

Between Democracy and Technocracy: The Paradox of the functioning of the European Committee of the Regions

Między demokracją a technokracją: paradoks funkcjonowania Europejskiego Komitetu Regionów

Abstract:

The aim of the present paper is to analyse the consequences of the construction of membership in the European Committee of the Regions. To be a member of this body, one must have a democratic mandate at a local or regional level. This should bring the citizens closer to the European Union and therefore, reduce the democratic deficit. However, it all depends on the actual model of the functioning of the European Committee of the Regions. In practice, it can be described as technocratic rather democratic, which is a great paradox. Such a conclusion has been drawn on the basis of the author's own empirical research.

Keywords: Committee of the Regions, European Union, democracy, technocracy, democratic deficit

Streszczenie:

Celem niniejszego artykułu jest analiza konsekwencji konstrukcji mandatu członka Europejskiego Komitetu Regionów. Aby nim zostać, należy sprawować demokratyczny mandat na poziomie lokalnym lub regionalnym. Taki stan rzeczy powinien prowadzić to zmniejszenia dystansu między Unią Europejską a jej obywatelami, a tym samym do zmniejszenia deficytu demokratycznego. Zależy to jednak od rzeczywistego modelu funkcjonowania Europejskiego Komitetu Regionów. W praktyce można go określić bardziej jako technokratyczny, aniżeli demokratyczny, co jest istotnym paradoksem. Zaprezentowane wnioski oparte są na badaniu empirycznym Autora.

Słowa kluczowe: Komitet Regionów, Unia Europejska, demokracja, technokracja, deficyt demokratyczny

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1. Introduction

The European Committee of the Regions (hereinafter CoR²) can be seen as a unique element of the European Union's (hereinafter EU) institutional system. While being only the advisory body, it also has the democratic legitimacy. That is so because of the fact that in order to be the CoR's member (or alternate), one must hold the democratic mandate at the local or regional level³. This situation gives the CoR a chance to portray itself as the voice of the citizens⁴. Moreover, it is often hypothesised that the CoR can also underline its role in the matter of reducing the democratic deficit in the EU⁵. This is, at least, the theoretical assumption. In order to verify that, one should analyse the CoR's functioning. The paper is structured as follows: in the section 2, the general information about CoR is presented. Section 3 focuses on the theoretical assumptions of CoR's democratic functioning, while section 4 tries to show the actual picture in that matter, basing on *inter alia* the Author's own empirical research. The explanation of the current state of affairs is included in section 5. Finally, section 6 contains conclusive remarks.

2. The Committee of the Regions as the advisory body of the European Union

In its own words, the CoR is “is the voice of regions and cities in the European Union (EU). It represents local and regional authorities across the European Union and advises on new laws that have an impact on regions and cities”⁶. In the legal terms, one cannot describe the CoR as an institution, because this term has its specific meaning within the EU law. According to the Art. 13.1 of the Treaty on the European Union (hereinafter TEU) the status of the institution is reserved for: European Parliament (hereinafter EP), European Council,

² The official name of the analysed body is “Committee of the Regions”. Therefore, its official abbreviation is “CoR”. The name “European Committee of the Regions” was used in the title of the paper to make it more inclusive, especially for the people who do not have precise knowledge about the European Union's institutional system. The CoR itself uses the name “European Committee of the Regions” in its opinions and resolutions. In the further parts of the paper, the official abbreviation will be used.

³ E. Borghi, *The development of the Committee of the Regions*, in: *Governing Europe under a Constitution*, ed. by H. J. Blanke, S. Mangiameli, Heidelberg 2006, p. 447.

⁴ S. F. Nicolosi, M. Lisette, *The European Committee of the Regions as a watchdog of the principle of subsidiarity*, „Maastricht Journal of European and Comparative Law” 2020, no. 3, p. 289.

⁵ I. Pietrzyk, *Polityka regionalna Unii Europejskiej i regiony w państwach członkowskich*, Warszawa 2000, p. 267.

⁶ URL: <https://cor.europa.eu/en/about/Pages/default.aspx> [last viewed 15.10.2021].

Council, European Commission (hereinafter EC), Court of Justice (hereinafter ECJ), European Central Bank and Court of Auditors⁷. When it comes to the CoR, Art. 13.4 TEU states that the EP, the Council and the EC “shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity”. So, the TEU provisions determine the main function of the CoR, but do not give the answer to the question of its institutional character. Therefore, one must take a look at the Treaty on the functioning of the European Union (hereinafter TFEU). The third chapter of this treaty, which regulates the status of the Economic and Social Committee (hereinafter ESC) and the CoR, is entitled “the Union’s advisory bodies”⁸. Hence, the CoR should be described as “body”. Since its establishment, the CoR has been consequently demanding to become an institution⁹. This is not only the matter of a prestige, but also a sign of influence.

The CoR was established by the Treaty of Maastricht and held its first session in early 1994¹⁰. However, the circumstances which led to that point can be traced back to the Single European Act¹¹. Although this treaty has had a significant impact on the European regions, the latter have not been granted the opportunity to be a part of the decision-making process. This problem has been noticed by the European institutions, which has led to the establishment of the Consultative Council of the Local and Regional Authorities as the EC’s consultative body. The Consultative Council consisted of 21 members (and 21 alternates) recommended by either the Assembly of European Regions or the Council of European Municipalities and Regions¹². What is worth noticing, holding a democratic mandate at the regional or local level was necessary to become the member of the Consultative Council. Creating the latter was the first step in the process of giving voice to the regions at the European level, but the regions did not want it to be the last one. Especially the regions from the federal states (Germany, Belgium and – to some extent – Spain) expressed the demand to establish the new European institution, which – according to the most ambitious plans - would be the “third chamber” of the European legislature (with the EP and the Council being the other two).

⁷ Consolidated Version of the Treaty on European Union [2012] OJ C 326/01.

⁸ Consolidated Version of the Treaty on the functioning of European Union [2012] OJ C 326/01.

⁹ I. Pietrzyk, *Polityka regionalna Unii ...*, p. 268.

¹⁰ Komitet Regionów, *Daty o kluczowym znaczeniu dla historii Komitetu Regionów. 1994-2007*, Luksemburg 2007, p. 5.

¹¹ M. Bielecka, *Komitet Regionów Unii Europejskiej a integracja europejska*, Warszawa 2006, p. 40.

¹² B. Millan, *The committee of the regions: In at the birth*, „Regional & Federal Studies” 1997, no. 1, p. 5.

What came out of these plans was a compromise between regional, national and European interests. According to the Treaty of Maastricht, the CoR was a consultative body to the EC and the Council¹³. It has consisted of 189 members (and the same number of alternates) representing the regional and local level, elected for the 4-year term. However, they did not have to hold the democratic mandate. The CoR has been structurally connected to its “twin brother”, the ESC, sharing together the administrative staff and the budget¹⁴. The election procedure of the CoR’s members and alternates was also copied from the ESC. The CoR has got the right to enact its own rules of procedure, but in order to enter into force it had to be later approved by the Council¹⁵.

Regarding the advisory function, the four procedures of consultation were established. Firstly, the obligatory consultations – whenever the TFEU regulations make it necessary (for instance, the cohesion policy or structural funds). Secondly, the elective consultations – whenever one of the concerned EU institutions find it desirable. Thirdly, the accessory consultations – whenever the ESC is being consulted, the CoR can adopt the opinion on the same matter as well, if – in the CoR’s opinion - the consulted act could have significance for the “specific regional interests”¹⁶. Lastly, the CoR has got the right to adapt the opinions on its own account.

As one can notice, the institutional status of the CoR after the Treaty of Maastricht did not fulfil all of the regions’ demands. Therefore, they have started to call repeatedly for the CoR’s reform during every Intergovernmental Conference. It may be worth to look at the most significant changes to the CoR’s position within the EU’s institutional system. Due to the provisions of the Treaty of Amsterdam, the CoR has gained the right to be consulted by the EP¹⁷. The Council was stripped of the competence to approve the adoption of the CoR’s rules of procedure. Moreover, the CoR and the ESC were separated, each having its own administrative staff and budget. The Treaty of Nice has brought one major change to the CoR. From this moment, in order to become

¹³ R. McCarthy, *The Committee of the Regions: an advisory body’s tortuous path to influence*, „Journal of European Public Policy” 1997, no. 3, p. 40.

¹⁴ W. Carroll, *The Committee of the Regions: A Functional Analysis of the CoR’s Institutional Capacity*, „Regional & Federal Studies” 2011, no. 3, p. 344.

¹⁵ A. Reilly, *The Committee of the Regions, sub-national governments and the IGC*, „Regional & Federal Studies” 1997 no. 3, p. 137.

¹⁶ A. Sobolewski, *Komitet Regionów w systemie decyzyjnym Unii Europejskiej*, „Przegląd Naukowy Disputatio” 2012, no. 1, p. 232.

¹⁷ P. Kaniok, L. Daďová, *Committee of the Regions: From Advisory Body to the Second Chamber of the European Parliament?* „Transylvanian Review of Administrative Sciences” 2013, no. 5, p. 123.

a member of CoR (or an alternate), one must hold the democratic mandate at the local or regional level. As it was mentioned, such obligation did not exist previously. Nevertheless, even then the majority of the members and alternates have held the democratic mandate¹⁸. Latest changes to the CoR's position were introduced by the Treaty of Lisbon. The CoR was given the status of the "guardian of the subsidiarity principle"¹⁹. Therefore, it got the right to bring an action for the infringement of this principle before the ECJ. Moreover, the CoR can also take such steps concerning the protection of its prerogatives. Lastly, the CoR's term of office was extended to five years²⁰. When comparing the evolution of the institutional status of the ESC and the CoR, one can notice that the latter has been developing more quickly and significantly. Therefore, today the CoR has better institutional position than ESC. However, it still does not have the status of EU institution. Hence, in any future discussion on the changes of the Treaty, the CoR will be demanding to change that.

After presenting the formal side of the CoR's position within the EU's institutional system, one should also take a look at the actual state of affairs. In CoR's case, it all comes down to the relations with the EC, the EP and the Council. Without a doubt, the CoR has the best relations with the EC. The latter has supported the CoR from the beginning. During the CoR's sessions, one of the commissioners is usually present²¹. Moreover, it is the EC who is consulting the CoR most often. The vast majority of the CoR's resolutions are *de facto* addressed to the EC. The mutual relations are regulated by the Cooperation Agreement signed in 2012²². The good relations between the CoR and the EC can be explained mostly by the EC's willingness to strengthen its legitimacy through the close cooperation with the CoR, whose members and alternates hold the democratic mandate at the local and regional level²³. This also leads to strengthening of EC's position within the EU's institutional system – especially when it comes to the relations with the Council. From the CoR's perspective, the cooperation with the EC is a chance to influence the European decision-

¹⁸ R. Kuligowski, *Komitet Regionów jako organ doradczy Unii Europejskiej*, Białystok 2015, p. 27.

¹⁹ J. Jones, *The Committee of the Regions, subsidiarity and a warning*, „European Law Review” 1997, no. 22, p. 312.

²⁰ P. Kaniok, L. Dadová, *Committee of the ...*, p. 125.

²¹ E. Domorenok, *The Committee of the Regions: in Search of Identity*, „Regional & Federal Studies” 2009, no. 1, p. 156.

²² Protocol on cooperation between the European Commission and the Committee of the Regions [2012] OJ 102/6.

²³ A. Warleigh, *A Committee of No Importance? Assessing the Relevance of the Committee of the Regions*, „Political Studies Association” 1997, no. 2, p. 104.

-making process. Hence, the CoR has been described by the scholars as the “EC’s baby”²⁴.

Relations between the CoR and the EP can also be assessed as good – but not as good as those with the EC. The EP has also supported the establishment of the CoR, but during the first years of the latter’s functioning, the EP has not been showing much enthusiasm, mainly due to the CoR’s “parliamentary ambitions”²⁵. Later, the problem of lack of mutual trust have been overcome – in 2014 the CoR and the EP signed the Cooperation Agreement²⁶. The key factors in these relations are basically the same political groups in both organs. They provide the opportunity to maintain and develop the (especially informal) contacts²⁷.

Finally, the CoR’s relations with the Council are the worst. This can be explained by the same reasons as CoR’s very good relations with the EC²⁸. In the “institutional fight” between supranational and intergovernmental interests and their representatives (respectfully the EC and the Council), the CoR is the ally of the EC, and this fact has its consequences in relations with the Council. It seems that the CoR should, apart from maintaining the current level of relations with the EC, focus on further improvement of the relations with the EP. Both the EP and the CoR have the democratic legitimacy and therefore can work together to strengthen the role of the democratic elements in the European decision-making process.

With regard to the functions of the CoR, one can enumerate at least three of them. The first one is the advisory function. As it was mentioned earlier, the CoR is consulted by the EC, the EP and the Council, as well as has the right to adopt the opinions on its own account. However, the CoR’s opinions are neither legally binding nor are the EC, the EP and the Council obliged to justify why they did (or did not) take the CoR’s proposals into account²⁹. Therefore, it is hard to determine the actual influence of the CoR on the European deci-

²⁴ F. Skawiński, *Reprezentacja interesów regionów w Unii Europejskiej*, Warszawa 2008, p. 183.

²⁵ T. Cole, *The Committee of the Regions and Subnational Representation to the European Union*, „Maastricht Journal of European and Comparative Law” 2005, no. 1, p. 55.

²⁶ R. Kuligowski, *Komitet Regionów jako ...*, p. 89.

²⁷ F. Decoster, V. Delhomme, J. Rouselle, *The Committee of the Regions and the European Parliament: An Evolving Relationship?* in: *The European Parliament in times of EU crisis: Dynamics and Transformation*, ed. by O. Costa, London 2019, p. 108.

²⁸ T. Christiansen, P. Lintner, *The Committee of the Regions after 10 Years: Lessons from the Past and Challenges for the Future*, „EIPAScope” 2005, no. 1, p. 9.

²⁹ A. Przyborowska-Klimczak, *A Quarter-Century Activity of the Committee of the Regions of the European Union*, „Barometr Regionalny” 2018 no. 5, p. 12 and A. Sobolewski, *Komitet Regionów a Europejska Polityka Ścisłedstwa UE*, „Studia i Analizy Europejskie” 2010, no. 6, p. 67.

sion-making process. The second function of the CoR is to monitor the actions taken by the EU institutions, especially in the matter of the subsidiarity principle. If, in CoR's opinion, this principle has been violated, the CoR could file the application to the ECJ, seeking the annulment of the violating act. To this moment, the CoR has not taken such steps. However, it has used this right to press the EC, wanting the latter to change its proposals – and succeeded³⁰. Moreover, each year the CoR presents the report on the monitoring of subsidiarity principle. Finally, the CoR has also the representative function³¹. It is the voice of the regions in the European decision-making process. This can be seen both in “everyday work” (like adopting opinions) and extraordinary actions (due to CoR's proposals, the Treaty of Lisbon has changed the formulation of the Art. 5 TEU, including the subnational level in the definition of subsidiarity principle³²). The CoR also organises events dedicated to regional and local authorities, offering the chance to meet with the decision makers and present one's proposals.

3. Theory: democracy

As it was mentioned earlier, the reason for the CoR's establishment was to include the regions in the European decision-making process. But it was not the sole cause. The other one (of the same importance) was to strengthen the democratic legitimacy of the EU³³. In the speech delivered during the inaugural session of the CoR, the EC's then-president Jacques Delors has stated that “the Committee of Regions is called upon to reinforce the democratic legitimacy of the Union... If one had to justify its creation in one sentence, it is this one I would put forward”³⁴. Moreover, the CoR still underlines its own importance in that matter. Therefore, one should take a look at the CoR from the democratic perspective and analyse how this body should fulfil one of its main tasks – at least in theory.

What seems to be the greatest issue in this context, is the obligation to hold the democratic mandate at the regional or local level in order to be a member

³⁰ S. F. Nicolosi, M. Lisette, *The European Committee ...*, p. 286.

³¹ T. Tögel, *Sachsen-Anhalt im Ausschuss der Regionen*, in: *Sachsen-Anhalt in Europa - Europa in Sachsen-Anhalt*, ed. by W. Rensch, Opladen 2004, p. 27.

³² K. Jońkowiak, *Unia Europejska – samorząd terytorialny a profil jego międzynarodowej współpracy na poziomie lokalnym i regionalnym w przyszłości*, „Studia Europejskie” 2008, no. 3, p. 111.

³³ T. Christiansen, *Second Thoughts on Europe's “Third Level”: The European Union's Committee of the Regions*, „Publius: The Journal of Federalism” 1996, no. 1, p. 114.

³⁴ As cited in R. Kuligowski, *Komitet Regionów jako ...*, p. 23.

of the CoR (or the alternate). Art. 300.3 TFEU specifies that the members and alternates shall be representatives of regional and local bodies. They shall hold a regional or local authority electoral mandate or shall be politically accountable to an elected assembly. Moreover, according to the Rule 3.2 of the CoR's rules of procedure³⁵, the term of office of a member or alternate shall be terminated by *inter alia* the end of the electoral mandate on the basis of which they were appointed. In other words, the CoR's membership lasts as long as one is holding the democratic mandate. Hence, the loss of this mandate automatically leads to losing the status of CoR's member or alternate.

Such mechanism has its major consequences in the area of the democratic legitimacy. The local and regional levels offer more opportunities for the citizens to engage in the decision-making process. Therefore, it is a better place to implement the idea of participatory democracy. As C. Macpherson and C. Pateman were stating, the smaller the community is, the easier it is to make one's voice heard³⁶. The comparison of the subnational, national and European levels seems to prove that – from the citizens' point of view, it is easier to influence the local or regional authorities than the national or European ones. With that being said, one can notice that the CoR is a unique combination of subnational and European elements. It gathers the members of the local and regional authorities and offers them a chance to be a part of the decision-making process at the European level. Hence, it should also create more possibilities for the citizens of the local and regional communities represented in the CoR to have some influence on the European decision makers. If the local and regional authorities are consulting the citizens on the issues concerning the life of the communities, there is no reason for not doing the same thing regarding the CoR's actions: especially since the CoR's membership also does have the influence on the represented communities.

Furthermore, such situation can also contribute to reducing the democratic deficit in the EU. The latter consist of several elements. Firstly, the citizens do not have a belief that they can make a real contribution to the decision-making process. In their opinion, their voice is (or can be easily) ignored by the authorities³⁷. Therefore, at some point they do not even try to engage anymore. This leads to the second element which is the lack of the citizen's identification with the EU. People do not treat the EU as their own community, but rather as

³⁵ Rules of procedure of the Committee of the Regions [2014] OJ L 65/41.

³⁶ D. Held, *Modele demokracji*, Kraków 2010, p. 273.

³⁷ R. Balicki, *Demokracja oraz jej deficyt w Unii Europejskiej*, „Przegląd Prawa Konstytucyjnego” 2011, no. 4, p. 23-24.

something external³⁸. The democratic deficit has also the institutional side. It manifests itself in the weak position of the institutions which possess the democratic legitimacy³⁹. As one can notice, the EP has still less powers than the EC or the Council. When it comes to the CoR, it can offer some answers to all of these problems. If the CoR's members and alternates consult with the citizens of the local and regional communities the actions of the CoR (or the whole EU), these citizens can have the feeling that they are able to influence the decision-making process. Moreover, through that belief they can start identifying with the EU. Finally, through being the "people's voice", the CoR can strengthen its own position within the EU's institutional system. Some symptoms of such situation are visible in good relations between the CoR and the EC.

To sum-up the issue of the CoR's task to reinforce the democratic legitimacy of the EU, one must state that the construction of the mandate of the CoR's member (or alternate) offers the opportunity to engage the local and regional communities in the decision-making process at the European level. The CoR itself seems to be aware of that and does underline its role with regard to the democratisation of the EU. That being said, one seems to be eligible to assume that these theoretical remarks should be reflected in the CoR's actual work.

4. Practice: technocracy

To prove this assumption, one should take a look at the practical functioning of the CoR and actions of its individual members and alternates. The analysis will be based on the other researchers' findings, as well as on the results of the Author's own empirical research.

The CoR can influence the decision-making process mainly through its opinions. Hence, it may be worth to see how they are drafted and adopted, and - what seems to be the most important in that matter - if the citizens are involved in this process. The whole procedure of adopting the opinion starts with the CoR commission's decision to appoint the rapporteur, who is responsible for preparing opinion's draft⁴⁰. The selection of the rapporteur is being made on the basis of the membership of the political groups, as well as individual members' experience in the particular matter. Having a chance to prepare

³⁸ K. Kostrzębski, *Deficyt demokracji w UE a europejskie partie polityczne*, in: *Deficyt demokracji w Unii Europejskiej*, ed. by K. A. Wojtaszczyk, J. Szymańska, Warszawa 2011, p. 203.

³⁹ R. Riedel, *Deficyt demokratyczny w Unii Europejskiej. Defekt czy błogosławieństwo?*, „Studia Europejskie” 2008, no. 4, p. 10.

⁴⁰ Rule 61.1 of the rules of procedure of the Committee of the Regions.

the draft of the opinion (which is usually approved by the commission and later by the Plenary Assembly) means the opportunity to have an impact on the EU's decision makers. At the same time, it is also the possibility to engage the citizens in the whole process. Hence, from the theoretical point of view, the rapporteurs should be consulting the citizens. However, the actual situation is vastly different. In order to prove that one should look at the role of the CoR's administrative staff, the General Secretariat. The earlier analyses have shown that the drafts of the opinions are often prepared not by the rapporteurs themselves, but by the administrative staff⁴¹. In such cases, the role of the rapporteur is limited to accepting the draft and presenting it to the CoR's constituent bodies. What has to be underlined at this point, is the fact that such state of affairs leaves no room for the citizens' involvement. If the rapporteurs are not the ones to prepare the draft of the opinion, how can they discuss it with the public? This is the expression of technocracy, rather than democracy.

The second issue is the role of the national delegations within the CoR. Each national delegation consists of the CoR's members and alternates from the same state. Therefore, within one group one can find people with different political backgrounds. This should mean that the national delegations do not play significant role, at least in comparison to the political groups. The latter are the ones, which – from the democratic perspective – should be representing the citizens and hence should have the most influence on the CoR's work. However, the research conducted by I. Büttner⁴² has shown that most of the amendment proposals (70-90%) comes from the national delegations. The political groups are responsible for 1-30% of the amendment proposals. This shows that the national delegations are not just the form of the members' organisation, but they do have the most influence within the CoR. The political groups, which should be expressing the voice of the citizens, play the minor role.

This observation is also proved by the Author's own empirical research⁴³. Polish members of the CoR were asked how the national delegation is deciding on its stance on particular matters.

⁴¹ F. Skawiński, *Reprezentacja interesów regionów ...*, p. 154.

⁴² I. Büttner, *Political Interest vs. Regional Interest in the European Committee of Regions*, BS thesis, University of Twente 2020, p. 21-33.

⁴³ The research was conducted in March 2021, in form of the survey sent to all of the Polish members of the CoR of the term 2020-2025. Thirteen of them (out of twenty one) have filled out the survey, which gives the response rate of 62%. This entails to state that the results can be perceived as representative for all of the Polish members. Moreover, the results can be related to the members from the other member states – it can be assumed that it is very unlikely that the Polish members have developed their own mechanisms of behaviour, vastly different from other members.

Table 1. How does the national delegation decide on its stance on particular matters?

Answer	%
No such decisions are being made	0
By voting, usually by simple majority	53,8
By voting, usually unanimously	7,7
By reaching the consensus	38,5

Source: Author's own research.

As one can see, the national delegation always decides on its stance. If the members' behaviour was based on the democratic legitimacy, only the political groups would be doing that, because it would be impossible (or at least very hard) for the people with different political backgrounds gathered in the national delegation, to find a common ground. However, as the results show, not only the members of the national delegation are able to decide on the stance of the whole delegation, but over one third of these decisions are being made by consensus. This leads to the conclusion that the role of the national delegations within the CoR is another expression of this body's technocratic functioning.

Finally, one should look at the individual members' behaviour. As it was stated earlier, they do not consult their activity with the citizens. Therefore, the remaining question is if they do consult their activity with someone else. Such question was also included in the Author's own empirical research.

Table 2. With whom of the following entities or persons do you consult your activity within the CoR?

Answer	%
The authorities of the other territorial self-government units	92,3
Local or regional media	7,7
Administrative staff of the represented territorial self-government unit	92,3
External experts	76,9
Committee of the Regions' alternate members	38,5
My activity is based mainly on my own knowledge and experience	30,8
Someone else	7,7

Source: Author's own research.

As it can be seen, although the citizens are not consulted by the CoR's members, the latter do consult their activity with others, mainly the local and

regional authorities, own administrative staff and external experts. All of these consultations have much more to do with the technocratic legitimacy than with the democratic one. The consultations with the administrative staff and external experts are self-explainable in that matter, but when it comes to the authorities of other territorial self-government units, one could argue otherwise. However, if the CoR's members do not consult their activity within this body with the citizens of their own territorial self-government units, it would make no sense when, at the same time, they would try to take into account the needs of the people from the other territorial self-government units. Hence, the consultations with other local and regional authorities have to focus on the technical issues, which also leads to the conclusion about the technocratic character of these consultations. At this point, one may ask about the reasons for holding only the technocratic consultations, and not the democratic ones. This can be explained by the fact that it is much easier to hold the first type of consultations. The CoR's members can discuss CoR-related issues with, for instance, administrative staff on a daily basis and there is no need to organise any extraordinary meetings on that matter. On the other hand, in order to consult the citizens, one has to plan a special meeting, promote it, prepare for it and then work on the citizens' proposals. Moreover, there is also a difference in the character of the knowledge obtained during the two types of consultations. In case of the democratic one, the proposals and remarks are of a more general character and have to be later concretised by the CoR's members, which also means more work. On the contrary, during the technocratic consultations, the CoR's members are given concrete ideas and solutions that can be presented at the European level.

To sum-up this part, one has to state that the theoretical assumptions about the CoR's functioning in the democratic way cannot be proved in practice. Due to the significant role of bureaucratic General Secretariat and the "unpolitical" national delegations, as well as the technical character of consultations, it is impossible to describe the functioning of the CoR as democratic. Moreover, as the survey conducted among the Swedish members of the CoR has shown, the citizens usually do not even realise that their local or regional representative is the member of the CoR⁴⁴. The way of this body's functioning surely does not commit to changing this situation.

⁴⁴ J. Sjögren, *The Committee of Regions*, BS thesis, Jönköping University 2011, p. 23.

5. The paradox

Having the model of the CoR's functioning determined, it is worth to look for the explanation for such state of affairs. It seems that the main reason is the accessory character of the CoR's membership. One has to bear in mind that the CoR's members (or alternates) are the members of local or regional authorities at the same time, and this is first and foremost what they are (and have to be) focused on. They have been elected by the citizens to govern the territorial self-government unit, which is not only a very responsible task, but also a time-consuming one. Therefore, the CoR's members may have the time to consult with the citizens only on the most important decisions. As the research has shown, the CoR's activity is not considered to be the priority in that matter.

At this point, the paradox of the CoR's functioning becomes clear. What makes the CoR having the democratic legitimacy, at the same time leads to technocratic behaviour of this body. If there was not any obligation for the CoR's members and alternates to hold the democratic mandate at the local or regional level, the CoR would not be perceived as one of the democratic elements within the EU's institutional system. However, this democratic mandate obliges the CoR's members and alternates to focus mainly on their job at the local or regional level, which leads to the marginalisation of their activity within the CoR. Therefore, although the CoR underlines how important its democratic legitimacy is, it is not able to fully take advantage of this situation. In other words, the CoR often says that it is the voice of local and regional communities and tries to strengthen its position basing on that fact - but the actual functioning of its members does not seem to be democratic. If there was a correlation between words and actions, the CoR could have been in a different place with regard to its institutional status.

The construction of the CoR's membership seems to be the most important, but not the only reason for the paradox of this body's functioning. Firstly, one can also point at the CoR's weak position within the EU's institutional system⁴⁵. As it was mentioned, CoR's opinions are not legally binding, and any EU institution does not have to justify why it did (or did not) take CoR's proposals into account. Therefore, since the opinion consulted with the public may be ignored, involving the citizens may seem as needles. Secondly, it has to be stressed that most issues on which the CoR is consulted are of a rather techni-

⁴⁵ Ch. Hönnige, D. Panke, *The Committee of the Regions and the Economic and Social Committee: How influential are Consultative Committees in the European Union?* „Journal of the Common Market Studies” 2013, no. 3, p. 468.

cal character⁴⁶. Hence, the citizens might neither be interested in the consultations nor have the required knowledge. It is rather hard to imagine the public discussion on the trans-European networks, as an example.

6. Conclusion

Although the paradox of the CoR's functioning has negative consequences (especially in respect of the quality of the EU's democracy), it does not seem possible that this situation will change in the near future. In order to do that, the change of the construction of CoR's membership would be necessary. What comes to mind in that matter is the direct democratic election of the CoR's members - however, the CoR's institutional position is far too weak to introduce such a selection procedure. Hence, what one is left with, is the work on changing the CoR's members attitude towards their duties related to the CoR. It does not mean that they should completely reverse the way of their functioning. They have to be focused mainly on their local or regional positions, because that is what they have elected for. But, if they started, from time to time, to discuss their activity within the CoR with the citizens, one would be able to say that the CoR does have democratic legitimacy not only in theory.

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⁴⁶ R. Balicki, *Demokracja oraz jej ...*, p. 23-24.

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