

A Quarter-Century Activity of the Committee of the Regions of the European Union

Anna Przyborowska-Klimczak

Maria Curie-Skłodowska University, Poland

Abstract

The Committee of the Regions was established on the basis of the Maastricht Treaty of 7 February 1992, and began operating in March 1994. It consists of representatives of regional and local authorities who have obtained electoral mandates from the communities they represent. The number of members of the Committee was set for individual Member States and it was assumed that its composition should not exceed 350 members. The organizational structure and principles of the Committee's operation are set out in its Rules of Procedure. The Committee is an advisory body consulted by the European Parliament, the Council and the Commission. It prepares opinions as part of obligatory, optional and own-initiative procedures. It can also adopt resolutions and prepare reports, analyses and outlook opinions. The Committee has the right to bring cases before the Court of Justice of the European Union in order to protect its prerogatives and to apply the principles of subsidiarity and proportionality.

Keywords: Committee of the Regions, European Union, opinions, decision-making process in the European Union

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Introduction

The institutional system of the European Communities and the European Union was subject to numerous changes related to the creation of new organizational structures, extending the scope of activities of institutions and bodies and equipping them with new competences, as well as increasing their composition in connection with the accession of new states to the Communities and the Union. The legal basis for these changes were primarily revision treaties, while detailed regulations were included in secondary legislation. The development of regional policy and the growing significance of regional and local authorities in the Member States of the European Communities have led to establishing a body that would represent these authorities at the community level (Bielecka 2007, 37–44). This was achieved by introducing three new articles on the basis of the Maastricht Treaty of 7 February 1992 into the Treaty establishing the European Community: 198a, 198b and 198c, which concerned the establishment of the Committee of the Regions.¹ The Treaty of Maastricht came into force on 1 November 1993, and the Committee of the Regions began its activity in March 1994.

1 Changes in the composition of the Committee of the Regions

In the provisions of art. 198a TEC the composition of the Committee of the Regions was defined. It was decided that it would consist of representatives of local and regional authorities, and their number in relation to 12 Member States that were then members of the European Communities was defined as follows: 24 members each—France, Germany, Italy, Great Britain; 21 members—Spain;

1. See: Treaty on European Union. OJ C 191, 29.7.1992, pp. 1–112.

E-mail addresses of the authors

Anna Przyborowska-Klimczak: aprzyborowska@poczta.umcs.lublin.pl

12 members each—Belgium, Greece, the Netherlands, Portugal; 9 members each—Denmark and Ireland; 6 members—Luxembourg; a total of 189 members. It was also agreed that the Committee members and their alternates, in the same number, would be appointed by the Council, acting unanimously, on proposal from the respective Member States. The term of office of the Committee members was set at four years, with the possibility of renewing the mandate. It was important to emphasize the independence of Committee members in the performance of their functions, expressed in the statement that they are not bound by any instructions and should act in the general interest of the Community (Cole 2005, 60).

The arrangements for membership of the Committee were repeated in the Treaty of Amsterdam and included in art. 263 TEC.² In connection with the accession on 1 January 1995 to the Communities and the Union of Austria, Finland and Sweden, the composition of the Committee has grown to 222 members. While maintaining the current number of members in relation to 12 states, the inclusion of 12 members from Austria and Sweden and 9 members from Finland was taken into account. In art. 263 it was added that membership of the Committee cannot be combined with membership of the European Parliament.

Larger changes were introduced to art. 263 TEC by virtue of the Treaty of Nice.³ Leaving the current allocation of seats between Member States, it was agreed that the number of Committee members may not exceed 350. It was also noted that members representing regional and local communities should have electoral mandates of these communities or be politically accountable to the elected assembly. There was also a change regarding the composition of the Committee by the Council. Instead of the unanimity previously provided for, it was decided that the Council would accept the list of members and their alternates by qualified majority, taking into account the proposals made by the Member States. The provision was also incorporated into art. 263 TEC according to which membership in the Committee was closely related to the term of office, on the basis of which its members were proposed to the Committee and ceased when it terminated. It was also indicated that the same procedure as for forming the composition of the Committee applies to filling vacancies for the remainder of the term of office. The principle of incompatibility of membership in the Committee of the Regions and the European Parliament was repeated.

In connection with the anticipated accession to the European Union of the candidate states, the Declaration on the enlargement of the European Union, adopted together with the Treaty of Nice, defined the number of members in the Committee of the Regions for 27 countries, including 12 candidate states. Keeping the allocation of seats for the existing Member States, it was planned in the following way: for Poland—21 members; for Romania—15 members; 12 members for Bulgaria, the Czech Republic, Hungary; 9 members for Lithuania and Slovakia; 7 members for Estonia, Latvia and Slovenia; for Cyprus—6 members; and for Malta—5 members. With this division, the number of members of the Committee increased to 344, within limit 350 seats.⁴ Due to the fact that the enlargement initially extended to 10 states (excluding Bulgaria and Romania), after their accession the Committee consisted of 317 members.

Subsequent changes concerning the composition of the Committee of the Regions were introduced by the Treaty of Lisbon.⁵ The provisions laying down rules relating to the composition of the advisory bodies of the Union: the Economic and Social Committee and the Committee of the Regions have been included in Article 300 of the Treaty on the functioning of the Union. While retaining the existing representative profile of the Committee of the Regions in relation to local and regional communities, it was decided for both bodies that the rules on their composition would be reviewed by the Council at regular intervals to take account of the economic, social and demographic development taking place in the European Union. The Council's position is to be expressed

2. See: Treaty establishing the European Community (Consolidated version 1997). OJ C 340, 10.11.1997, pp. 173–306.

3. See: Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts. OJ C 80, 10.3.2001, pp. 1–87.

4. See: Treaty of Nice amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts. Declarations adopted by the Conference. Declaration on the enlargement of the European Union. OJ C 80, 10.3.2001, pp. 80–84.

5. See: Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007. OJ C 306, 17.12.2007, pp. 1–271.

in decisions adopted on the Commission's proposal. With reference to this article, in art. 305 TFEU, it is provided that the composition of the Committee shall be determined by a decision of the Council, taken unanimously on a proposal from the Commission, with up to a maximum of 350 members. The other change introduced by the Treaty of Lisbon concerned the extension of the term of office of the members of the Committee of the Regions (and the Economic and Social Committee) to 5 years, in order to apply the same duration of the term of EU institutions and bodies (Mandrino 2008, 524–525). However, the regulations regarding the consideration of the states' proposals while setting the list of Committee members, renewal and termination of the members' office and the completion of composition of the Committee remained unchanged.

The current composition of the Committee of the Regions has been determined on the basis of Council Decision 2014/930/EU of 16 December 2014.⁶ Under this Decision, particular states have the following number of members: 24—France, Germany, Great Britain, Italy; 21—Spain, Poland; 15—Romania; 12—Austria, Belgium, Bulgaria, the Czech Republic, Greece, the Netherlands, Portugal, Sweden, Hungary; 9—Croatia, Denmark, Finland, Ireland, Lithuania, Slovakia; 7—Latvia, Slovenia; 6—Estonia; and 5—Cyprus, Luxembourg, Malta. It was also stated that the decision was transitional and was adopted in order to solve the problem that arose in connection with the findings of the subsequent intergovernmental conferences and defining in art. 305 TFEU, the number of 350 members of the Committee as the maximum number of its members. It should be noted that after the accession of Croatia to the European Union on 1 July 2013, it gained 9 seats in the Committee of the Regions, and the number of its members increased to 353. In Council Decision 2014/930/EU, the delegation of Estonia is therefore expected to lose one seat, as well as the delegations of Cyprus and Luxembourg. It can also be noted that a draft Council decision was prepared regarding the composition of the Committee of the Regions, after the end of its current term of office on 25 January 2020, which took into account the UK's withdrawal and the release of 24 its seats in the Committee.

2 Shaping the internal structure and organization of work of the Committee of the Regions

Regulations regarding the internal structure and organization of work of EU institutions and bodies are set out in their internal regulations. The first provisions on the regulations of the Committee of the Regions were included in 198b TEC, introduced by the Treaty of Maastricht. It was then decided that the Committee of the Regions would adopt its own Rules of Procedure, which requires approval by the Council acting unanimously. Independence in deciding on regulatory matters was obtained by the Committee under the Treaty of Amsterdam, because in art. 264, in the wording given by this Treaty, it was decided that the Committee shall itself establish its own Rules of Procedure (Högenauer 2008, 540). The Rules of Procedure currently in force have been adopted by the Committee pursuant to art. 306 TFEU on 31 January 2014.⁷ It is a comprehensive document consisting of 84 articles, contained in three titles concerning members and constituent bodies of the Committee, its organization and procedures well as its general provisions.

According to art. 1 of the Rules of Procedure, the bodies of the Committee of the Regions are: the Plenary Assembly, the President, the Bureau, the Conference of Presidents and the Commissions. The Plenary Assembly is made up of all members of the Committee. Members and alternate members, coming from one Member State, form a national delegation, headed by its Chairman, elected by members of their delegation. Members and alternate members can form political groups that bring together people with similar political views. Groups consist of at least eighteen Committee members or alternates (at least half of the group should be members of the Committee) who represent a total of at least one fifth of the Member States. The Committee currently has five political groups: the European People's Party (EPP), the Party of European Socialists (PES), the Alliance of Liberals and Democrats for Europe (ALDE), the European Alliance (EA) and the

6. See: 2014/930/EU: Council Decision of 16 December 2014 determining the composition of the Committee of the Regions. Official Journal of the European Union, L 365/143, 19.12.2014, pp. 143–144.

7. See: Rules of Procedure. OJ L 65, 5.3.2014, pp. 41–64.

European Conservatives and Reformists (ECR). Members and their alternates may also create inter-regional groups. They have been created since February 2007 and provide a forum for exchanging views and preparing projects in which members of delegations from different countries participate. An interregional group should consist of at least ten members from at least four national delegations or from a group of regions involved in cross-border cooperation. The following interregional groups operate currently: Adriatic and Ionian Seas, Alpine Region, Baltic Sea Regions, Brexit, Carpathians, Cross-border Cooperation, Future of the Automotive Sector, Health, Insular Regions, Less developed Regions, Nord Stream 2, Regions with legislative power, Saarland Lor-Lux.

The Assembly meets in plenary sessions at least once a quarter. In practice, the Committee holds five or six plenary sessions a year. Extraordinary sessions may also be convened by the Chairman, at the request of at least one-quarter of the Committee members, to consider the matter set out in the motion. The tasks of the Plenary Assembly include: adoption of opinions, reports and resolutions, adoption of the political programme of the Committee at the beginning of every term, election of the President, the first Vice-President and the remaining members of the Bureau, setting up commissions responsible for particular policy areas, adopting the draft estimates of expenditure and revenue of the Committee, introducing changes and agreeing on the Committee's Rules of Procedure. The Assembly takes its decisions by a majority of the votes cast, unless the regulations provide otherwise.

The President of the Committee is elected by the members of the Committee from among themselves to perform this function for two and a half years. Since July 2017 Karl-Heinz Lambertz from Belgium has been the President of the Committee. The composition of the Bureau of the Committee has been specified in art. 30 of the Rules of Procedure, according to which it is made up of the President, the first Vice-President, one Vice-President per Member State, twenty-eight other members and the chairmen of the political groups. This composition is set for two and a half years. The main task of the Bureau is to organize and coordinate the work of the Plenary Assembly and the commissions. In addition, the Bureau prepares a political programme and a draft estimate of the Committee's revenue and expenditure, establishes working groups and consultative teams.

In addition to the Bureau of the Committee, there is also the Conference of Presidents, composed of: the President, the first Vice-President and the chairmen of the political groups. During the meetings of the Conference, matters put forward by the President are discussed and the decisions are taken subsequently by other Committee bodies. The purpose of these meetings is to prepare and facilitate the achievement of political agreement in relation to these matters (Apostolache 2014, 31).

An important role in the functioning of the Committee of the Regions is played by commissions, created at the beginning of each five-year term of the Assembly, which defines their composition and scope of their activity. Members of the Committee are required to participate in at least one commission, and at most in two. Currently, there are six commissions: Commission for Citizenship, Governance, Institutional and External Affairs (CIVEX); Commission for Territorial Cohesion Policy and EU Budget (COTER); Commission for Economic Policy (ECON); Commission for the Environment, Climate change and Energy (ENVE); Commission for Natural Resources (NAT); Commission for Social Policy, Education, Employment, Research and Culture (SEDEC). During the first commission meeting, its members elect their chairman, the first vice-chairman and no more than two other vice-chairmen. The chairman of the commission, in agreement with the first vice-chairmen, sets the dates of the meetings and the agenda of the commission and convene the meetings. Commissions may, with the approval of the Bureau, set up working groups. The main task of the commission is to prepare draft opinions, reports and resolutions and submit them to the Plenary Assembly.

Administrative support of the Committee of the Regions is provided by its Secretariat-General, based in Brussels. On the basis of the Amsterdam Treaty, the pre-existing administrative links between the Committee of the Regions and the Economic and Social Committee have been abolished. The Secretariat is directed by a Secretary-General who is recruited on the basis of a decision of the Bureau taken by a two-thirds majority of the votes cast. The Secretary is employed for five years, with the possibility of a one-time extension of employment, for a maximum of five years (currently

Jiří Buriánek from the Czech Republic is the Secretary-General). The Bureau establishes the internal organization of the Secretariat and the scope of its tasks in relation to Committee members, national delegations and political groups. Pursuant to the Rules of Procedure, the Secretariat-General draws up the minutes of the meetings of the Committee's constituent bodies. The Committee of the Regions prepares its estimate of expenditure and revenue, which shall be included in the draft budget of the European Union, in accordance with Article 314 paragraph 1 TFEU.

3 Expanding the competences of the Committee of the Regions

The Committee of the Regions was created as an advisory body and its competences in this area were modeled on the competences conferred on the Economic and Social Committee, established on the basis of the Rome treaties of 25 March 1957: Article 242 of the Treaty establishing the European Economic Community and Article 210 of the Treaty establishing the European Atomic Energy Community. At present, confirmation of the consultative role of both committees, consisting of supporting the European Parliament, the Council and the Commission, is contained in art. 13 paragraph 4 TEU. The Committee of the Regions' participation in the EU legislative process consists in the issuing of opinions at the request of the Council, the Commission and the European Parliament and of its own initiative. Opinions issued at the request of the EU institutions are realized as part of mandatory consultations, in all cases provided for in the Treaties, and as part of optional consultations.

The scope of obligatory consultations, defined in the Maastricht Treaty, included seven areas closely related to the competences of local and regional authorities: education and youth, culture, public health, trans-European networks, economic and social cohesion, structural funds and the European Regional Development Fund. Consultations were carried out in relation to the activities of the Council and the Commission. Under the Treaty of Amsterdam, the scope of mandatory consultations has been extended by extending them to five more areas: transport, employment, social policy, the European Social Fund and the natural environment. It was also decided that, in addition to the Council and the Commission, the European Parliament would also be holding consultations with the Committee of the Regions. Optional consultations are conducted when one of the institutions finds them justified, in particular in relation to acts connected with cross-border cooperation (Mik 2006, 228–229). Such consultations may also be taken during consultations with the Economic and Social Committee under Article 304 TFEU, if the Committee of the Regions considers that the consulted matter is of particular importance for regional interests (Sobolewski 2011, 227–228).

The consultative activity may also be taken by the Committee of the Regions, of its own initiative, when the Committee deems it appropriate to issue an opinion. The Committee's consultative function is implemented in accordance with the established procedure. The matter is directed to the Committee commission responsible for the specific policy area related to the case. The Commission appoints a rapporteur from among its members who prepares a draft opinion on the legislative proposal. The opinion should include the views and recommendations of the Committee in a given case, as well as proposals for changes that should be made to the document in question. If the legislative act concerns areas in which the Union has no exclusive competence, the opinion should also comprise the assessment of its compliance with the principles of subsidiarity and proportionality. The draft opinion is put to the vote during the Committee's plenary sessions. Acceptance of the opinion takes place by a majority of votes. Then the opinion is circulated to other EU institutions.

The Committee of the Regions also issues opinions on the Commission reports submitted every three years to the Committee on progress in achieving economic, social and territorial cohesion, in accordance with Article 175 TFEU. In addition to opinions addressed to EU institutions, the Committee of the Regions may also issue other acts: resolutions, reports and impact analyses (Truskolaski and Waligóra 2012, 30). In resolutions, the Committee presents its position on current issues important to local and regional communities. The content of the resolution is presented by the President during plenary sessions of the Committee of the Regions. Reports and analyses are prepared on the impact of EU policies on the functioning of local and regional communities,

usually before the publication of the Commission's proposal on such matters. The Committee of the Regions can also prepare outlook opinions, which are developed on the basis of the experience of Member States, and their aim is to contribute to the development of EU policies (Karski 2013, 225). Documents developed by the Committee of the Regions may also be addressed to external entities. The opinions, reports and resolutions of the Committee are published in the Official Journal of the European Union.

A significant impact on strengthening the position of the Committee of the Regions in the European Union institutional system was when it was granted, pursuant to the Treaty of Lisbon, the right to bring complaints before the Court of Justice of the European Union in order to protect the Committee's prerogatives. A complaint may be lodged when the Committee of the Regions has not been consulted and the draft legislative act required mandatory consultation with the Committee. It can be noted that the Committee of the Regions is defined, in the scope of referring these complaints, as a privileged plaintiff as it can lodge complaints to protect its own rights infringed upon issuing a specific act and not to ensure the proper form of EU law (Karski 2013, 255; Kuligowski 2015, 115–116).

The possibility for the Committee of the Regions to bring a complaint before the Court of Justice was also provided for in Protocol No. 2 on the application of the principles of subsidiarity and proportionality attached to the Treaty of Lisbon.⁸ It concerns complaints against legislative acts that violate these principles if adoption of acts required consultation with the Committee (Kornobis-Romanowska and Łacny 2012, 824).

4 The role of the Committee of the Regions

When evaluating the activities of the Committee of the Regions from the perspective of 25 years of its functioning in the Community and EU structures, it should be emphasized that its main aim remains the preparation of opinions. The scope of the Committee's participation in the decision-making processes is wide, since about 70 percent of EU legislation affects the regional and local level. It should be noted that the opinions of the Committee are not binding, but when the Committee is not consulted in the decision-making process it may constitute the basis for bringing a complaint before the Court of Justice to annul an EU act (Kornobis-Romanowska and Łacny 2012, 824). The consultative activity within the framework of obligatory, optional and accessory consultations and undertaken of its own initiative covers many areas of EU policies important for members of regional and local communities. The number of opinions issued by the Committee in individual years varies and ranges from 44 to 80 opinions per year (Guziejewska 2018, 127).

The Committee is working to improve the quality of opinions. In 2006, a model of opinions prepared by the Committee was adopted on the basis of the ordinance of the Bureau of the Committee on January 1, 2007 (Kuligowski 2015, 93–96). The purpose of this model is to unify and ensure greater transparency of the content of the opinion, *inter alia* by separating political recommendations from procedural remarks, by defining mandatory and optional elements of the opinion, by taking care to present in a synthetic and clear way the main demands, clearly distinguishing the amendments proposed to the reviewed draft of legislative acts. The changes introduced in this area were responsible for the fact that the opinions issued are more concise and better understood by a wider circle of people familiarizing themselves with their content, and the Committee's position is presented in a factual manner, indicating, if necessary, proposals for concrete changes. The main reason for adopting this model was to increase the effectiveness of the Committee of the Regions' opinions on the decision-making processes of the European Union.

The issue of the impact of the Committee of the Regions' opinions on the legislative process is monitored by the Committee itself (Guziejewska 2018, 129). The Secretary-General of the Committee is required to submit to the Plenary Assembly, at least once a year, a report on the effects of the Committee's opinion. The report is prepared on the basis of information received from relevant

8. See: Consolidated version of the Treaty on the Functioning of the European Union. PROTOCOLS. Protocol (No 2) on the application of the principles of subsidiarity and proportionality. OJ C 326, 26.10.2012, pp. 206–209.

commissions of the Committee and EU institutions. The Committee's press department, in order to obtain up-to-date data on the role of the opinion, monitors the messages made available by the media. In addition, the European Commission is preparing reports on follow-up activities in relation to the opinions of the Committee of the Regions.

The cooperation agreements concluded by the Committee with the EU institutions and bodies also contribute to improving the Committee's operations. The principles for cooperation between the Committee and the EU institutions are set out in the Cooperation Protocol between the European Commission and the Committee of the Regions of 16 February 2012⁹ and in the Cooperation Agreement between the European Parliament and the Committee of the Regions of 5 February 2014.¹⁰ The advisory committees have concluded an Agreement on Administrative Cooperation, which came into force on 1 January 2016.¹¹

Conclusions

During the 25-year period of activity of the Committee of the Regions, a clear tendency to increase its impact on the decision-making process has emerged. It applies both to the early stage of inter-institutional decision-making procedures, as well as the adoption of legal acts by the European Union institutions and the development of comprehensive EU strategies. The effects of the Committee's opinion may be more properly evaluated in the longer term. In addition to influencing the legislative process of the European Union, opinions are also used to construct comprehensive strategies relating to various activities and policies in which it is important to take into account the regional and local point of view.

The Committee aptly described its role in the Declaration of Mission adopted on 21 April 2009. It states that meeting the challenges of globalization requires cooperation at European, national, regional and local levels. In a globalized world, Europe should remain "united in its diversity," because its strength and wealth and the guarantee of the identity of its citizens constitute territorial, cultural and linguistic diversity. The Declaration also stresses the importance of respecting the principles of subsidiarity and proportionality to ensure that decisions are taken and implemented as closely as possible to citizens. The Committee of the Regions also confirmed its will to act "for the harmonious and balanced development of all territorial units" and pointed to the need to ensure autonomy for regional and local authorities.

In order to promote cooperation and exchange of experience between these authorities, the Committee creates various types of platforms, networks and fora, and develops partnerships with representative organizations of these authorities. Over the quarter-century of its activity, the Committee of the Regions has demonstrated that its role as a representative and spokesperson for local and regional authorities is important, especially since the European Union consistently strives to strengthen the "regional mandate" of the representatives of the Member States. It seems that this goal should also be seen as one of the priorities in the debate on the future of the Union and have a significant impact on the shape of its reform.

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9. See: Protocol on cooperation between the European Commission and the Committee of the Regions. Official Journal of the European Union, C 102/6, 5.4.2012, p. 6–10.

10. See: Report on the implementation of the Cooperation Agreement between the European Parliament and the European Committee of the Regions. [@:] <http://www.europarl.europa.eu/cmsdata/113724/Report%20Impl%20Coop%20Agreement%20EP%20CoR%202016.pdf>.

11. See: Administrative Cooperation Agreement between the European Economic and Social Committee and the Committee of the Regions. July 2015, [@:] <https://www.eesc.europa.eu/sites/default/files/resources/docs/cooperation-agreement-eesc-cor---en.docx>.

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