure the coordination, at national level, of actions relating to the European Year of Intercultural Dialogue310”.

In this amendment, the CoR proposes to add the regional and local dimension in the cooperation body.

8.2.2 Control variables
A control variable was created to indicate whether the amendments proposed by the CoR affected the recitals or the text of the proposal. Amendments affecting the recitals were coded as 0 and amendments affecting the actual text of the proposal were coded as 1. This variable was included because it might be that the CoR is more successful when it amends recitals than when it proposes amendments to the legislative text. Recitals are statements of intent and they are not part of the legally binding text of the proposal. EU institutions could be more willing to accept amendments referring to the recitals of the legislative proposal than amendments affecting the binding text.

Another control variable was created for the type of amendment. I have divided the amendments of the CoR in two types, technical amendments and substantial amendments. Technical amendments are the ones that only clarify the wording of the text proposed by the Commission, and substantial amendments are the

amendments that change significantly the meaning of the initial text, incorporate a new article or paragraph into the proposed legislation, or delete an article or paragraph. I encountered several problems when coding this variable. Amendments that seem mere clarifications because they only change one word or add a couple of words to the text can be extremely significant. Thus, this type of classification can be quite subjective. To help overcome this problem, I have also considered the reasoning provided by the CoR in its recommendations when coding these amendments. Technical amendments have been coded as 0 and substantial amendments as 1. It seems more likely that EU institutions will be more willing to consider technical amendments than substantial amendments because they are less controversial. Considering the technical specialization of most EU legislative proposals’ it seems possible that most CoR amendments adopted by the legislative actors are amendments deemed to clarify legislation rather than substantially change it. It is plausible that the content and purpose of an amendment has an impact on its success rate. Therefore, technical amendments are more likely to be adopted by the EU institutions than more controversial amendments. For example, the CoR would be able to exert more influence when clarifying the text of a proposal than when trying to add a whole new paragraph or article into the legislative proposal.

An example of technical amendments is the recommendation proposed by the CoR to Article 20 of the Commission’s Proposal for a Directive on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (RECAST). This proposal is intended to reform the system in place for the recognition of classification societies by the Community established by Directive 94/57/EC. The recommendation states as follows:

“The recognised organisations shall establish and implement appropriate common requirements concerning cases of transfer of class where special precautions are necessary. Those cases shall as a minimum include the transfer of class of ships of ten years of age or over and the transfer from a non-recognised organisation to a recognised organisation or from a recognised organisation to a non-recognised organisation”.

In this amendment, the CoR is trying to clarify the meaning of the article. On the other hand, an example of a substantial amendment is the recommendation of

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311 Amendment proposed by the CoR to Art 20 of case COM(2005)587 2005/0237/COD Proposal for a Directive on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (RECAST).
the CoR to Article 2c to the Commission’s Proposal for a Directive on the coordination of certain provisions laid down by law, regulation or administrative action in Member states concerning the pursuit of television broadcasting activities. The objective of this proposal is to ensure that on demand audio-visual media service providers within Member states can fully benefit from the internal market through the principle of regulation by the country of origin. This would also enhance legal certainty for audio-visual media service providers within the EU. The CoR recommendation is the following:

"In the case of non-linear services Member states can take measures under Article 3(3)-(5) and Article 12(3) of Directive 2000/31/EC of the European Parliament and of the Council (eCommerce Directive)."

In this case the CoR proposed to introduce a whole new article.  

The third control variable identified in this study is territorial. Firstly, I have differentiated all the amendments proposed by the CoR considering the policy area of the commission within the CoR in charge of drafting the CoR Opinion. Five major policy areas have been distinguished: first, education, youth, culture and research (edu); second, citizenship, governance, institutional affairs and external relations (cit); third, economic and social policy (eco); fourth, environment, climate change and energy (env); and last, territorial cohesion policy (ter). From these five policy areas, it is more likely that the EU institutions would follow the CoR’s recommendations for territorial cohesion policy. Therefore, I have collapsed the 5 policy area categories distinguished before into two; territorial cohesion policy and non-territorial cohesion policy, which encompasses the other four policy areas (environment, economic policy, education and citizenship).

8.3 Conclusion

In this chapter I have described the sample selection and data collection for the database of the quantitative analysis. The quantitative analysis considers all specific amendments proposed by the CoR between 2004 and 2007 under the co-decision procedure to assess the influence of the CoR in the legislative process. I have also described the coding of the dependent variables, explanatory, and control variables.

312 Amendment proposed by the CoR to Art 2c of case COM(2005)646 2005/0260/COD Proposal for a Directive on the coordination of certain provisions laid down by law, regulation or administrative action in Member states concerning the pursuit of television broadcasting activities.
used in this analysis. In the next chapter I will discuss the quantitative analysis and its results in relation to the hypotheses to be tested.
Chapter 9

An empirical analysis of the Committee of the Region’s amendments success

Many studies discuss the CoR’s role in the EU’s legislative procedure, but existing research deals with the CoR mainly as an EU organ and only provides descriptive analyses of the functioning and organization of this advisory body. Few studies deal with the influence of the CoR. One of them is Neshkova’s study assessing the influence of subnational interests on supranational regulation.313 In this study, Neshkova tracked 60 legislative proposals initiated by the Commission between 1996 and 2007 and assesses the changes made in response to the requests made by the CoR. To investigate the responsiveness of the Commission to the representativeness of subnational interests, she used three types of documents: the initial proposal of the Commission, the Opinion of the CoR on these proposals, and the follow up report of the Commission indicating which CoR amendments have been accepted. Then she used content analysis to transform the CoR Opinions and the Commission report into data. In her investigation, she finds that the Commission responds favourably to requests more than a third of the time and that sub-state politicians are more influential on proposals dealing with regional cohesion.

However, to assess the influence of the CoR on the Commission’s position, Neshkova uses the Commission’s follow up report on the CoR Opinion. The fact that the Commission accepts the CoR recommendation in the follow up report does not necessarily translate into the incorporation of these recommendations in the legislative proposal. The CoR’s recommendations would only by incorporated by the Commission in instances where the Commission forwards an amended legislative proposal. In instances, where there is no amended legislative proposal by the Commission, the follow up report cannot be used to measure the influence of the CoR on the Commission’s position.

In a more recent study, Hönnige and Panke use a mixed method approach, combining a survey with in depth interviews of members of the Parliament and the Council of Ministers as the two main addressees of the CoR and EESC in the decision-making stage of the process. They restricted the survey to MEPs who are committee members.

members in policy areas where the EESC and CoR are involved and staff of the permanent representations who work in the same policy areas. The 528 contacted MEPs returned 150 surveys (28.41%) and the 755 staff of the permanent representations returned 323 surveys (42.78%). While the survey has the advantage of covering a wide variety of opinions about the influence of both advisory committees, it has limitations regarding causal analysis. Therefore, the analysis also relies on more than 70 interviews in order to illustrate the causal processes through which the consultative committees exert influence. The semi-structured interviews were conducted with MEPs, their staff and staff of the permanent representations.

In their study, Hönnige and Panke argue that the influence of the EESC and the CoR is limited because 40% of respondents completely ignore the committees’ advice. However, they also recognise that consultative committees can exert influence under certain conditions, including the speed with which they produce recommendations, the quality of recommendations, and the resonance of these recommendations with the legislative institutions’ preferences. However, this study has at least two shortcomings for assessing the influence of consultative committees: First, there is no control over who completes the surveys. They might be filled in by trainees working for MEPs and staff of the permanent representations, not by the people targeted by the survey. Second, the personal perceptions of the interviewees on the role of consultative committees might not truly reflect their actual influence.

Considering that the CoR is an advisory body within the EU’s legislative framework, this research tries to assess the influence of the CoR in the co-decision process. Unlike previous research, which either relies on subjective judgements or does not investigate the CoR’s effect on the final legislative outcome, this study codes primary documents to track the evolution of specific amendments proposed by the CoR to the initial legislative proposal of the Commission all the way through the co-decision procedure to the adopted legislative act. The main question addressed by this research is ‘how and under which conditions the CoR influences the positions of the EU institutions and the final outcome of legislative decision-making’. Different possible factors have been identified, which can potentially affect the adoption of the CoR’s recommendation. Related to the policy framing perspective and the role of

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policy issue definitions, the first possible explanation of the CoR’s influence regards the timing of its Opinion in relation to the position formation of the legislative institutions (time). Another factor explaining the influence of the CoR is the informational role fulfilled by the CoR through its Opinions as a provider of expertise. The CoR is an expert on the policy issues most affecting its interests, and has technical, specialist, and salient information on these topics. Thus, the legislative institutions should be willing to consider the CoR’s recommendations when they consider them to provide useful expertise (expertise). The CoR as the body representing regional and local interests at the EU level could also be considered as legitimacy provider when the matter at stake in the legislative proposal deals with local and regional interests. It could be argued that when a specific amendment affects directly regional issues, the legislative institutions are more willing to consider the CoR’s recommendations because it provides legitimacy to their own position (regional). Together with these explanatory variables, three control variables have been identified, one indicating whether the amendment affects the body or the introductory part of the legislation (recital), another whether it is a substantial or technical amendment (technical), and a third whether the amendment falls under territorial policy or non-territorial (territorial).

**Table 9.1- Adoption of amendments by EU institutions and final legislative act**

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<thead>
<tr>
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<th>EP</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Freq</td>
<td>Percent</td>
<td>Freq</td>
<td>Percent</td>
<td>Freq</td>
<td>Percent</td>
</tr>
<tr>
<td>Adopted</td>
<td>14</td>
<td>6.6%</td>
<td>3</td>
<td>1.4%</td>
<td>5</td>
<td>2.4%</td>
</tr>
<tr>
<td>Largely adopted</td>
<td>22</td>
<td>10.4%</td>
<td>7</td>
<td>3.3%</td>
<td>1</td>
<td>0.5%</td>
</tr>
<tr>
<td>Partially adopted</td>
<td>24</td>
<td>11.3%</td>
<td>5</td>
<td>2.4%</td>
<td>14</td>
<td>6.6%</td>
</tr>
<tr>
<td>Modified</td>
<td>76</td>
<td>35.8%</td>
<td>18</td>
<td>8.5%</td>
<td>96</td>
<td>45.3%</td>
</tr>
<tr>
<td>Not adopted</td>
<td>76</td>
<td>35.8%</td>
<td>179</td>
<td>84.4%</td>
<td>96</td>
<td>45.3%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>212</strong></td>
<td><strong>100%</strong></td>
<td><strong>212</strong></td>
<td><strong>100%</strong></td>
<td><strong>212</strong></td>
<td><strong>100%</strong></td>
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</tbody>
</table>

Table 9.1 presents the adoption rates of amendments by the EU institutions and their inclusion in the final legislative act. It is important to know which institution considers the most CoR recommendations in order to assess how the CoR exerts influence on the final legislative outcome. I have categorised the CoR amendments into five groups: adopted, largely adopted, partially adopted, modified and not adopted. According to the figures in Table 9.1, the EU institution that most takes on board the amendments
proposed by the CoR is the EP, followed by the Council, leaving the Commission in
the final place. The EP adopted fully 14 amendments, accounting for 6.6% of the total
amendments proposed by the CoR for the years analysed in this study. The Council
adopted fully 5 amendments accounting for 2.4% of the proposed amendments, and
the Commission adopted only 3 amendments fully, accounting for 1.4% of the
amendments. As regards the final legislative act, the adoption rate is lower than the
EP’s adoption rate but higher than the adoption rate of the Commission and the
Council. This is due to the compromise reached between the EP and Council in order
to pass the proposed legislation. Overall, the CoR exerts some degree of influence on
the EP position, which is also reflected in the adoption rate of the final legislative act.

The limited influence of the CoR on the Commission’s positions seems
somewhat surprising, given its generally supportive attitudes towards the involvement
of the CoR in policy-making. However, it should be noted that in this study the CoR’s
impact on the Commission’s position can only be measured in cases where the
Commission formally provides an amended proposal in first reading. The Commission
only does so in a limited number of cases, when its proposal is substantially altered.
Thus, this method is likely to underestimate the influence of the CoR on the
Commission’s position in the legislative procedure and the resulting estimates are
minimum figures for the likely influence of the CoR. It should also be noted that the
measurement approach does probably not capture the direct influence of the CoR on
the Commission’s position. The Commission is considering these amendments not
because the CoR proposed them but because the EP and/or the Council incorporated
them into their positions. However, even though the channel is indirect, the observed
Commission adoption rates reflect the influence of the CoR unless the legislative
institutions happened to propose the same amendments purely by chance.

To further simplify the analysis and interpretation, I decided to dichotomise
the amendment adoption variable. All amendments previously categorised as adopted,
largely adopted, and partially adopted are coded as adopted, and the rest of the
amendments previously categorised as modified or not adopted as not adopted
amendments. The outcome of this dichotomous categorisation is presented in Table
9.2.
Table 9.2- Adoption of amendments (dichotomous) by EU institutions and final legislative act.

<table>
<thead>
<tr>
<th></th>
<th>EP</th>
<th>Commission</th>
<th>Council</th>
<th>Final Act</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Frequency</td>
<td>Percentage</td>
<td>Frequency</td>
<td>Percentage</td>
</tr>
<tr>
<td>Adopted</td>
<td>60</td>
<td>28.3%</td>
<td>15</td>
<td>7.1%</td>
</tr>
<tr>
<td>Not adopted</td>
<td>152</td>
<td>71.7%</td>
<td>197</td>
<td>92.9%</td>
</tr>
<tr>
<td>Total</td>
<td>212</td>
<td>100%</td>
<td>212</td>
<td>100%</td>
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</table>

Again, Table 9.2 clearly indicates that the institution that most considers the CoR’s Opinion is the EP. The EP adopts at least partially a total of 60 amendments, accounting for 28.3% of the total number of amendments proposed by the CoR. The Council adopts 20 amendments, accounting for 9.4% of all amendments, and the Commission adopts 15 amendments, accounting for 7.1% of the proposed amendments. Again, the Commission adopts a lower percentage of amendments than the Council, but the difference is not very large. As regards the final legislative act, from the 212 amendments proposed by the CoR, only 42 amendments are included, accounting for 19.8% of the total number of amendments proposed. This result underscores the interpretation of Table 9.1; the CoR can exert a larger degree of influence on the EP’s position, which in turn is largely responsible for the adoption rate of the final legislative act.

In Table 9.3, I have described the paths followed by the 42 amendments proposed by the CoR that were incorporated into the final legislative act. From these 42 amendments, 16 were only adopted by the EP, 8 were adopted by the EP and the Commission, and 10 were adopted by both the EP and the Council. There were 5 amendments solely adopted by the Council. Lastly, there are a total of 3 amendments adopted by all three legislative institutions. Therefore, considering the path followed by these amendments, the EP is the legislative institution that most promotes the recommendations of the CoR, followed by the Council. Out of 42 CoR amendments incorporated into the final legislative act, 34 had been adopted by the EP. The Commission, despite considered an ally of the CoR, plays a less important role during the decision-making process, as it only formally incorporates CoR amendments if they have previously adopted as EP amendments.
Table 9.3- Path of amendments included in final legislative act

<table>
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<tbody>
<tr>
<td></td>
<td>42</td>
<td>16</td>
<td>5</td>
<td>8</td>
<td>10</td>
<td>3</td>
<td>0</td>
</tr>
</tbody>
</table>

Table 9.4 reports the adoption of CoR amendments, differentiating by policy area of the commission in charge of drafting the Opinion of the CoR. Five major policy areas have been distinguished: first, education, youth, culture and research (edu); second, citizenship, governance, institutional affairs and external relations (cit); third, economic and social policy (eco); fourth, environment, climate change and energy (env); and last, territorial cohesion policy (ter).

Table 9.4- Adoption of amendments by policy area

<table>
<thead>
<tr>
<th></th>
<th>Edu</th>
<th>Cit</th>
<th>Eco</th>
<th>Env</th>
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</tbody>
</table>

The table shows that the policy area from which most CoR amendments are taken up by the EP is Territorial Cohesion, followed by Citizenship, Education, Economic policy, and Environment. The EP adopted 38% of the amendments in the area of territorial cohesion policy, but only 19.2% in Environment. In the case of the Commission, the policy area most considered is territorial cohesion policy, followed
by education. The Commission adopted 11.3% of the amendments on territorial cohesion policy and 11.1% in education, but none in the other areas. In the case of the Council, the policy area most considered once again is territorial cohesion, followed by, education, environment, citizenship, and economic and social policy. The Council adopted 11.3% of the amendments on territorial cohesion and 7.1% on citizenship. Lastly, in the case of the final legislative act the policy area most considered is territorial cohesion followed by education, environment, economic policy and citizenship. The final legislative act includes 22.5% of the amendments on territorial cohesion policy, compared to 14.3% on citizenship.

Table 9.4 shows that CoR amendments are most successful in the policy areas of territorial cohesion, education, youth, culture and research, and environment. This result is in line with the expectations derived from both the informational theory and the legitimacy argument. Territorial cohesion policy is a policy area that directly affects regional and local interests. In this particular area, the CoR is very motivated to provide quality recommendations and expertise in order for its Opinions to be considered by the legislative institutions. This policy area also affects the subnational level the most. Therefore, the legislative institutions are seeking the CoR support in order to increase the legitimacy of their own position. Thus, when the CoR’s commission in charge of dealing with territorial cohesion policy proposes an amendment to the Commission’s legislative proposal, the legislative institutions are more likely to listen what the CoR has to say because it might provide them legitimacy or expertise in its recommendation.

9.1 Bivariate Analysis

In order to ascertain the CoR’s influence in the legislative process, several explanatory factors have been identified. In this study, I have differentiated a total of six variables: time, expertise, regional, territorial, recital and technical. Each of these variables will be examined below.

It is a requirement for the CoR to forward its Opinion early in the co-decision procedure considering the policy framing perspective and the role of policy issue definitions. It is important for the CoR the speed at which its Opinions are elaborated and forwarded to the EU institutions and the time elapsed between the CoR’s Opinion and the position formation of the legislative institutions. In this context, the first explanatory variable identified is time. In general terms, it can be argued that the more
time elapses between the issuing of the CoR Opinion and the position formation of the EU institutions, the CoR has more chances to influence the position of the legislative institutions. According to the figures shown in Table 9.5, in general terms, the CoR recommendations are more likely to be adopted in the instances where the EU institutions form their positions more than six months after the CoR has issued its own Opinion. The adoption rate is lower when the time frame between the issuing of the CoR Opinion and the position adoption of the EU institutions is less than 6 months.

**Table 9.5- Effect of timing on amendment adoption**

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</tr>
</tbody>
</table>

*** p<0.01 **p<0.05 *p<0.1

Table 9.5- Effect of timing on amendment adoption

The percentage point difference in amendment success between Opinions delivered early and late in the decision-making process is 17.5% for the EP, 15% for the Commission, -3% for the Council, and 13.1% for the final legislative act. For the EP, Commission, and the final legislative act, the direction of the change in percentage points is in line with the hypothesis that amendments of the CoR are more likely to be adopted when the CoR issues its Opinion early in the process. A chi-square test indicates that these differences are also statistically significant. The Commission has a chi-square value of 16.110 and a p-value of 0; the EP has a chi-square value of 7.048 and a p-value of 0.008; and the final act has a chi-square of 5.048 and a p-value of 0.025. Only in the case of the Council does the change in percentage points indicate an effect in the opposite direction. However, the null hypothesis that this effect is due to random chance cannot be rejected because the p-value of 0.476 is greater than 0.05. Therefore, considering these results the CoR is more likely to influence the positions of the EP and the Commission, and ultimately the final legislative act, when a period
of time greater than six months’ elapses between the forwarding of its Opinion and the position formation of these two institutions in the co-decision procedure.

The CoR as the body representing regional and local interests at the EU level, needs to ensure that it provides for valuable information and expertise in its Opinion so the legislative institutions will consider these recommendations. All the amendments of the database have been designated as providers of expertise or non-expertise taking into account the content of the proposed amendment. This comes in line with one of the hypotheses to be tested in this research; the more information and expertise the CoR provides in its Opinion, the greater chances it has to influence the position of the EU institutions and the final legislative act. The table below shows the CoR amendment adoption rate considering expertise.

**Table 9.6- Effect of expertise on amendment adoption**

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</tr>
<tr>
<td>Total</td>
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<td>100</td>
<td>212</td>
<td>78</td>
<td>100</td>
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</table>

Chi-square: 5.004** 1.957 0.031 0.768
Asymp sig: 0.025 0.162 0.861 0.381

***p<0.01  **p<0.05 *p<0.1

According to Table 9.6, the difference in the adoption rate between amendments providing expertise and amendments providing no expertise is 14.4% in the case of the EP, 5.2% in the case of the Commission, 0.7% in the case of the Council, and 4.9% in the case of the final legislative act. These results support the hypothesis that the CoR influences the position of the EU legislative institutions and ultimately the final legislative act in the case of expertise amendments. This effect is strongest for the EP and the Commission, but close to zero for the Council. Considering the results obtained on the chi-square test, the effect of expertise is only statistically significant in the case of the EP. The chi-square value obtained is 5.004, with a p value of 0.025. At a 0.05 –p-value standard, I can reject the null hypothesis only in the case of the EP. Therefore, I can conclude that the effect of expertise on adoption success only holds
for the EP. This explanatory factor has no effect on the positions of the other two institutions or the content of the final legislative act.

The CoR represents the interests of regional and local authorities in the legislative process. Specifically, in regional issues, the CoR’s Opinions can be taken as providing legitimacy for the EU institutions. Therefore, I decided to differentiate regional amendments from non-regional amendments. This variable relates to the third hypothesis to be tested in this research; based in the argument that the CoR is a potential legitimacy provider through its amendments. The hypothesis states that the CoR is more influential in regional issues than in other policy issue decided under co-decision.

**Table 9.7- Effect of issue area on amendment adoption**

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<th>Council</th>
<th>Final Act</th>
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<td>9 5.3%</td>
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<tr>
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<td>43 100%</td>
<td>212 100%</td>
<td>169 100%</td>
</tr>
<tr>
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<td>3.881**</td>
<td>1.444</td>
<td>2.225</td>
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</table>
| Asymp sig | 0.067      | 0.049     | 0.229   | 0.136     

***p<0.01 **p<0.05 *p<0.1

Table 9.7 shows that a difference in the adoption rate between amendment concerning regional issues and amendments concerning other areas of 14.1% in the case of the EP, 8.7% in the case of the Commission, 6% in the case of the Council, and 10.1% in the case of the final legislative act. According to these results, it seems that legitimacy has the expected effect on amendment adoption by the EP and the Commission. The effect on the inclusion in the final legislative act goes in the expected direction, but is not statistically significant; neither is the unexpected negative effect of legitimacy on amendment adoption by the Council. According to these results, the CoR is in a position to exert influence on the EP and the Commission when it provides amendments on regional issues. In the case of the Council and the Final Act, the null hypothesis of no effect of this variable cannot be rejected.
Together with the three variables of theoretical interest assessed above, three other variables have been identified as control variables. The first control variable is recital, which differentiates amendments by whether they affect the introductory part of the proposed legislation or the body of the legislation. The first group of amendments have been named recital and the second group text. Considering that the introductory part of the proposed legislation has no binding powers, it is more likely that the EU institutions adopt CoR amendments affecting this part of the legislation than amendments affecting the text of the legislative proposal.

Table 9.8- Effect of legal status on amendment adoption

<table>
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<td>0.176</td>
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</table>

*** p<0.01 **p<0.05 *p<0.1

According to the figures shown in Table 9.8, the difference in the adoption rate between recital amendment and text amendments is 17% in the case of the EP, 6.7% in the case of the Commission, -0.8% in the case of the Council, and 11.9% in the case of the final act. In order to test the null hypothesis of no difference in the adoption rates, we will consider the chi-square test of significance. According to the results of the chi-square tests, the recital effect is only statistically significant in the case of the EP, despite the relatively large adoption rate differences in the case of the Commission and the final act. Therefore, it can be concluded that the variable recital has only a significant effect in the case of the EP. In the case of the Commission, Council, and final legislative act, the null hypothesis cannot be rejected.

The second control variable identified in this study is technical. The technical variable differentiates between technical and substantial amendments. Technical amendments are the ones that only clarify the meaning or wording of the proposed legislation, and substantial amendments are the ones that change ‘considerably’ the
meaning of the proposed legislation. It seems possible that EU institutions will be more willing to consider CoR amendments that are technical in nature than substantial amendments, simply because the latter tend to be less controversial.

**Table 9.9- Effect of technical nature on amendment adoption**

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<td>94.4%</td>
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</table>

***p<0.01 **p<0.5 *p<0.1

According to Table 9.9, the difference in the adoption rate between technical and substantial amendments is 12.4% in the case of the EP, 3.6% in the case of the Commission, and 3.5% for the Council. As regards the final act, the difference is 13.2%, the same as the EP. Considering these results, it seems that the technical nature has a greater effect on the EP than on the other two legislative institutions. This influence exerted by the CoR on the EP is also reflected in the adoption rate of technical amendments by the final legislative act. As a second step, we will now look at the chi-square test of significance for technical. According to the results of the test, the null hypothesis cannot be rejected in the case of the Commission and the Council, because the p-value obtained is greater than 0.1. In the case of the EP and the final act, the effect of technical is statistically significant. We can see that the CoR exerts some influence on the position of the EP, which is also reflected in the adoption rate of the final legislative act.

The third control variable identified in this study is territorial (briefly explained above). As the findings of Table 9.4 showed that territorial cohesion policy is the policy area with the highest adoption rates of CoR amendments by the EU institutions and the final legislative act, I have decided to dichotomise the variable by collapsing the 5 policy areas distinguished before into two. One represents territorial
cohesion policy and the other non-territorial cohesion policy, encompassing environment, economic policy, education and citizenship. According to the figures shown in Table 9.10, the difference in the adoption rate between amendments in the area of territorial cohesion policy and amendments in other areas is 14.6% for the EP, 6.3% for the Commission, 2.8% for the Council, and 4.1% for the final act. It looks like the EP’s adoption rate is once again the one that is most affected by the variable, followed by the Commission’s and the Council’s. In order not to discard the null hypothesis too early, we will consider the chi-square test. The test suggests that the null hypothesis cannot be rejected in the case of the Council and the final act, because the p-values are greater than 0.1. The type of policy area has only a statistically significant effect on the adoption of amendments in the case of the EP and the Commission.

Table 9.10- Effect of policy area on amendment adoption

<table>
<thead>
<tr>
<th></th>
<th>EP</th>
<th>Commission</th>
<th>Council</th>
<th>Final Act</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ter</td>
<td>Non</td>
<td>Total</td>
<td>Ter</td>
</tr>
<tr>
<td>Not</td>
<td>44</td>
<td>108</td>
<td>153</td>
<td>63</td>
</tr>
<tr>
<td>adopted</td>
<td>62%</td>
<td>76.6%</td>
<td>72.2%</td>
<td>88.7%</td>
</tr>
<tr>
<td></td>
<td>38%</td>
<td>23.4%</td>
<td>27.8%</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Total</td>
<td>71</td>
<td>141</td>
<td>212</td>
<td>71</td>
</tr>
<tr>
<td>Chi</td>
<td>4.977***</td>
<td>2.853*</td>
<td>0.420</td>
<td>0.499</td>
</tr>
<tr>
<td>square</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asymp</td>
<td>0.026</td>
<td>0.091</td>
<td>0.517</td>
<td>0.480</td>
</tr>
<tr>
<td>sig</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* ***p<0.01 ** p<0.5 *p<0.1

Table 9.11 summarises the results of the bivariate analyses. According to the table, the effect of variables on adoption rates varies strongly across institutions. In the case of the EP, all the variables show statistically significant effects in the expected direction and the null hypotheses can be rejected.

In the case of the Commission, only three of the variables have significant effects on its adoption rate. These variables are time, regional and territorial. In the case of expertise, recital, and technical the null hypothesis cannot be rejected. In the case of the Council, none of the variable effects are statistically significant and the null hypothesis cannot be rejected for any of them. Finally, in the case of the final legislative act only technical and time have statistically significant effects in the
expected direction. The null hypothesis of no effect cannot be rejected for recital, regional, territorial and expertise.

Table 9.11- Summary of bivariate effects of variables on amendment adoption

<table>
<thead>
<tr>
<th>Variable</th>
<th>EP</th>
<th>Commission</th>
<th>Council</th>
<th>Final Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXPERTISE</td>
<td>14.4%**</td>
<td>5.2%</td>
<td>0.7%</td>
<td>4.9%</td>
</tr>
<tr>
<td>REGIONAL</td>
<td>14.1%*</td>
<td>8.7%**</td>
<td>-6%</td>
<td>10.1%</td>
</tr>
<tr>
<td>TIME (after 6 months)</td>
<td>17.5%***</td>
<td>15%***</td>
<td>-3%</td>
<td>13.1%**</td>
</tr>
<tr>
<td>RECITAL</td>
<td>17%*</td>
<td>6.7%</td>
<td>-0.8%</td>
<td>11.9%</td>
</tr>
<tr>
<td>TECHNICAL</td>
<td>12.4%**</td>
<td>3.6%</td>
<td>3.5%</td>
<td>13.2%**</td>
</tr>
<tr>
<td>TERRITORIAL</td>
<td>14.6%**</td>
<td>6.3%*</td>
<td>2.8%</td>
<td>4.1%</td>
</tr>
</tbody>
</table>

The stars show the results of the chi-square tests.

Considering the results of the bivariate analysis and the chi square tests of significance, the explanatory variable time is significant. It can be argued that these findings support the argument based on the policy-framing literature, according to which the timing of the the CoR’s amendments is important for exerting influence; the earlier the CoR forwards its Opinion in the co-decision process, the greater chances it will have to impact and frame the positions of the EU institutions. Eventually, if the CoR’s amendments are adopted by the EU institutions, they will also have a greater chance to be included in the final legislative outcome. Therefore, the speed at which the CoR elaborates its Opinions and forward them to the EU institutions in the co-decision procedure is important. In order to have the greatest chance to influence the decision-making process, the CoR should forward its Opinion before the EU’s intitutions establish their positions, or even before the internal decision-making procedures of these institutions have started elaborating their own positions. The CoR is more successful in influencing the positions of the EP, the Commission, and the final legislative act when it forwards its Opinion early in the co-decision procedure and when the time elapsed between its Opinion and the position formation of the legislative institutions is greater than 6 months.

Regarding expertise, the CoR as the body representing regional and local interests at the EU level needs to ensure that it provides for valuable information and expertise in its Opinion to give the legislative institutions an incentive to consider these recommendations. The CoR’s motivation to provide for quality Opinions lays in the
fact that the issue at stake to be decided in the co-decision process affects directly the entities and interests that it represents. In this respect, it can be argued that the CoR is an expert on the policy issues most affecting its interests and has technical, specialist, and politically salient information on these topics. Considering the results of the bivariate analysis and the chi square test, the hypothesis that expertise leads to more influence on the positions of institutions and the final outcome of the co-decision procedure is only supported in the case of the EP. The CoR is successful in influencing the EP’s position when providing for expertise in its Opinions.

The CoR is not only the body representing regional and local interests at the EU level, it is also composed of elected representatives. Having this in mind, it could be argued that the CoR through its Opinions also provides for legitimacy in situations where regional interests are at stake. Therefore, the CoR, as indirect legitimacy provider, is expected to exert more influence in regional issues than in any other policy area that falls under co-decision. The results of the bivariate analysis show that the regional variable has only a significant effect on the CoR’s influence in the case of the EP and Commission. Arguably, only these two institutions consider the CoR as a legitimacy provider through its recommendations in the co-decision procedure.

Overall, taking into account all the results obtained in the crosstabulation, the institution most likely to follow the CoR amendments is the EP, followed by the Commission. Especially the influence on the EP’s position results in an effect on the adoption rate of the final legislative act as well. According to Table 9.1, all the explanatory and control variables affect the adoption rate in the expected direction in the case of the EP; the most relevant variables being time, recital and territorial. In the case of the Commission, the only significant variables are time, regional and territorial, therefore CoR amendments submitted early in the process, dealing with regional or territorial cohesion issues have a larger probability of being incorporated into the Commission’s position. On the other hand, the CoR has generally little influence on the Council’s position, and none of the variables show the expected effect on its adoption rate. Regarding the final act, only two variables are significant; technical and time. Time is an influential variable affecting the adoption rate in the case of the Commission and the EP, but Technical is only significant in the case of the EP. While these bivariate results provide important initial insights, the robustness of the results is further probed in the next section with a multivariate analysis.
9.2 Multivariate Analysis

Given the dichotomous dependent variable in the model (adopted, not adopted), I have used logistic regression to estimate the impact of the independent variables (expertise, territorial policy, time, recital, technical and regional) on the adoption rate.

Table 9.12 - Logistic regression of amendment adoption by the EP

<table>
<thead>
<tr>
<th>Variable</th>
<th>B</th>
<th>Sig.</th>
<th>Odds ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expertise</td>
<td>1.070*** (0.397)</td>
<td>0.007</td>
<td>2.915</td>
</tr>
<tr>
<td>Regional</td>
<td>0.740* (0.386)</td>
<td>0.055</td>
<td>2.096</td>
</tr>
<tr>
<td>Time (after six months)</td>
<td>0.717* (0.340)</td>
<td>0.035</td>
<td>2.048</td>
</tr>
<tr>
<td>Recital</td>
<td>0.655 (0.500)</td>
<td>0.190</td>
<td>1.925</td>
</tr>
<tr>
<td>Technical</td>
<td>1.033*** (0.366)</td>
<td>0.005</td>
<td>2.810</td>
</tr>
<tr>
<td>Territorial</td>
<td>0.623* (0.343)</td>
<td>0.069</td>
<td>1.865</td>
</tr>
<tr>
<td>Constant</td>
<td>-2.838 (0.463)</td>
<td>0.000</td>
<td>0.059</td>
</tr>
</tbody>
</table>

**p<0.01 **p<0.05 *p<0.1

Table 9.12 reports the estimated impact of the six independent variables on the adoption rate of the CoR’s amendments by the EP. According to these results, the variables affecting the EP’s amendment adoption are expertise, technical, regional, time and territorial. These five variables are relevant in the adoption of amendments by the EP because their p-values are smaller than 0.1. Therefore, they have a statistically significant relationship with the dependent variable (adoption of amendments). Recital is the only independent variable where the null hypothesis cannot be rejected.

If we compare the bivariate results of the influence of each variable independently with the outcome of the logistic regression, we can see a discrepancy. In the case of the EP, when examining each variable independently, the results showed that all the variables were influential. Whereas in the logistic regression, when we control for other independent variables, recital does not have a statistically significant relationship with the dependent variable. In this case, the null hypothesis cannot be discarded.

Table 9.13 reports the results of a logistic regression of the six independent variables on amendment adoption by the Commission. According to Table 9.13, there
are only two independent variables which have an impact on the Commission’s amendment adoption rate, these are time and regional. Time and regional are significant independent variables because their p-value is smaller than 0.1. For the other four independent variables (expertise, recital, technical and territorial), the null hypothesis cannot be rejected.

Table 9.13- Logistic regression of amendment adoption by the Commission

<table>
<thead>
<tr>
<th>Variable</th>
<th>B</th>
<th>Sig.</th>
<th>Odds ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expertise</td>
<td>0.675</td>
<td>0.366</td>
<td>1.963</td>
</tr>
<tr>
<td></td>
<td>(0.746)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional</td>
<td>1.383**</td>
<td>0.035</td>
<td>3.987</td>
</tr>
<tr>
<td></td>
<td>(0.657)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time (after six months)</td>
<td>2.281***</td>
<td>0.001</td>
<td>9.789</td>
</tr>
<tr>
<td></td>
<td>(0.705)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recital</td>
<td>0.640</td>
<td>0.444</td>
<td>1.897</td>
</tr>
<tr>
<td></td>
<td>(0.837)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical</td>
<td>0.990</td>
<td>0.120</td>
<td>2.691</td>
</tr>
<tr>
<td></td>
<td>(0.637)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Territorial</td>
<td>1.031</td>
<td>0.106</td>
<td>2.803</td>
</tr>
<tr>
<td></td>
<td>(0.637)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>-5.755</td>
<td>0.000</td>
<td>0.003</td>
</tr>
<tr>
<td></td>
<td>(1.051)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

***p<0.01 **p<0.05 *p<0.1

When comparing the results of the bivariate analysis with the results of the logistic regression, we see that one of the variables that showed a positive impact in the bivariate analysis, shows no effect on the adoption rate in the multivariate analysis. In the bivariate analysis, three variables were influential: time, regional, and territorial. In logistic regression analysis, only time and regional show an impact on the amendment adoption rate. The null hypothesis for territorial cannot be discarded.

Table 9.14 reports the logistic regression results for the amendment adoption by the Council for different model specifications. Model 1 includes the six independent variables included in previous analyses. In addition to these variables, the second model also includes a variable indicating whether the CoR amendment has been adopted by the EP. Finally, the last model adds both an independent variable indicating EP adoption and an independent variable indicating adoption by both EP and Commission. I decided to run these three different models, because it might be the case that even if the main independent variables do not have a direct impact on the Council adoption rate, the fact that the EP adopts certain amendments or both the EP
and Commission adopts certain amendments might result in a higher probability of adoption by the Council as well.

Table 9.14- Logistic regression of amendment adoption by the Council

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1</th>
<th></th>
<th></th>
<th>Model 2</th>
<th></th>
<th></th>
<th>Model 3</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>Sig.</td>
<td>Odds ratio</td>
<td>B</td>
<td>Sig.</td>
<td>Odds ratio</td>
<td>B</td>
<td>Sig.</td>
<td>Odds ratio</td>
</tr>
<tr>
<td>Expertise</td>
<td>0.317</td>
<td>0.557</td>
<td>1.373</td>
<td>-0.234</td>
<td>0.675</td>
<td>0.791</td>
<td>-0.269</td>
<td>0.636</td>
<td>0.764</td>
</tr>
<tr>
<td>(0.540)</td>
<td></td>
<td></td>
<td></td>
<td>(0.558)</td>
<td></td>
<td></td>
<td>(0.569)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional</td>
<td>-0.859</td>
<td>0.265</td>
<td>0.424</td>
<td>-1.334*</td>
<td>0.098</td>
<td>0.264</td>
<td>-1.70*</td>
<td>0.094</td>
<td>0.254</td>
</tr>
<tr>
<td>(0.771)</td>
<td></td>
<td></td>
<td></td>
<td>(0.807)</td>
<td></td>
<td></td>
<td>(0.818)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time (after six months)</td>
<td>-0.355</td>
<td>0.517</td>
<td>0.701</td>
<td>-0.378</td>
<td>0.515</td>
<td>0.685</td>
<td>-0.369</td>
<td>0.526</td>
<td>0.691</td>
</tr>
<tr>
<td>(0.547)</td>
<td></td>
<td></td>
<td></td>
<td>(0.581)</td>
<td></td>
<td></td>
<td>(0.582)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recital</td>
<td>-0.357</td>
<td>0.659</td>
<td>0.699</td>
<td>-0.716</td>
<td>0.396</td>
<td>0.489</td>
<td>-0.720</td>
<td>0.394</td>
<td>0.487</td>
</tr>
<tr>
<td>(0.809)</td>
<td></td>
<td></td>
<td></td>
<td>(0.844)</td>
<td></td>
<td></td>
<td>(0.845)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical</td>
<td>0.455</td>
<td>0.383</td>
<td>1.576</td>
<td>-0.017</td>
<td>0.975</td>
<td>0.983</td>
<td>-0.038</td>
<td>0.945</td>
<td>0.963</td>
</tr>
<tr>
<td>(0.522)</td>
<td></td>
<td></td>
<td></td>
<td>(0.538)</td>
<td></td>
<td></td>
<td>(0.542)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Territorial</td>
<td>0.263*</td>
<td>0.599</td>
<td>1.301</td>
<td>0.038</td>
<td>0.943</td>
<td>1.039</td>
<td>0.016</td>
<td>0.977</td>
<td>1.016</td>
</tr>
<tr>
<td>(0.501)</td>
<td></td>
<td></td>
<td></td>
<td>(0.539)</td>
<td></td>
<td></td>
<td>(0.546)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EP only adoption</td>
<td>1.997***</td>
<td>0.000</td>
<td>7.369</td>
<td>1.959***</td>
<td>0.000</td>
<td>7.090</td>
<td>0.000</td>
<td>7.090</td>
<td></td>
</tr>
<tr>
<td>(0.545)</td>
<td></td>
<td></td>
<td></td>
<td>(0.560)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EP + Commission adoption</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>0.260</td>
<td>0.746</td>
<td>1.297</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(0.803)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>-2.497</td>
<td>0.000</td>
<td>0.082</td>
<td>-2.612*</td>
<td>0.000</td>
<td>0.073</td>
<td>-2.579</td>
<td>0.000</td>
<td>0.076</td>
</tr>
<tr>
<td>(0.601)</td>
<td></td>
<td></td>
<td></td>
<td>(0.601)</td>
<td></td>
<td></td>
<td>(0.608)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

***p<0.01 **p<0.05 *p<0.1

The results for the first model in Table 9.14 show that none of the independent variables has an effect on the Council’s amendment adoption rate. For all the variables, the p-value is greater than 0.1. Therefore, the null hypothesis of no effect cannot be rejected. In the second model, when considering the EP adoption of amendments as an independent variable, the results vary slightly; EP adoption and regional become significant variables, because their p-value is smaller than 0.1. The odds ratio of EP amendment adoption tells us that an amendment is 7.369 times more likely to be adopted by the Council if adopted by the EP. In the case of regional, despite the p-value being smaller than 0.1, when checking the odds ratio, we realise that regional has a negative relationship with the dependent variable because the value of the odds ratio is smaller than 1. This result is contrary to expectations. Therefore, the only significant variable in line with our hypotheses is EP amendment adoption.

In the last model, where both EP amendment adoption and EP and Commission amendment adoption are included as independent variables, only EP adoption and regional are significant. The odds ratio of EP amendment adoption is 7.090. As in the previous column, in the case of regional, despite the p-value being smaller than 0.1, the odds ratio of regional is smaller than 1, meaning that there is a
negative relationship between the dependent and the independent variables, which is contrary to expectation.

In comparison, the results of the bivariate analysis showed that none of the substantive independent variables have influence on the Council’s amendment adoption rate, because the null hypotheses cannot be rejected. These results are in line with the results of the logistic regression. In models two and three of the logistic regression, only the variable EP adoption has the expected effect on the amendment adoption rate of the Council, which indicates that the Council is more likely to adopt an amendment when the EP has adopted it.

Table 9.15- Logistic regression of amendment inclusion in final act

<table>
<thead>
<tr>
<th></th>
<th>Model 1</th>
<th>Model 2</th>
<th>Model 3</th>
<th>Model 4</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
<td>Sig.</td>
<td>Odds ratio</td>
<td>B</td>
</tr>
<tr>
<td>Expertise</td>
<td>0.592 (0.418)</td>
<td>0.15</td>
<td>1.80</td>
<td>-0.348 (0.551)</td>
</tr>
<tr>
<td>Regional</td>
<td>0.691* (0.418)</td>
<td>0.09</td>
<td>1.99</td>
<td>0.404 (0.554)</td>
</tr>
<tr>
<td>Time (after six months)</td>
<td>0.694* (0.370)</td>
<td>0.06</td>
<td>2.00</td>
<td>0.409 (0.487)</td>
</tr>
<tr>
<td>Recital</td>
<td>0.670 (0.530)</td>
<td>0.20</td>
<td>1.95</td>
<td>0.367 (0.686)</td>
</tr>
<tr>
<td>Technical</td>
<td>1.100** * (0.394)</td>
<td>0.00</td>
<td>3.00</td>
<td>0.749 (0.498)</td>
</tr>
<tr>
<td>Territorial</td>
<td>0.097 (0.386)</td>
<td>0.80</td>
<td>1.10</td>
<td>-0.627 (0.513)</td>
</tr>
<tr>
<td>EP only adoption</td>
<td>3.942** * (0.577)</td>
<td>0.00</td>
<td>5.151</td>
<td>3.810** * (0.588)</td>
</tr>
<tr>
<td>EP + Commission adoption</td>
<td>3.164** * (0.948)</td>
<td>0.00</td>
<td>23.65</td>
<td>3.164** * (0.948)</td>
</tr>
<tr>
<td>Council adoption</td>
<td>-2.848 (0.488)</td>
<td>0.00</td>
<td>0.05</td>
<td>-3.647 (0.655)</td>
</tr>
</tbody>
</table>

***p<0.01 **p<0.05 *p<0.1

Table 9.15 shows the logistic regression results for amendment adoption by the final legislative act. Again, the first model shows the six independent variables of substantive interest (expertise, regional, time, recital, technical and territorial). The second model also includes EP amendment adoption as an independent variable. The third model adds the EP and Commission amendment adoption variable again. Finally, the last model adds a variable indicating whether or not the Council adopted the amendment to the original six independent variables. This variable codes only
amendments adopted by the Council that have not previously been adopted by the EP or Commission.

According to the results of model 1, there are three significant independent variables, which are regional, time, and technical. The odds of a technical amendment to be adopted by the final legislative act is 3.004 times larger than that of a substantive amendment. The odds of a regional amendment to be adopted are 1.996 times larger than the odds of a non-regional amendment; and the odds for an amendment to be adopted after six months since the CoR’s Opinion is forwarded are 2.001 times higher than amendments submitted later in the process. As for these three independent variables, the value of the odds ratio is greater than 1. Thus, the relationship between them and the final act’s amendment adoption rate is positive. As regards the other three independent variables; expertise, recital and territorial, the null hypothesis of no effect on the adoption rate cannot be rejected.

When including a variable for EP amendment adoption together with the initial six independent variables, Model 2 shows that only EP adoption has a significant effect on the amendment adoption rate by the final act. The odds of adoption in the final legal act of an amendment previously adopted by the EP are 51.51 times higher than those of an amendment not adopted by the EP. In the case of the other independent variables, the null hypothesis cannot be rejected when the EP amendment adoption is included as an independent variable. We observe a similar result for this variable in Model 3, which includes an additional independent variable indicating whether both the EP and Commission adopted the amendment. According to the results of Model 3, only EP adoption has a significant effect on the adoption rate of the final act. The odds ratio of EP adoption is 45.167.

In the last model of Table 9.15, we can see the regression results when we include a variable indicating whether or not the Council adopted the amendment, together with the initial six independent variables. Expertise, regional, time and technical are significant variables, together with Council amendment adoption. The odds ratio of Council amendment adoption indicates that the chances of being incorporated into the final act are 23.658 times higher when the Council adopted the amendment than when the Council did not adopt the amendment. The odds ratio of technical is 3.217. the odds ratio for time is 2.340, and the odds ratio for regional is 2.363. Finally, in the case of an expertise amendment the odds ratio is 2.097. As the odds ratios of all these independent variables are greater than one and of substantive
size, that the hypotheses of a positive relationship with the dependent variable amendment adoption by the Final Act are supported for these variable. However, in the case of recital and territorial, the null hypothesis cannot be rejected.

When comparing the results of the multivariate analysis against the results of the bivariate analysis, we can see some discrepancies. In the bivariate analysis, only technical and time showed an influence on the amendment adoption by the final legislative act. In the logistic regression, three variables have an impact on the amendment adoption rate of the final legislative act, i.e., regional, technical and time. When EP amendment adoption is considered as an independent variable, the results of the logistic regression show that only this variable has an impact on the amendment adoption rate of the final legislative act. The additional inclusion in the model of a variable indicating amendment adoption by both the EP and the Commission does not change these results. However, when Council adoption is included as an independent variable, the results of the logistic regression change in a different way. Apart from regional, time, and technical, council adoption and expertise show substantial and statistically significant effects.

9.3 Conclusion

The main purpose of this analysis was to assess the legislative influence of the Committee of the Regions in the co-decision procedure. Different factors were identified as potentially relevant: the topic of the amendments (regional), the time elapsed between the forwarding of the CoR Opinion and the position formation of the legislative institutions, if the amendment was technical or substantial, if the CoR provided for legitimacy in its recommendations, if the amendment affected the recital or the text of the legislative proposal. The analysis demonstrates that the CoR has some degree of influence on the final legislative act, despite being an advisory body and its Opinions not being binding. The institution that adopts most amendments proposed by the CoR is the EP, accounting for 60 amendments (28.3%). The CoR is quite successful in influencing the European Parliament. The EP is the strongest ally of the CoR in the legislative process and this is translated in the amendment adoption rate of the EP. Considering the results of the logistic regression (Table 9.12) all the independent variables are significant but recital. Therefore, the three main hypotheses about the effect of framing, expertise, and legitimacy are confirmed in this case. CoR
amendments are more likely to be adopted by the EP if they are delivered early in the process, provide expertise or legitimacy.

The Commission only adopts 15 amendments proposed by the CoR, accounting for 7.1% of the amendments. It needs to be taken into account that the Commission issues an Opinion about the legislative proposal after the EP’s 1st reading only on a few occasions; and in these cases, the Commission normally agrees with the EP’s recommendations. For practical reasons, cases where the Commission has not issued a formal Opinion during the legislative process, have been treated as if the Commission had not adopted the CoR’s recommendations. The results of the logistic regression for Commission adoption show that only two variables have statistically significant effects on its adoption rate, i.e., regional and time.

The Council adopts 20 amendments proposed by the CoR, accounting for 9.4% of the amendments. When considering the results of the logistic regression for the Council, we can see that none of the independent variables analysed in this study is significant. Only EP amendment adoption has a statistically significance effect when considered as an independent variable. The odds ratio of EP amendment adoption is 7.369, meaning that if the EP adopts a CoR amendment, the chances of the Council adopting it as well are more than 7 times as large.

The Final Act incorporates 42 amendments proposed by the CoR, accounting for 19.8% of the amendments. Considering the results of the logistic regression, only regional, time, and technical have statistically significance effects. When EP amendment adoption is added to the initial set of independent variables, only EP adoption has a significant effect on the Final Act amendment adoption rate. The variables regional, time, and technical indirectly affect the inclusion of a CoR amendment in the final legislative act by making it more likely that the EP adopts it. The odds ratio of EP adoption for the Final Act is 51.51.
PART 4  Conclusion
Chapter 10
Conclusion

Various studies exist about the CoR as an advisory body of the EU legislative institutions. These studies focus mainly on explaining the structure, functioning, and organisation of the institution itself, but they lack a systematic empirical analysis of the CoR’s main function, which is to advise the European Parliament, the Commission, and the Council of Ministers on EU legislation. In an attempt to shed some light on the effectiveness of the advisory role of the CoR, with this study, I have tried to assess the legislative influence of the CoR. For the purpose of this study, I have defined influence as the ability of the CoR to shape the positions of the legislative institutions and the content of the final legislative act. In this regard, influence can be understood in a broad sense as the potential of the CoR to shape legislation considering its structural position in the EU’s legislative setup, and in a narrower sense, where the specific amendments proposed by the CoR in its Opinion to the legislative proposal shape the position of the EU institutions and potentially the content of the legislative act. For this reason, I have divided the research into two main blocks; the first block tries to ascertain the CoR’s structural position and potential to influence legislative decision-making (Part 2), and the second tries to assess the CoR’s actual influence in the form of a quantitative analysis (Part 3).

In order to ascertain the position and potential of the CoR to influence the EU’s decision-making process, in Chapter 3 I discussed different theories applied to the study of the EU as background theories to the development of Multi-level governance. From the 1950s to the 1990s, the study of the EU was dominated by students of international relations and their main theories of European integration, neofunctionalism and intergovernmentalism/liberal-intergovernmentalism. I briefly discussed both these theories.

The chapter continues with rational choice institutionalism as a theory explaining the EU’s decision-making and the power and influence of the EU legislative institutions. Rational choice institutionalism tends to outline the EU’s legislative process based on formal rules and the participation and powers of each institution, but it fails to explain the participation in the legislative process of institutions without decision-making powers, such as the Economic and Social Committee or the Committee of the Regions. It also does not consider the informal
activities and relations of the legislative institutions and its effect on the legislative process.

Lastly, the emergence of the governance approach was examined, which considers the EU as a system of governance without government. This approach can be traced back to multi-level governance. Multi-level governance explains the development of the EU legislative process as a process in which three types of actors participate: national, supranational and subnational. The EU is no longer a purely intergovernmental organisation. Together with national actors, there are subnational and supranational actors participating in the decision-making process now, following formal and informal norms.

The CoR has only an advisory role in the decision-making process and its Opinion has no binding powers. Therefore, the majority of scholars have neglected the study of the CoR because they deemed it irrelevant. This was also the case of the EP under consultation, but Kardasheva and Varela have demonstrated that the EP was capable of influencing the legislative outcome under specific conditions. The study of the CoR’s influence under formal rules in the co-decision process is analysed in the quantitative part of the research. But the CoR also avails of informal rules in its participation in the decision-making process. In this respect, it is worth studying the relationships of the CoR with the EP, Commission, and Council, both formal and informal ones, to better assess its potential influence.

After discussing the actual setting of the EU’s legislative process, where three tiers of governmental entities participate in line with a multi-level governance perspective, I have continued with a chapter on the Committee of the Regions. Considering that the objective of this study is to assess the influence of the Committee of the Regions in the legislative process, I have described briefly the evolution of its legal status, organization, and functioning in order to contextualise this body in the EU’s institutional framework and its participation in the decision-making process.

In chapter 5, I have explored the CoR’s interinstitutional relations with the Community’s legislative institutions. By far the legislative institution that has developed the most formal relations with the CoR is the Commission. These formal relations have been formalised in the different cooperation agreements adopted between the Commission and the CoR. The Cooperation Agreement with the Commission has provided the CoR with different channels to influence the legislative process. The Commission does not only request CoR Opinions when the Treaty
requires it, but also when it considers that the legislative proposal has a direct effect on the regional or local level. The Commission may also request the CoR for outlook opinions before the drafting of a legislative proposal, providing the CoR with the opportunity of influencing the Commission in the pre-legislative stage. The agreement also foresees a re-consultation of the CoR in instances where the Commission’s legislative proposal is amended substantially during the decision-making process. The Commission not only commits to a broader array of consultation channels for the CoR, but also forwards in advance its work programme, signalling on which issues the CoR is going to be consulted, so the CoR can organise its workload accordingly. The Commission has committed to forward follow-up reports on the CoR’s Opinions so the CoR can evaluate their impact.

Over time, the EP and the CoR have also established formal ties but they are not as developed as the relations with the Commission. Since 2014, the EP and the CoR have also formalised their relationship with the adoption of a cooperation agreement. According to this agreement, the EP can request impact assessments of existing legislation from the CoR. These impact assessments provide the CoR with the opportunity to give recommendations on improvements to current legislation. The cooperation agreement also foresees priority subjects where the CoR’s input would be particularly valuable for the EP. As regards the Council, there is no cooperation agreement in place, and they have not established continuous formal relations between themselves.

With respect to informal relations, they are by their very nature quite difficult to document. They refer to different types of activities that occur around meetings held in Brussels at different times of the year to adopt legislation, conferences, open days, or informational meetings. The relevance of informal relations is undeniable, considering the opportunity they provide members of the CoR to influence the views of the EU institutions. Informal channels provide the CoR with windows of opportunity to shape the legislative institutions’ positions. Rather than influencing the specifics of legislative proposals, they allow for the expression of general opinions and the direction of attention to broader objectives that the legislative institutions might be more willing to consider.

In chapter 6, I have outlined the EU’s legislative process and the three legislative institutions. The first part of the chapter begins by explaining all the Treaty amendments to comprehend how these amendments have affected the EU institutions
and the decision-making procedure. While describing the EU institutions, I have considered the evolution of the European Union and its effect on the role of these institutions, and ultimately their influence and power in the legislative process. In the second part, a brief description of the main legislative procedures: consultation, cooperation, and co-decision is provided, discussing the implications of the different procedures for the participation and influence of the CoR.

Under consultation, the possibility of the CoR to influence the legislative institutions is quite limited. The CoR would only have a chance to influence the Commission greatly if the Commission requests an outlook opinion when drafting the legislative proposal. Under consultation, the CoR’s formal Opinion might be requested by the legislative institutions, but even if the CoR influences the EP, the position of the EP in the process compared to the Council is weak. In this procedure, the EP must be consulted, but the final decision is taken by the Council.

Under cooperation, the Commission might also request an outlook opinion in the drafting phase of the legislative proposal, providing the CoR with an important pre-legislative influence channel. In this procedure, the CoR could also exert more influence by shaping the position of the EP, because the EP has more powers than under consultation. Under cooperation, there is a second reading, and if the EP rejects the Council’s Common Position by absolute majority, unanimity is required by the Council to act on a second reading. the Commission can decide to withdraw the legislative proposal.

Co-decision is the procedure that provides the CoR with greatest opportunities to influence the legislative outcome. Not only has the CoR the possibility of influencing the Commission (if requested) through outlook opinions in the drafting phase of the legislative process; but according to the Cooperation Agreement, the Commission can also request a second formal Opinion in the legislative process if the Commission amends its initial legislative proposal substantially and there is a mandatory referral for a CoR Opinion. Under co-decision, the CoR’s influence of the EP position has potentially a greater effect on the final legislative act. In this process, the EP is in a powerful position because it is a co-legislator together with the Council. Since 2014, the relationship between the CoR and the EP has been formalised in a cooperation agreement and the CoR should be able to exploit these avenues in order to attain its legislative objectives.
This study of the structural position of the CoR in the EU institutional framework relied on secondary sources and several interviews in Brussels to ascertain first-hand the real participation and involvement of the CoR in the EU’s decision-making. Considering the formal relations of the CoR with the legislative institutions, the close relationship with the Commission needs to be highlighted. Over time, the Commission has provided continuous impetus for the formalisation of its relations with the CoR, which have been institutionalised in a series of cooperation agreements. The Commission values the advisory role of the CoR and is willing to assist in the growth and development of the CoR, as it benefits the Commission’s own objectives. The European Parliament is developing its relations more and more with the CoR, although it is a couple of steps behind the Commission. Initially, when the CoR was newly established, there was some sort of rivalry between the EP and CoR. This rivalry was due to the fact that, at the time, the EP was trying to enhance its own position within the EU’s institutional framework, and it was concerned that this newly established advisory body would pose a threat to its own position. Nowadays, this relationship is growing more cooperative, especially between the CoR and the REGI Committee within the EP. In fact, the relationship has been consolidated in the 2014 Cooperation Agreement between the EP and the CoR. As regards the Council of Ministers, no formal cooperation agreement exists or is currently envisaged.

None of the three legislative institutions seems to be willing to see the CoR develop further as an institution, meaning that it was established as an advisory body with no binding powers and it should remain as it is. There are instances where the legislative institutions consult the CoR purely to fulfil a formality of the legislative process, but there are other occasions where the Opinion of the CoR is sought by the legislative institutions because it provides them with legitimacy and strengthens their own positions. In order to ascertain the influence of the CoR in a broad sense, as the potential to shape the positions of the legislative institutions in light of its structural position in the EU’s legislative framework, the first part of the study suggests that its potential is quite limited.

Considering only the CoR’s Opinion as the formal channel of influence on the content of legislation misses part of the picture. Interviewees insisted that the CoR’s role should not only be measured by the specific amendments it proposes to the legislative proposals. In their view, the CoR’s influence through specific amendments is quite limited. The CoR is more influential in terms of general objectives and views;
and that it is heard and followed by the legislative institutions in this respect. A lot of the interviewees highlighted that the informal relations of the CoR with the institutions are very important, because through these informal relations, the institutions seek the CoR’s general perspective and advice.

As pointed out by one of the interviewees, the own-initiative Opinion of the CoR on the Costal Fund affecting to costal zones as part of the Cohesion Fund provides a good example of the relevance of informal relations. The Opinion was submitted to the Regi Committee of the EP. Part of the Committee favoured the CoR’s proposal, but the other part could not really understand its objective. It was a matter of clarification. In this case, Regi worked very closely with the CoR to improve their proposal. The CoR and the Regi Committee tried to push this own initiative Opinion to the Commission so the legislative process could be initiated. In this case, the initial idea of the Costal Fund was the CoR’s perspective, the EP elaborated it and helped to put pressure on the Commission to initiate legislation. Therefore, the CoR’s structural position in the EU’s institutional framework does give it a chance to influence the legislative proposal. However, this influence might be more easily exerted through informal channels and relations, which are not easy to observe and measure on a large scale. Generally, these informal relations allow for influence in terms of promoting broad ideas and perspectives rather than specific amendments to particular pieces of legislation.

In the third part of the study I have conducted a quantitative analysis in order to assess the influence of the CoR in a narrow sense. This part answers the research question of how and under which conditions the CoR influences the positions of legislative institutions and the outcome of decision-making under the co-decision procedure. Ultimately, the CoR’s overall degree of influence is assessed by how many of its amendments are incorporated into the final legislative act. To answer this research question, three hypotheses have been identified based in different possible explanations of the CoR’s amendment success.

According to the policy framing perspective, the first possible explanation for the CoR’s influence would be the timing of the CoR Opinion in relation to the position formation of the legislative institutions in the co-decision procedure. Given that the EU offers a variety of access venues to the decision-making process, it is quite easy to get a policy issue definition onto the agenda of the legislative institutions. What is more difficult is to spread the policy issue definition to all decision makers, because
any one of the legislative institutions may block the policy issue definition in the decision-making process. The CoR forwards its formal Opinion to the three legislative institutions simultaneously. It is relatively easy for the CoR to get its recommendations onto at least the agenda of one of the legislative institutions. However, the CoR will have a greater chance of influencing and shaping the position of the EU legislative institutions and the final legislative act, if it forwards its Opinion in the early stages of the decision-making process. In order to influence the positions of the legislative institutions, the CoR needs to forward its Opinions before they are formed. The legislative institutions are unlikely to consider the CoR’s Opinion if they have already adopted their positions.

Another factor potentially explaining the influence of the CoR is the informational role it fulfils through its Opinion. Taking into account that the CoR Opinion is not binding and there are no restrictive measures in place between the legislative institutions and the CoR that provides the CoR’s Opinion with an elevated status in the decision-making process; the CoR can only influence the content of legislation by providing valuable information and expertise in its Opinions. The CoR is a specialist in issues affecting directly regional and local interests; but due to its interinstitutional position and the fact that it has direct access to the decision-making process, it also becomes an indirect channel of influence for interest groups, acquiring more specialised information. Therefore, the CoR would have a greater chance of influencing the legislative institutions and ultimately the legislative outcome, if it provides expertise and valuable information otherwise not readily available to the legislative institutions.

Finally, the CoR not only represents regional and local interests at the EU level, but it is also composed of elected representatives, providing indirect legitimacy to the legislative institutions in the decision-making process. Following this argument, the CoR is expected to be more influential in regional issues than in other policy issues under co-decision because its participation provides for additional legitimacy.

In the next chapter, chapter 8, I have discussed the methods and sample selection used for the quantitative analysis to assess the influence of the CoR amendments in the co-decision procedure. As the sample for the analysis, I have selected all the co-decision cases from 2004 to 2007 where the CoR has issued an Opinion to the legislative proposal. From all the co-decision cases, I have disregarded the cases where the CoR provided only rather vague Opinions. By vague Opinion, I
refer to Opinions where the CoR just provides for broad recommendations in the Opinion instead of precise amendments referring to specific recitals or articles in the body of the legislative proposal.

Four dependent variables were created: adoption by the EP, adoption by the Council, adoption by the Commission (in cases where the Commission forwards an amended legislative proposal) and adoption by the final legislative act. I decided to create four dependent variables in order to assess the influence of the CoR on each of the legislative institutions and to see whether an amendment would make its way through the whole co-decision process and, if so, through which route.

Several dichotomous variables were also included in the database to measure other aspects of the legislative process that might explain the influence of the CoR’s amendments. Three explanatory variables were identified based on the theories. An explanatory variable time was created to measure if the speed and time elapsed between the Opinion of the CoR and the position formation of the legislative institutions has an effect in its influence over the EU institutions. The CoR needs to ensure that it provides for valuable information and expertise in its Opinion for the legislative institutions to adopt its recommendations. To assess if the CoR is considered an expertise and information provider by EU institutions, another explanatory variable expertise was created. As the CoR consists of elected representatives of regional and local authorities, it could be argued that the CoR, through its Opinion, also provides legitimacy. To test this expectation, another explanatory variable regional was created to measure if the policy topic affects the chances of the CoR to influence the position of the EU institutions.

Three control variables have also been identified. One control variable was created to check if the amendments proposed by the CoR affected the recitals or the text of the legislative proposals. This variable was included because it might be that the CoR is more successful when it amends recitals than when it proposes amendments to the legislative text. Recitals are statements of intention and they are not part of the binding text of the legislative proposal. As a consequence, EU institutions could be more willing to accept CoR amendments referring to the recitals of the legislative proposals than amendments affecting the binding text. Another control variable was created for the type of amendment. I have divided the amendments of the CoR in two types, technical amendments and substantial amendments. Technical amendments are the ones that only clarify the wording of the text proposed by the Commission, and
substantial amendments are the amendments that change significantly the meaning of the initial text, incorporate a new article or paragraph into the proposed legislation, or delete an article or paragraph. The third control variable identified in this study is \textbf{territorial}. Firstly, I have differentiated all the amendments proposed by the CoR considering the policy area of the commission within the CoR in charge of drafting the CoR Opinion. Five major policy areas have been distinguished. From these five policy areas, territorial cohesion policy stood out in the bivariate analysis as the one in which CoR amendments are most likely to be adopted by the EU institutions. Therefore, I have divided the five policy areas distinguished before into two: territorial cohesion policy vs. other policy areas.

In chapter 9, I have conducted the quantitative analysis. In the first part of the chapter, I have first considered the amendment adoption rate of each legislative institution and the path amendments incorporated into the final legislative act took through the inter-institutional decision-making process. In the second part, I have continued by examining the effects of explanatory and control variables on the adoption rates of institutions and the final legislative act through a bivariate analysis. In the last part of the chapter, I have conducted separate multivariate analyses for the adoption rates of the legislative institutions and the final legislative act.

The results of the quantitative analysis allow us to assess the influence of the CoR in a narrow sense. The CoR exerts some influence on policy-making outcomes through the amendments proposed in its Opinion in the co-decision process. The CoR’s amendments are most likely to be adopted by the EP. Furthermore, the bivariate analysis shows that all explanatory variables identified in this study have a significant effect on the amendment adoption rate of the EP. To a lesser extent, the CoR also influences the Commission’s position. However, three variables have a significance effect in the bivariate analysis: time, regional, and territorial. The Council adopts very few CoR amendments, and none of the explanatory variables are significant. Thus, the Council does not seem to consider the CoR’s Opinion at all when formulating its position.

When conducting a multivariate logistic regression, the positive relationships between technical, expertise, regional, territorial and time variables and the EP’s amendment adoption rate remain robust. Only the null hypothesis of no effect for recital cannot be discarded. In the case of the Commission’s adoption rate, the logistic regression indicates that only two of the explanatory variables have a positive relation,
time and regional. The Council’s logistic regression shows that none of the variables have the expected positive relationship with the Council’s amendment adoption rate, but when adding EP amendment adoption as another independent variable to the model, we can see that there is a positive relationship between EP amendment adoption and the Council’s amendment adoption rate. In the logistic regression of the final legislative act, regional, time and technical amendments have a positive relation. However, when EP amendment adoption is included in the model as another explanatory variable, only EP amendment has a positive relationship with the final act amendment adoption rate.

Overall, the explanatory variable time is significant in the case of amendment adoption by the EP, the Commission, and the final legislative act. These findings support the argument based on the policy-framing literature, according to which the timing of the CoR’s Opinion is important. The earlier the CoR forwards its Opinion in the co-decision process, the greater its chances to impact and frame the positions of the EU institutions. The adoption of a CoR amendment by an EU institution makes it also more likely that it will impact the final legislative outcome. Therefore, the speed at which the CoR elaborates and forwards its Opinions to the EU institutions is important. In order to have the greatest chance to influence the decision-making process, the CoR should forward its Opinion before the EU’s institutions’ positions are established, or even before the internal decision-making procedures of these institutions have started elaborating their positions.

Regarding expertise, the CoR needs to ensure that it provides valuable information and expertise in its Opinions to incentivise the legislative institutions to consider these recommendations. The CoR is an expert on the policy issues most affecting its interests and has technical and specialist information on these topics. However, the results of the analysis showed that this variable only affects the adoption rate of the EP. The CoR is successful in influencing the EP’s position when providing for expertise in its Opinions, but the provision of expertise does not affect the probability of an amendment being adopted by the Commission, the Council, or the final legislative act.

The CoR, as the formal representative of regional and local authorities in the EU’s decision-making process, is expected to exert more influence in regional issues than in other policy issues that fall under co-decision, because it provides for legitimacy in this area of regional policy. The results of the analysis show that
amendments on regional issues have a higher chance of being adopted by the EP, Commission and the final legislative act than amendments on other issues. The EP and the Commission seem to consider the CoR as a legitimacy provider through its recommendations in the co-decision procedure.

Overall, these results show that the CoR exerts influence in the co-decision procedure through influencing the EP’s position. The analysis shows that all explanatory variables have an impact in the case of the EP. By shaping the EP’s legislative position, the CoR can ultimately influence the positions of the rest of the institutions and the content of the final legislative act. Although the study shows that the explanatory variables have not much direct impact on the adoption rates of the Commission and the Council, it also shows that these two institutions are more likely to adopt CoR amendments if they have been adopted by the EP. Hence, if the CoR influences the EP, this influence will also have an indirect impact on the amendment adoption by the Commission, Council, and the final legislative act.

Going back to the research question, ‘how and under which conditions does the CoR influence policy outcomes under the co-decision procedure’, the CoR influences the outcome of the co-decision procedure primarily by influencing the position of the EP. This research shows that the relationship between the CoR and the EP, although not as formally structured as the relationship with the Commission, forms the foundation for the CoR’s influence in the co-decision procedure. The CoR has found in the EP a strong ally to voice its Opinion in the co-decision procedure.

The findings of this research provide for two major contributions to the existing literature on multi-level governance and the Committee of the Regions. Multi-level governance has been constantly criticised because it only describes the EU’s decision-making process, as a political arena where supranational, national and subnational actors participate in the legislative process following informal and formal rules; but this supranational and subnational participation has no significant influence on the legislative outcome.315 The results of this study demonstrate that subnational and supranational participation has influence in the ordinary legislative process of the EU. In the quantitative analysis, I trail the evolution of specific amendments proposed by the CoR to the initial legislative proposal through the co-decision procedure to the

final legislative outcome. By following this evolution, I could perceive which amendments were adopted by which institution. The outcome of the quantitative analysis show that the CoR influences the position of the EP, and to a lesser extent the Commission, and that this influence reflects in the content of the adopted legislation. Therefore, considering the results of the quantitative analysis, it can be said that the participation of the subnational level in the EU’s decision making process is more than participation and that it has an influence in decision-making. Accordingly, it can be argued that the EU’s decision-making is no longer Multi-level participation but that multi-level governance has emerged and is a fact under co-decision.

Regarding the contributions of this research to the broad literature on the Committee of the Regions, which mainly has focused in describing the characteristics of this advisory body. Few scholars have attempted to assess the main role of the CoR as an advisory body to the legislative institutions of the EU. In an effort to fill the gap in this neglected field, I have tried to assess the CoR legislative influence through its Opinions. In the second part of the research, we have seen that the interinstitutional relations of the CoR with the Commission and the EP have evolved and that these two institutions seek the advice and recommendations of the CoR in instances not envisaged by the Treaties. If these two institutions would consider the Opinion of the CoR an insignificant formality, they would not request the CoR’s participation in any issue that would not fall under mandatory referral. While exploring the formal relations of the CoR with the Community institutions, we have also seen that the CoR has developed informal relations. These informal relations should not be neglected because they provide the CoR with the possibility of presenting more general advice and another channel to influence the positions of the legislative institutions. The informal interinstitutional relations of the CoR with the legislative institutions is an aspect that requires further investigation. To assess the influence exerted by the CoR through its Opinions, I have conducted a quantitative analysis of the amendment adoption by the legislative institutions and their incorporation in the final legislative outcome. As stated above, the findings of this analysis show that the CoR influences mainly the EP and this influence translated in the assimilation of its amendments in the legislative act. The results of this research show that the Committee of the Regions has some influence in the legislative process, contrary to the prevalent view in the literature. Although the CoR had a difficult path in its establishment and development, nevertheless it has managed to settle in the institutional structure of the Union. It is
using this institutional position to strengthen its advisory role by using both formal and informal channels to influence the position of the Commission, EP and Council. Even though, most scholars argue that the Opinion of the CoR is a mere formality of the co-decision procedure, the quantitative analysis proves the contrary. The CoR is fulfilling its advisory role not only by forwarding an Opinion in the legislative process, but through this Opinion the CoR is impacting on the position of the legislative institutions, especially the EP, and the legislative outcome. Hence, the CoR through its Opinion, is fulfilling its role of representing regional and local interests at EU level and the influence of this Opinions should not be underestimated.
Bibliography


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## ANNEX I: List of Interviewees

<table>
<thead>
<tr>
<th>Interviewee</th>
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<th>Institution</th>
<th>Date</th>
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<tbody>
<tr>
<td>Interviewee A</td>
<td>Administrator within the Commission for Territorial Cohesion (COTER)</td>
<td>Committee of the Regions</td>
<td>27/4/2009</td>
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<tr>
<td>Interviewee B</td>
<td>Coordinateur of a national delegation</td>
<td>Committee of the Regions</td>
<td>28/4/2009</td>
</tr>
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<td>Interviewee D</td>
<td>Member of Committee for Regional Development and member of the Socialist Group</td>
<td>European Parliament</td>
<td>28/4/2009</td>
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<tr>
<td>Interviewee E</td>
<td>DG Regional Policy</td>
<td>European Commission</td>
<td>28/4/2009</td>
</tr>
<tr>
<td>Interviewee F</td>
<td>Member of Committee for Regional Development and member of ALDE</td>
<td>European Parliament</td>
<td>29/4/2009</td>
</tr>
<tr>
<td>Interviewee G</td>
<td>Member of cabinet of Vice-president of the Commission Margot Wallstrom</td>
<td>European Commission</td>
<td>29/4/2009</td>
</tr>
<tr>
<td>Interviewee H</td>
<td>DG Communication</td>
<td>European Commission</td>
<td>30/4/2009</td>
</tr>
</tbody>
</table>
ANNEX II: The Selection of CoR members by each Member state

<table>
<thead>
<tr>
<th>Member State</th>
<th>Number of members in the CoR</th>
<th>Selected by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>9 Landers</td>
<td>1 member by each Land</td>
</tr>
<tr>
<td></td>
<td>3 Cities and Municipalities</td>
<td>Austrian Federation of Cities and Austrian Federation of Municipalities</td>
</tr>
<tr>
<td>Belgium</td>
<td>5/6 Flanders</td>
<td>Candidates proposed by the regions and communities on the basis of geographical and political criteria.</td>
</tr>
<tr>
<td></td>
<td>3/4 Region of Wallonia</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2 Brussels Capital</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1 German speaking community</td>
<td></td>
</tr>
<tr>
<td>Bulgaria</td>
<td>12 Municipalities</td>
<td>National Association of Municipalities of the Republic of Bulgaria in agreement with the Regional Association of municipalities</td>
</tr>
<tr>
<td>Croatia</td>
<td>9 Local and Regional Authorities</td>
<td>Croatian national associations of local and regional authorities</td>
</tr>
<tr>
<td>Cyprus</td>
<td>3 Municipalities</td>
<td>Union of Cyprus towns</td>
</tr>
<tr>
<td></td>
<td>2 Rural communities</td>
<td>Union of Cyprus communities</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>7 Regions</td>
<td>Association of Regions of Czech Republic</td>
</tr>
<tr>
<td></td>
<td>5 Towns and Municipalities</td>
<td>The Union of towns and municipalities of the Czech Republic</td>
</tr>
<tr>
<td>Denmark</td>
<td>3 Regions</td>
<td>The Association of Danish Regions</td>
</tr>
<tr>
<td></td>
<td>6 Municipalities</td>
<td>The Association of Local authorities</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The cities of Copenhagen and Frederiksberg</td>
</tr>
<tr>
<td>Estonia</td>
<td>3 Cities</td>
<td>Association of Estonian Cities</td>
</tr>
<tr>
<td></td>
<td>3 Rural Municipalities</td>
<td>Association of Rural Municipalities of Estonia</td>
</tr>
<tr>
<td>Finland</td>
<td>1 Autonomous Province Aland</td>
<td>The Association of Finnish Local and Regional Authorities</td>
</tr>
<tr>
<td></td>
<td>4 Regional Councils</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4 Cities and Municipalities</td>
<td></td>
</tr>
<tr>
<td>France</td>
<td>12 Regions</td>
<td>French Federation of Mayors</td>
</tr>
<tr>
<td></td>
<td>6 Departments</td>
<td>The Assembly of French Departments</td>
</tr>
<tr>
<td></td>
<td>6 Municipalities</td>
<td>Association of French Municipalities</td>
</tr>
<tr>
<td>Germany</td>
<td>21 Landers</td>
<td>The Conference of Presidents of the Lander</td>
</tr>
<tr>
<td>Country</td>
<td>Municipalities</td>
<td>Political parties of the Associations of Local and Regional Authorities</td>
</tr>
<tr>
<td>--------------</td>
<td>----------------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Greece</td>
<td>3</td>
<td>The 3 Federations of Local Authorities</td>
</tr>
<tr>
<td>Hungary</td>
<td>12</td>
<td>Local and Regional Authorities</td>
</tr>
<tr>
<td>Italy</td>
<td>14</td>
<td>Conference of Regional Presidents</td>
</tr>
<tr>
<td>Latvia</td>
<td>1</td>
<td>The Association of Local and Regional Authorities</td>
</tr>
<tr>
<td>Lithuania</td>
<td>9</td>
<td>The Lithuanian Association of Local Authorities based on a list proposed by the ten Regional Development Councils</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>5</td>
<td>Luxembourg Union of Local Authorities</td>
</tr>
<tr>
<td>Malta</td>
<td>5</td>
<td>The Local Councils Association</td>
</tr>
<tr>
<td>Netherlands</td>
<td>6</td>
<td>The Association of Provinces of the Netherlands</td>
</tr>
<tr>
<td>Poland</td>
<td>10</td>
<td>10 by the Union of Regional Authorities</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>3 by the Association of Polish Towns</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 by the Union of Polish Counties</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 by the Union of Polish Metropolis</td>
</tr>
<tr>
<td>Country</td>
<td>Municipalities</td>
<td>Association</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Portugal</strong></td>
<td>2</td>
<td>Autonomous Regions of Azores and Madeira, The State Secretariat for Local Administration after consulting the National Association of Portuguese Municipalities</td>
</tr>
<tr>
<td><strong>Romania</strong></td>
<td>6</td>
<td>National Union of County Councils, These four associations represent the Romanian Local authorities</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Romanian Association of municipalities</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Romanian Association of Towns</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Romanian Association of Communes</td>
</tr>
<tr>
<td><strong>Slovakia</strong></td>
<td>5</td>
<td>Regional Authorities, The Union of Towns and Cities of Slovakia</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Local Authorities, The Association of Cities and Municipalities of Slovakia, The President of the 8 Autonomous Regions</td>
</tr>
<tr>
<td><strong>Slovenia</strong></td>
<td>7</td>
<td>Local Communities, Municipality Community of Slovenia, Municipality Association of Slovenia</td>
</tr>
<tr>
<td><strong>Spain</strong></td>
<td>17</td>
<td>Autonomous Communities, 1 per region nominate by the region</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Municipalities, The Spanish Federation of Provinces and Municipalities</td>
</tr>
<tr>
<td><strong>Sweden</strong></td>
<td>4</td>
<td>County Council, Association of Local and Regional Authorities</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>Municipalities</td>
</tr>
<tr>
<td><strong>United Kingdom</strong></td>
<td>16</td>
<td>England, The English Regional Chambers/Association &amp; Greater London Authority, The Local Government Association</td>
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<tr>
<td></td>
<td>2</td>
<td>Wales, The Assembly, The Welsh Local Government Association</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Northern Ireland, The Assembly</td>
</tr>
<tr>
<td>The Northern Ireland Local Government Association</td>
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</tbody>
</table>
ANNEX III: Co-decision cases analysed in this study

<table>
<thead>
<tr>
<th>Year</th>
<th>Name of legislation</th>
<th>Number of amendments</th>
<th>Type of consultation</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>Directive on common standards and procedures in Member states for returning illegally staying third country nationals <strong>COM(2005)391 2005/0167/COD</strong></td>
<td>11</td>
<td>Optional</td>
</tr>
<tr>
<td>Year</td>
<td>Directive</td>
<td>Paragraphs</td>
<td>Status</td>
</tr>
<tr>
<td>------</td>
<td>-----------</td>
<td>------------</td>
<td>--------</td>
</tr>
<tr>
<td>2005</td>
<td>Directive on the coordination of certain provisions laid down by law, regulation or administrative action in Member states concerning the pursuit of television broadcasting activities COM(2005)646 2005/0260/COD</td>
<td>10</td>
<td>Optional</td>
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<tr>
<td>2006</td>
<td>Regulation establishing the European Institute of Innovation and Technology COM(2006)604 2006/0197/COD</td>
<td>4</td>
<td>Optional</td>
</tr>
<tr>
<td>Year</td>
<td>Title</td>
<td>Code</td>
<td>Status</td>
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<tr>
<td>------</td>
<td>----------------------------------------------------------------------</td>
<td>----------------</td>
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</tbody>
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Note: Although the CoR responds to 12 co-decision consultations in 2005, it only provided 6 opinions with specific amendments.