

**EUROPEAN COMMITTEE OF THE REGIONS
AFTER THE CONFERENCE ON THE FUTURE OF EUROPE**

GAETANO ARMAO
(Professore associato di Diritto amministrativo,
Università di Palermo)

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Abstract (It.): *questo lavoro analizza il ruolo, l'organizzazione e le competenze del Comitato europeo delle Regioni alla luce dell'evoluzione normativa che ha contraddistinto l'organismo considerato il "guardiano della sussidiarietà europea" nel rapporto con i cittadini e i territori. In particolare si approfondiscono le possibili traiettorie di riforma nella prospettiva della Conferenza sul futuro dell'Europa.*

Abstract (En.): *this essay illustrates the role, organization and competences of the European Committee of the Regions in the light of the discipline of the European legal system. Specific consideration is given to the function of "guardian of European subsidiarity" than the Lisbon Treaty, but even more so in relation to the increased political role assumed by the European Committee of the Regions in representation of the territories and citizens in the perspective of the Conference on the Future of Europe.*

Parole chiave: *Comitato europeo delle Regioni, Regioni, autonomie locali, Conferenza sul futuro dell'Europa, riforma.*

Key words: *European Committee of the Regions, Regions, local authorities, Conference on the Future of Europe, reform.*

* Professore associato di Diritto amministrativo, Università di Palermo.

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1. Introduction

An interesting book on European history correctly defines the building’s process of the Union «*Constructing Utopia*»¹.

The *European Committee of the Regions* (CoR), as an european organisation², twenty-five years after its foundation stands as a main leader of this process as I will try to demonstrate in this reflection. Set up by the

¹ G. AMATO, E. MOAVERO-MILANESI, G. PASQUINO, L. REICHLIN (Eds), *The History of the European Union: Constructing Utopia*, Oxford 2019.

² The European Union is composed of: A) *Institutions*: European Parliament, European Council, Council of the European Union, European Commission, Court of Justice of the European Union, Court of Justice, General Court, European Central Bank, European Court of Auditors; B) *External policy bodies*: European External Action Service, High Representative of the Union for Foreign Affairs and Security Policy; C) *Consultative bodies*: European Economic and Social Committee; European Committee of the Regions; D) *Other bodies*: European Investment Bank, European Investment Fund, European Ombudsman, European Data Protection Supervisor, European Data Protection Board.

On the constitutional organization of the EU see for all R. ADAM, A. TIZZANO, *Manuale di diritto dell’Unione europea*, Torino 2020; P. CRAIG, G. DE BÚRCA, *EU Law: Text, Cases, and Materials*, Oxford 2020, R. SCHÜTZE, *European Union Law*, Cambridge 2021.

1992 Treaty on European Union (TEU) and established in 1994 the CoR is an advisory body that consists of representatives for regional and local bodies coming from regions of all 28 Member States (until the *Brexit* process³). It constitutes a sort of hinge between European Union (EU) and state and regional institutional level, for some scholars a sort of second chamber of European institutions, close to the European Parliament⁴.

The CoR represents a typical body of an unfortunately contradictory institution as EU. A consultative body that finds itself in the «*paradoxical situation of not having the power to be formally and directly involved in EU decision-making and consequently of not having to take direct responsibility for making or blocking any decisions*».

From this perspective it does not mean, however, that the CoR is powerless. Its powers are more subtle and aim at guiding the debate, framing the issues, suggesting policy solutions and supporting the creation of consensus

³ An analysis of the state of European integration in the aftermath of the withdrawal of the United Kingdom (Brexit) from the European Union (EU) on the basis of the Withdrawal Agreement (WA) in January 2020 and its consequences for the EU, United Kingdom, and UK-EU relations in F. FABBRINI, *Brexit and the Future of the European Union: The Case for Constitutional Reforms*, Oxford 2020; F. BALAGUER CALLEJÓN, *L'Unione europea di fronte alla Brexit e ad altri processi disgregativi nel contesto globale*, in *www.federalismi.it*, 13/2020; A. BIONDI, *Brexit*, in *Le Parole del XX Secolo Enciclopedia Treccani*, 2020; E. CARDI, *European Economic Legal Order After Brexit: Legacy, Regulation, and Policy*, London 2021, see also S. PEERS, *Analysis 2 of the Brexit deal: EU/UK Trade and Cooperation Agreement - overview*, in *EU Law Analysis*, 31 December 2020.

⁴ Its establishment reflects the resolve of the Member States of the European Union: «*to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity*» (Preamble to the TEU).

in other institutions thus facilitating decision-making through the strength of good arguments and the activation of territorial and political alliances⁵.

In brief, the CoR holds a dual role, on the one hand, that of a decision-making body, on the other, that of a channel of political representation for the European regions, which moreover represents a peculiar declination of the principle of subsidiarity⁶.

Through the CoR regional representatives can share their opinion on EU legislation that directly impacts regions and cities. The idea behind the CoR is to give regions and cities a formal say in EU law-making ensuring that the position and needs of territories and local authorities are respected. The CoR brings together elected local and regional government representatives from across the EU to discuss European policy and legislation. It is one of two

⁵ See S. PIATTONI, J. SCHÖNLAU, *Shaping EU policy from below. EU Democracy and the Committee of the Regions*, Cheltenham 2015, 2, the Authors point out at the sometime that «Once a consensus is built in different institutions and across territories and parties, it becomes almost irrelevant to determine which institution or which governmental level exerts final or overwhelming power over the formal decision», see also S. PIATTONI, *The Committee of the Regions as representative assembly: Mission impossible or miracle in the making* in S. KRÖGER (ed.), *Political Representation in the European Union: Still democratic in times of crisis?*, London 2014, 176 ss.

⁶ J. KOTTMANN, *Europe and the regions: sub-national entity representation at Community level*, in *Eur. law rev.*, 26, 2001, 169 ss.; I. COOPER, *The Watchdogs of Subsidiarity: National Parliaments and the Logic of Arguing in the EU*, in *Journal of Common Market Studies*, 2006, 290 ss.; N. CHOWDHURY, R.A. WESSEL, *Conceptualising Multilevel Regulation in the EU: A Legal Translation of Multilevel Governance?*, in *European Law Journal*, 2012, 335 ss.; V. BOCCHETTI, *The principle of subsidiarity in the European Union, more than five years after the entry into force of the Treaty of Lisbon: outcomes and unresolved questions*, in A. PAPA, *Le Regioni nella multilevel governance europea. Sussidiarietà, partecipazione, prossimità*, Torino 2016, 13 ss.

‘consultative bodies’ of the EU (the other is the *European Economic and Social Committee*, EESC⁷).

The European Commission and the Council must consult the CoR before making decisions, but they have no obligation to comply with its advice⁸. The Committee aims to involve European citizens, through their local representatives, in decisions that affect them and their territories, linked with the regional and local institutions. Committee was set up in 1994 under the Maastricht Treaty on the initiative of the Spanish and German regions⁹, to provide the EU Commission with «*the view from the periphery*»¹⁰. It has gained power under subsequent treaties and since 1997 has been trying to gain recognition as a full EU consultative body.

⁷ See M. WESTLAKE, *Economic and Social Committee. The House of European Organised Civil Society*, London 2016.

⁸ About the failure of institutional territorial representation, see J. GREENWOOD, *Interest representation in the European Union*, London 2011; R. TROBBIANI, *European regions in Brussels: towards functional interest representation?*, Brugge 2016, 17 ss. While others argue its relevance in terms of recognition of regional and local authorities as indispensable interlocutors in the European political decision-making process, see E. DI SALVATORE, *L'identità costituzionale dell'Unione europea e degli Stati membri. Il decentramento politico-istituzionale nel processo di integrazione*, Torino 2008, 108 ss.; E. DOMORENOK, *Regioni in Europa. Il ruolo del CdR nella governance europea*, Roma 2010, 165 ss.

⁹ The Regions with legislative powers, which had been more penalised by the “*Europeanisation process*” (the German *Länder* and the Spanish *Comunidades Autónomas*, in particular), aimed at regaining the skills lost at the level national, with the establishment of a representative chamber within to the EU.

¹⁰ See S. PIATTONI, *The Committee of the Regions and the upgrading of subnational territorial representation*, in S. KROGER, D. FRIEDRICH (eds.), *The Challenge of Democratic Representation in the European Union*, London 2012, 59.

CoR has successfully strived to make its internal structure more democratic and efficient, while it has also established solid relations with the Commission as well as with the Parliament and the Council. CoR is considered the guardian of the subsidiarity principle¹¹ as well as a good forum for regions to exchange views and empower themselves to put together successful strategies to influence the EU legislation.

As the Mission Statement (April 21st 2009)¹² point out, CoR is the EU's assembly of regional and local representatives, a political assembly of holders of a regional or local electoral mandate serving the cause of European integration. Through the political legitimacy, the CoR provides institutional representation for all the European Union's territorial areas, regions, cities and municipalities, to involve regional and local authorities in the European decision-making process and thus to encourage greater participation from citizens¹³.

The political action of Committee is based on the belief that cooperation between European national, regional and local levels is essential to build an ever closer and more mutually supportive union among the people of Europe and respond to the challenges of globalisation.

¹¹ On this principle see for all M. CARTABIA, N. LUPO, A. SIMONCINI (Eds.), *Democracy and subsidiarity in the Eu*, Bologna 2013 and recently S. PAZOS-VIDAL, *Subsidiarity and EU Multilevel Governance. Actors, Networks and Agendas*, London 2019.

¹² <https://cor.europa.eu/en/about/Documents/About/CoR%20mission%20statement/EN.pdf>.

¹³ See the initiative of the Presidents of the two Europeans committees, K.H LAMBERTZ, L. JAHIER, *Bringing the EU closer to its citizens: the call for an EU permanent mechanism for structured consultations and dialogues with citizens*, *European Committee of the Regions and the European Economic and Social Committee*, a proposal by the Presidents of the European Committee of the Regions and the European Economic and Social Committee, 2018.

To this end, the CoR works closely together with the European Commission, the Parliament and the Council of the European Union, and in the Member States with the various tiers of authority, in order also to promote multi-level governance and vote on political recommendations for European strategies and participate in the preparation of Community legislation. Upstream, at the earliest stages, proposes political lines of approach and action drawn from the experience and expertise of the regional and local authorities, who are most often responsible for implementing legislation, to ensure that the principles of subsidiarity and proportionality are upheld so the decisions are taken and applied as close as possible to the citizens and at the most appropriate level. It also ensures that common policies are implemented more effectively and at greater proximity to secure harmonious and sustainable development across all European territorial areas under the objectives of economic, social and territorial cohesion in the European Union in the interests of the principles of equity and solidarity.

A peculiar assigned function of the CoR concerns cooperation between the regional and local authorities of the Member States, but also, as part of enlargement strategy, neighbourhood policy and development policy, with those of candidate countries, potential candidate countries, neighbouring countries and third countries through platforms and networks, forums so as to facilitate cooperation and the pooling of experience between regions, cities and municipalities, developing partnerships with their representative organisations.

2. The roots

From the very beginning the CoR has endeavoured to foster ties with the European Parliament. Today this is one of the CoR's priorities, given the European Parliament's key role in narrowing the democratic deficit. One of

the more evident failures of the European institutional project. Throughout its history the European Parliament has demonstrated its determination in promoting the participation of local and regional authorities in the European Union's decision-making process¹⁴.

In a Resolution dating back to April 22nd 1982, the European Parliament had already emphasised the need to *«guarantee the greatest possible participation of local and regional authorities»*¹⁵. Shortly afterwards the Parliament, the Council and the Commission, in a joint declaration stated on February 13rd 1985, said that they *«recognise the importance of a more effective relationship between the Commission of the European Communities and the regional or, where appropriate, local authorities. This will enable the interests of the regions to be taken more fully into account when regional development programmes and intervention programmes are being drawn up»*¹⁶.

¹⁴ For a diachronic analysis of the events of the European Committee of the Regions since its establishment in March 1994 see B. WASSENBERG, *The history of the Committee of the Regions. 25 years of cities and regions furthering European integration*, Bruxelles 2020.

¹⁵ In another Resolution of April 13rd 1984 the Parliament stated: *«the European Community needs an accredited body, which is in a position to speak on behalf of the local and regional authorities, to consult on a permanent basis in the field of Community regional policy»*.

¹⁶ On November 18th 1988, in a Resolution on Community regional policy and the role of the Regions, Parliament proposed the *«decentralisation of certain tasks to regional authorities which represent the will of the peoples», which «would make it possible to inform European citizens about, and involve them in, Community policies»*. The European Parliament considered it essential that *«any planned progress towards European Union should open up the possibility of institutionalising the democratic representation of the regions and should assign to the regional and local authorities the necessary powers to enable them to participate actively in the achievement of European political, social and economic unity»*. In its Resolution of December 12th 1990, the Parliament proposed the creation of a *«Committee of Regions and Local*

During negotiations on the Treaty on European Union (TEU), the Member States decided, with the support of the European Parliament, to set up a CoR. In its Resolution of October 14th 1992, the European Parliament reaffirmed *«the need to ratify the Treaty on European Union as it stands, so that it can enter into force as soon as possible»* whilst expecting the members of the Council to *«confirm their commitment»*¹⁷. The Parliament asked for guarantees that members of the CoR: *«be elected representatives at sub-central government level and/or derive direct democratic legitimacy from a regional or local assembly»*, and that the Committee *«should be allocated adequate funding and staffing, and its establishment plan and budget should be fully self-sufficient»*¹⁸.

Authorities, which shall have consultative status and shall consist of members of elected regional or local authorities».

¹⁷ The first Resolution of the EU Parliament (April 23rd 1993) on the Committee of the Regions adopted after the signing of the Treaty on European Union stated that: *«[...] the Committee of the Regions must be conceived as an authoritative contributor to the process of constituting the European Union [...]; its present form must not be considered as definitive: the Committee itself must be consulted on the most appropriate arrangements for improving regional and local authority representation and participation in anticipation of the review of the Treaty in 1996 and the future Constitution of the European Union».*

¹⁸ See also the Resolution of November 18th 1993 entitled *«Resolution on the participation and representation of the regions in the process of European integration: the Committee of the Regions»* where European Parliament *«considers that Article 3b of the EC Treaty, which defines the principle of subsidiarity as a criterion for the exercise of powers shared between the Community and the Member States, does not refer only to the central structures of the state; welcomes the establishment of the Committee of the Regions as a first step towards integrating the regions in the Community decision-making process and reiterates that it must be seen as an important element in the process of establishing European Union; considers that Parliament and the Commission must examine, in the light of the experience acquired in relation*

to the operations and activities of the Committee, future possible amendments to the Treaties to ensure that it functions on the most effective and representative basis possible; considers that a 'legal person' entitled to institute proceedings within the meaning of the fourth paragraph of Article 173 of the EC Treaty is to be understood as including regions and regional authorities; stresses that all Community institutions must strictly observe the rights conferred on the Committee by the Treaty and the Committee must also have the means of ensuring that its rights are observed».

The EU Parliament has also organized two conferences, “*The European Parliament-Regions of the Community*” and “*The European Parliament-Local Authorities of the European Union*”. The first of these was held in Strasbourg between January 25th and 27th 1984. During the second Conference (November 27th to 29th 1991) a Resolution on the representation of the Regions underlined the importance of maintaining and strengthening direct links with existing and future regional institutions and of guaranteeing their right to contribute generally to the development of the Community venture by submitting comments, documents and proposals to the institutions concerned during the different phases of the decision-making process (recognition in particular of the right of initiative vis-à-vis the Commission and Parliament); these comments could be presented either by the Regions separately or by a committee representing them, pending the creation of a body under the reform of the Treaty for the representation and participation of the Regions.

The final declaration of this second Conference urged the European Union to recognise: *«the specific powers of the regions, whilst complying with the principle of subsidiarity, and to promote cooperation between different levels of government on questions of common interest; the principle of subsidiarity should be spelt out more carefully in the Treaty and regarded as a criterion for separating out the tasks and powers of the Community, Member States and regions; in the event of non-observance of this principle, the regions should be entitled to institute proceedings before the Court of Justice of the European Communities».*

The European Parliament showed its interest in local authorities by organising between 6 and 8 April 1994 a first Conference on “*The European Parliament - Local*

The Rules of Procedure of the CoR were approved by the Council of the European Union on May 25th 1994¹⁹. The European Parliament and the CoR are both pillars of democratic legitimacy, each in its own right: whereas the European Parliament represents European citizens through members directly elected by universal suffrage, the CoR, as a whole, is the spokesman for local and regional authorities in the European Union. Under the Corfu mandate, the European Parliament and Committee of the Regions have adopted Opinions and Resolutions on the revision of the Treaty on European

Authorities of the European Union”, this being the natural follow-up to the two Conferences mentioned earlier. In its “*Resolution on local authorities in the political and institutional construction of the European Union: the principle of subsidiarity and the Committee of the Regions*”, adopted unanimously, the Conference recommended that the Committee should make use of its capacity for initiative recognised under the Treaty to engage in an institutional debate on its own role as a representative of local and regional authorities in the process of European construction, more particularly in the light of the revision of the Treaty in 1996 and the future Constitution of the Union. The Conference also called upon the European Parliament and its appropriate Committee to do everything in their power to establish fruitful dialogue with the Committee of the Regions.

In the final Declaration of the Conference adopted unanimously on April 8th, it was emphasised that the principle of local autonomy, a general legal principle derived from the common constitutional traditions of the Member States and recognized as such by Article F of the Treaty, sprang out of the principle of subsidiarity.

¹⁹ Nevertheless expressly refer to the European Parliament: «*Representatives of the European Parliament, the Council and the Commission shall be entitled to attend Plenary Sessions. They may take the floor*»; «*[...] The Plenary Session shall adopt the draft estimates of the Committee’s revenue and expenditure and forward them to the Commission and, for information, to the Council and the Parliament [...]* »; «*Representatives of the European Parliament, the Council and the Commission may attend the deliberations of the Commissions and reply to questions from their members*».

Union²⁰. In the draft Report of the Committee on Institutional Affairs of April 12th 1995 on the functioning of the Treaty on European Union with a view to the 1996 Intergovernmental Conference - Implementation and development of the Union²¹.

²⁰ In its Opinion on the functioning of the Treaty on EU of February 23rd 1995, the Regional Policy Committee of the European Parliament considered it necessary to extend the provisions on the composition and functions of the CoR in order to confer full autonomy on this Committee by separating its structures from those of the Economic and Social Committee. It also considered that the definition of the principle of subsidiarity should be rounded off by making an explicit reference to regions with legislative powers whilst this same principle should be offered stronger legal guarantees. Finally, the Regional Policy Committee considered that the CoR should have full rights to institute proceedings before the Court of Justice in the event of infringements of the principle of subsidiarity affecting the powers of local and regional authorities.

²¹ The Rapporteurs, Mr BOURLANGES and Mr MARTIN, proposed the following: *«It is necessary to strengthen the consultative role of the Committee of the Regions – which should be composed of elected representatives of regional and local authorities – by allocating it separate premises and separate staff. Parliament should be able to consult the Committee (as well as the Economic and Social Committee) on the same footing as can the Council and Commission»*. When a vote was taken on May 3rd 1995 the Committee on Institutional Affairs approved the following point: *«The members of the Committee of the Regions to whom Article 198a of the Treaty refers must be the elected members of a local or regional assembly. It must also be guaranteed that the Committee of the Regions is able to operate independently. Parliament should be able to consult the Committee (as well as the Economic and Social Committee) on the same footing as can the Council and Commission»*. On May 17th 1995 the Plenary Assembly of the European Parliament adopted its Resolution *«on the functioning of the Treaty on European Union with a view to the 1996 Intergovernmental Conference – Implementation and development of the Union»*.

The Committee of the Regions recognises the fundamental role of the European Parliament in the decision-making process. This is reflected in the Opinion of the Committee of April 21st 1995 on the Revision of the Treaty on European Union²². The Opinion of the Committee, together with a record of the proceedings, shall be forwarded to the Parliament, to the Council and to the Commission. The Opinion of the Committee on the Revision of the Treaty on EU proposed important points for the evolution of the community²³.

After having voted on the former par. 21 of the Committee on Institutional Affairs sentence by sentence, the Plenary Session finally approved the following points: *«The members of the Committee of the Regions to whom Article 198a of the Treaty refers must be the elected members of a regional or local assembly. Parliament should be able to consult the Committee (as well as the Economic and Social Committee) on the same footing as can the Council and Commission. To improve the economic and social cohesion of the European Union and abide by the principle of subsidiarity, it is necessary to strengthen the role of the Committee of the Regions in drawing up policies which concern it»*. In its Resolution on the principle of subsidiarity (December 5th 1994) the CoR: *«calls for the principle of subsidiarity to be affirmed in the wording of Article 3b and applied at all institutional levels: European institutions and bodies, the Member States, regions and local authorities; [...] calls for the Committee of the Regions to be accorded the right to bring proceedings before the Court of Justice regarding breaches of the principle of subsidiarity which affect the powers of local and regional authorities»*.

²² Which states: *«that, as far as the consultative function is concerned, Article 198c of the EC Treaty, as amended by the Maastricht Treaty, should be worded as follows: ‘The Committee of the Regions shall be consulted by the European Parliament, by the Council or by the Commission where this Treaty so provides and in all other cases in which these institutions consider it appropriate’»*.

²³ Without its consultative status being amended, the CoR must become a fully-fledged institution of the European Union. The Committee also calls for complete organisational and budgetary autonomy *vis-à-vis* the Economic and Social Committee, with whom it

Institutional, political and technical opportunities for cooperation between the European Parliament and CoR have gradually emerged and enable them to envisage fruitful complementarity. The specific nature of each of the two bodies objectively rules out any kind of competition. It is therefore up to the politically-elected members of the two Assemblies to introduce some sort of original cooperation, thereby strengthening the European venture and leading to an *«ever-closer union between the peoples of Europe»*.

As appropriately noted, however, the advisory body remains characterized by: lack of legitimacy; little influence on EU decisions; general lack of

currently shares a common structure; - the Committee' consultative function should be strengthened by allowing the European Parliament to consult it, and by expanding the areas in which its opinion must be sought by the other European Union institutions; these areas would be expanded to include vocational training, social policy, the environment and transport; - the definition of the principle of subsidiarity, whereby the authorities are required to take decisions as close as possible to the ordinary citizen, must be reviewed to include a specific reference to the role of local and regional authorities; - the CoR must be able to bring actions before the Court of Justice of the European Communities to protect its prerogatives or in the event of violations of the principle of subsidiarity. This right could also be conferred on regions endowed with legislative powers; - members of the Committee must have a mandate from the electorate or be politically accountable to an Assembly elected by direct universal suffrage; - the CoR must be able to offer its cooperation and advice in the drawing up of legislative programmes, Green Papers (debates) and White Papers (forward planning) and in preparing other initiatives in respect of policies affecting the powers of regional and local authorities; - the principle of local autonomy, as enshrined in the Council of Europe's Charter on Local Autonomy, must be enshrined in the Treaty; - the Treaty must explicitly spell out the need to promote cross-border cooperation between regions and local authorities.

interest of the regions towards it²⁴.

3. The Committee of the Regions (CoR) and its role in the EU decision-making process

3.1. The creation of the CoR answered directly to one of the founding principles of the EU: the principle of subsidiarity that refers in general to the choice of the most suitable and efficient level of administration in taking policy action.

But the role and powers of the CoR undergo a significant strengthening only with the entry into force of the Lisbon Treaty, which is responsible for the express recognition of the principle of regional and local autonomy in the EU Member States and the competences of sub-state levels in the text of the subsidiarity principle, thus affirming the regional dimension of the European Union²⁵.

EU associates subsidiarity with the way of taking decisions ‘*as closely as possible to the citizen*’, as it is referred to in the EU treaties. For this reason, making sure that the respect of subsidiarity is guaranteed within the EU

²⁴ See C. NAPOLITANO, *Il Comitato delle Regioni UE*, in G. DE GIORGI CEZZI, P. L. PORTALURI (eds.), *La coesione politico-territoriale*, L. FERRARA, D. SORACE, *A 150 anni dall'unificazione amministrativa italiana*, II, Firenze 2016, 85, with the title *La coesione territoriale e il Comitato delle Regioni dell'Unione europea*, in *www.federalismi.it*, 2/2017, the author point out that Committee of the Regions provides an essential contribution in the so-called «*subsidiarity check*» by giving reasoned opinions on the observance of this principle: its advisory role is supported by the Subsidiarity monitoring network, an interactive network that connects local and regional actors across the EU.

²⁵ S. MANGIAMELI, *Il disegno istituzionale dell'Unione europea dopo il Trattato di Lisbona*, in *Dir. Un. Eur.*, 2011, 2, 377 ss.

legislative framework, as set down in Article 5 and Protocol No. 2 of the Treaty, ensures that any EU action is justified when proposing draft legislative acts.

CoR with 350 elected (and 350 alternates)²⁶ from all EU countries representatives at local and regional level responds to a stronger political logic than the EESC and it is particularly focused in promoting cohesion within the EU. The Committee acts as promoter of the European integration at regional level and at the same time responds to the need of representation of the regions. The Lisbon Treaty – as we can see – strengthened the role of the CoR, making mandatory for the Commission to consult the Committee throughout the legislative process²⁷. The reason behind the Committee was to create a body consisting almost exclusively of elected politicians from sub-national governments, the CoR was of help in making Union decisions stronger in terms of their democratic legitimacy, and to bring the Union closer to its people thanks to the local or regional connection of the Committee members.

The CoR members are elected representatives serving in local or regional authorities. Each country nominates members of its choice who are appointed for renewable five-year terms by the Council of the EU. The number of members per country depends on the size of that country's population.

²⁶ The prominent component within this body is of local origin, except for the delegations of the 8 Member States with “*legislative regions*”, consisting mainly of members of regional government bodies, the Executives and, to a much lesser extent, the Parliaments regional.

²⁷ It should be remembered that the Internal Regulations of the Committee of the Regions, approved on January 31th 2014, are published in the Official Journal of the European Union L 65/41 on March 5th 2014.

Members from one country form the national delegation which reflects the political, geographical, regional and local balance of their country. Each member can also choose to be part of a political group in the CoR. Currently, there are five political groups reflecting, more or less, the classic European families represented in the Parliament. Members can also choose not to be part of a political party if they so wish (non-aligned)²⁸.

The CoR appoints a President from among its members for a two-and-a-half-year term. Since 2007 there has been also interregional groups, basically platforms to exchange views and create new ideas between local and regional authorities in the Member States and beyond. It is the task of the Committee to involve regional and local authorities in the decision-making process of the European Union.

For this purpose, it submits political recommendations regarding the strategies of the European Union assuming also a consultative role in the development of EU legislation, mainly with regard to the enactment of regulations and directives.

With increasing frequency, the CoR tries to contribute the experience and expertise of regional and local authorities at the earliest possible moment of the legislative process. In this, it aims to promote the idea of multi-level governance. EU legislation must often be implemented directly on-site in towns and cities, municipalities and regions. The earlier these authorities participate in the legislative process, the easier will the practical application of these provisions prove to be.

As has been opportunely observed, the Committee constitutes a political assembly of holders of local offices, elective or non-elective, appointed for five years by the Council, which deliberates unanimously on the proposal of the Member States, in accordance with the provisions of art. 305 TFEU, and

²⁸ I. C. BÜTTNER, *Political Interest vs. Regional Interest in the European Committee of the Regions, Committee of Region*, 2020.

whose consultative functions entrusted should guarantee the involvement of local authorities in European decision-making processes, encouraging greater participation. Even though the wording of the Treaty rules does not seem to favour forms of cooperation between bodies that go beyond simple functions advisory, however, the composition, legal status, methods of operation and functions of the body do not appear to be suitable for ensuring the effective and genuine representation of local authorities²⁹.

3.2. The CoR adopts its opinions in the context of six plenary sessions per year. Preparatory discussions take place in specialised thematic committees called “*Commissions*”. The CoR has six Commissions, which meet five times annually³⁰. Each Commission appoints a rapporteur for every CoR opinion.

²⁹ See G. RIVOSECCHI, *Gli effetti del processo di integrazione europea sulle autonomie*, in *www.rivistaaic.it*, 3/2017, 5 ss. and G. AVOLIO, A. SANTINI, *The Committee of the Regions in the EU Policy-Making Process: Actor or Spectator?*, in R. TONIATTI, F. PALERMO, M. DANI (eds.), *An Ever More Complex Union. The Regional Variable as a Missing Link in the EU Constitution*, Baden-Baden 2004, 85, 96 ss.

³⁰ COTER: charged with economic, social and territorial cohesion, Structural Funds, urban policy, transport policy and territorial co-operation; NAT: charged with consumer protection, fisheries, public health, civil protection, rural development and tourism; ECON: charged with the internal market, industrial policy, economic and monetary policy and competition; SEDEC: charged with social policy, education and training, employment, research and culture; CIVEX: charged with governance, external relations and neighbourhood policy, enlargement and the area of freedom, security and justice (immigration, asylum and security); ENVE: charged with climate change, energy, environment, space policy and Trans-European networks in the energy sector. About the composition and activity of the Commissions of the Committee, see C. ALIBERTI, *Il ruolo del Comitato delle Regioni nell’assetto istituzionale dell’Unione europea*, in *Diritti regionali*, 2018, I, 473-474.

Supported by experts, this rapporteur is responsible for formulating a draft. The rapporteur consults stakeholders and prepares the opinion. The text is then discussed and adopted by the CoR Commission in charge of the policy area concerned. The opinion is presented to all members in plenary session then the assembly vote or amend and adopt it. Finally, the opinion is shared and communicated to all relevant EU institutions.

During the plenary sessions the Committee is usually adopting opinions that cover EU legislative projects. The President serves as the political steering authority, co-ordinates the work of the Commissions and plenary sessions and defines the political work programme. Moreover, the CoR has appointed a *Commission for Financial and Administrative Affairs* (CAFA), its main task lies in developing a budget and monitoring its management³¹

In all the fields where the CoR opinion is required, the Commission and the Council are obliged to obtain the opinion even if they are not bound by it. The actual participation of the CoR to the decision-making process depends on the follow-up that was given to its opinions but in any case, the opinion issued by the CoR has a political value since it is discussed and approved by the members of the Committee who represent regions, cities a local communities.

The Commission, the Council and Parliament may also consult the CoR on any other matter as they consider relevant the participation of Committee in the elaboration of the legislation, the CoR also issues opinions on its own

³¹All work is supported by a Secretariat-General with a staff of approximately 500 employees based in Brussels. The Commission and the Council must consult the CoR when drawing up legislation on matters concerning local and regional government and in particular: Education, vocational training and youth (Article 165 TFEU); Culture (Article 167 TFEU); Public health (Article 168 TFEU); Trans-European transport, telecommunications and energy networks (Article 172 TFEU); Economic and social cohesion (Articles 175, 177 and 178 TFEU).

initiative to underline which is the position of regions and local governments regarding an issue of interest. As mentioned above the opinion is not binding but the EU, the Commission and the Council are expected to request the contribution of the Committee when the treaty requires it, if this is not done, the CoR can bring a case before the Court of Justice.

Regional representation at European level has gone a long way from the first involvement of regional actors in the mid-80's. The CoR has now become a fully functioning body which has gained enough experience and influence to play a role of importance in the European decision-making process³².

³² The role of CoR in promotion of dialogue and cross-border cooperation: Consultations are organised by the CoR to get input from local and regional authorities, experts and other stakeholders so they can contribute to the opinions proposed by our CoR members for adoption at EU level. Interregional groups are special interest groups of members who gather to discuss issues at local/regional level or sometimes across different countries.

The CoR also coordinates some networks to enable regions and cities to exchange best practices, both at the European level and beyond. The *Eastern Partnership* (CORLEAP) and the *Euro-Mediterranean Assembly* (ARLEM), for instance, attest to the CoR's efforts in the field of EU neighbourhood policy. Further cross-border cooperation includes: contributing to the integration of new Member States into the EU via Joint Consultative Committees and Working Groups, where the CoR works with local and regional representatives from countries seeking to become EU members; working with the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe (CoE) to strengthen political dialogue with local and regional governments in the EU; Monitoring, assessment and research activities, last but not least, the CoR; makes sure all levels of government are involved and that EU legislation is properly implemented at local and regional level; assesses the potential impact of EU legislative proposals on the ground; encourages decentralisation and reinforced partnership for effective policy-making in the EU; complements its strategic planning by trying to anticipate future challenges and opportunities which in turn may help ongoing decision-making.

4. The Committee of the Regions (“guardian of European subsidiarity”): an evolving role and the new responsibilities in the EU legislative process

Since its creation in 1994, the Committee of the Regions has worked to make Europe more democratic, transparent and inclusive. The Committee’s overriding aim has always been of great support in making the EU connected to and supported by Europeans.

The Lisbon Treaty, which entered into force on December 1st 2009, is an important step forward in enabling all levels of government across Europe to work together. It should strengthen the principle that decisions are made as close as possible to the people that they actually affect – what the EU calls ‘*subsidiarity*’.

The Treaty explicitly acknowledges – for the first time – the principle of regional and local self-government within the EU Member States. It also attributes further importance to the local and regional levels in the subsidiarity principle.

The Treaty ensures that the drawing up of new EU laws starts with thorough consideration of the local and regional impacts of all proposals. It also gives the CoR more powers to follow the draft bill through all stages of the legislative process. The Treaty gives the EU Assembly of regional and local representatives more political and legal tools.

Authorities at all levels throughout Europe will have to work together to a much greater extent than previously. The CoR is anticipating these new challenges and is ready to help further empowering to local and regional authorities.

The mandate of the members of the Committee has been extended from four to five years³⁰, aligning it to the duration of the other European institutions. The sectors on which it must be compulsorily consulted are: economic

and social cohesion, trans-European networks, public health, education, culture, employment policy, social policy, environment, vocational training, transport.

The consultation by the European Parliament has been converted from optional to mandatory and, finally, it has been specified that the Committee can be consulted every time the Parliament, the Commission or the Council deems it appropriate, especially when concerning cross-border cooperation. Then the Committee can express opinions on the EU proposals that it considers to be interfering with the principle of subsidiarity.

The Lisbon Treaty changes the relationship between the CoR and the other EU institutions. The Committee gains a greater presence in all stages of the creation of EU laws in the preparation, amendment and monitoring of legislation which affects regional and local authorities. This will ensure greater input in EU policies from the levels of authorities that are closest to the people and foster greater public involvement in European integration. All three institutions that decide on EU legislation – the European Parliament, Commission and the Council – will now have to consult the Committee when making laws in any area with a regional impact.

The Committee's opinions will cover several new policy areas, including energy and climate change, '*Services of general interest*', i.e. social, public and infrastructure services and their importance for local and regional authorities, are covered in a protocol to the Treaty. In addition, the Committee has legal tools to back up its consultation rights at the European Court of Justice. It can protect its prerogatives if it deems that they were not respected by other EU institutions and challenge EU legislation breaching subsidiarity due to a violation of regional and local competences.

In conclusion it can therefore be affirmed, in line with the prevailing doctrine, that in the renewed post-Lisbon legislative and procedural context, in which greater importance was given to the regional and local dimension, the CoR, as the representative body of sub-state entities at European level,

has strengthened its competences and assumed new powers that accentuate its role of guarantor of territorial interests and of the principle of subsidiarity. In this new structure, the CoR has improved the quality of its relations with State and European institutions, strengthening the level of inter-institutional cooperation, and has perfected the internal tools to perform the function of monitoring the subsidiarity principle, thus confirming, its indispensable role as a “*watchdog of subsidiarity*” in European multilevel governance³³.

5. A closer working relationship with the European Commission and European Parliament

As pointed out, Lisbon Treaty creates a new dynamic in the relationship between the CoR and the European Commission. In implementing the Lisbon Treaty, the Committee has intensified its discussions with the Commission from the beginning to the end of a legislative procedure.

³³ See L. FROSINA, *Regioni e Unione europea dopo il Trattato di Lisbona. Il Comitato delle Regioni, i Parlamenti regionali e le sfide della multilevel governance*, in *Dir. Pubbl. Comp. Eur.*, 2013, n. 4, 1103 ss. but also in <http://www.nomos-leattualitaneldiritto.it/wp-content/uploads/2015/01/Frosina-Regioni-Unione-Europea-dopo-Trattato-Lisbona.pdf>.

On 21 April 1995 an opinion of importance took on particular resonance history on the revision of the Treaty on European Union (CDR 136/95), better known as the “*Pujol report*” named after the rapporteur, the President of Catalonia Jordi Pujol (ELDR-ES), who underlines the objectives and the future ambitions of the Committee of the Regions. Pujol urges the Committee to become the “*guardian of European subsidiarity*” and asks for the Committee of the Regions the right to appeal for annulment at the Court of Justice of the European Communities if it considers that their prerogatives or the principle of subsidiarity are violated.

Its input, tabled in consultations and opinions, will concretely improve the efficiency of legislation and lead to more coherent EU laws that are less of a burden for local and regional authorities.

Under the new process, the Committee takes a pro-active role before the Commission tables a proposal for new legislation. At this stage, the Committee is an intermediary between regional and local authorities and the Commission in assessing social, economic and regional impacts. The framework for this is set by the provisions on enhanced consultation enshrined in the Treaty and an existing cooperation agreement between the European Commission and the Committee of the Regions.

The Committee work with national, regional and local authorities and with associations of regions and cities in analysing the local and regional impacts of EU laws, as well as ensuring that member states apply them correctly.

Once the Commission has made a formal legislative proposal, the Committee's opinions put more emphasis on determining the proposal's compatibility with the subsidiarity principle. The CoR cooperate with national and regional parliaments and use its subsidiarity monitoring platform to channel input from regions and local authorities throughout Europe into its opinions. The CoR also ask the Commission to respect its right to be re-consulted should the nature of proposals be significantly changed during the legislative process. The Committee's ability to challenge legislation in the European courts further influence the Commission to ensure that the Committee's opinions are built into proposals before they become law³⁴.

³⁴ The impact of the CoR largely rely on the ability of the Committee and its members produce impact. This impact is to be assessed in terms of achievements in the EU legislative process (impact on preparatory or final legal texts), visibility for local and regional

As the elected representatives of European citizens, the members of both the European Parliament and the CoR increase the democratic legitimacy of the European Union. The Lisbon Treaty introduces a closer and more clear-cut relationship between these two institutions. This should enable greater public connection to the European Union and confidence in its democratic character.

The biggest change under the Treaty is that the Parliament – in addition to the Commission and the Council – is obliged to consult the Committee on proposals in any policy area where only the European Commission and the Council had to do so previously, with the possibility to revise its opinions after changes made by the EU Institutions, the Committee will be able to follow political discussions in the Parliament, advise its rapporteurs and react promptly to political developments.

Through this process, the relationship between the Committee and the Parliament will become more concrete and political. Under a “*early warning*” procedure, the EU Parliament can stop legislative proposals by a simple majority vote if a majority of national parliaments have raised objections over subsidiarity³⁵. When the Committee shares the concerns of the national parliaments, it will ensure that they are followed through in the European Parliament. The Council has a similar power to reject proposals.

authorities in the EU’s agenda setting or concrete changes in the EU’s working methods or tangibly in the day-to-day life of citizens through EU legislation or EU actions promoted or initiated by the CoR. For this purpose, the CoR publishes an *Annual Reports on the Impact of CoR Opinions*.

³⁵ P. KIIVER, *The Early Warning System for the Principle of Subsidiarity, Constitutional Theory and Empirical Reality*, London 2012, 146 ss.

6. *Working with national parliaments and the access to the European Court of Justice consolidates CoR's powers*

The Lisbon Treaty gives national parliaments a say in EU legislation. Under the *early warning subsidiarity monitoring mechanism (EWS)*, the EU Commission submits proposed legislation to national parliaments for scrutiny before the legislative process can move on. In Member States with regional parliaments that have legislative powers, national parliaments must to consult these bodies to enhance mutual information exchange and to analyse the territorial impact of Commission proposals and whether they would be better addressed at a national, regional or local level. The CoR's subsidiarity monitoring network, to which many regional and several national parliaments belong, is the focus for this political activity³⁶.

In its opinions, the CoR can oppose or support the concerns of national parliaments and, equally, be able to ask that the Commission continues or reconsiders its proposals. The Committee is also be able to redraft its initial

³⁶ About this issue see C. FASONE, *Competing concepts in the early warning mechanism*, Luiss SOG-Working Paper 4, March 2013; M. GOLDONI, *The Early Warning System and the Monti II Regulation: The Case for a Political Interpretation*, in *European Constitutional Law Review*, vol. 10, n.o 01, 2014, 90 ss.; D. FROMAGE, *Regional Parliaments and the Early Warning System: An Assessment Six Years after the Entry into Force of the Lisbon Treaty*, Luiss SOG-Working paper, SOG-WP33/2016, which focused that not all regional parliaments have the guarantee that their opinion in matters of subsidiarity, or more generally on an EU topic, will be taken into account by their national parliaments. An empirical study of 17 out of 74 regional parliaments existing in the EU further shows that, globally, regional parliaments contribute fairly little to both the EWS and the Political Dialogue and they only marginally exchange with the Commission directly. Against this background, the present study makes some proposals for reform in closure, in particular to make the best use of the sometimes scarce regional parliamentary resources available.

opinion based on the outcome of the early warning phase. If the Committee shares the opinion that the Commission's proposal infringes on subsidiarity, it can ask the European Parliament and/or the Council to stop the ongoing legislative procedure.

The CoR can join an action brought to the Court of Justice by any national parliament – or one of their chambers – seeking to annul an EU law on the basis of subsidiarity³⁷.

The Treaty gives the Committee the right to challenge EU laws in the European Court of Justice if it believes regional or local aspects have not been adequately addressed, or if the EU institutions have not respected the Committee's rights to consultation. Having this legal back-up re-enforces the Committee's stronger consultation rights and greater powers in the decision-making process. It should encourage increased consultation earlier on in the legislative process. The Committee hopes that it will not have to resort to action in the European courts.

The right to legal action will also help to ensure that the Committee is consulted for a second time when the Commission, the European Parliament or the Council substantially change the nature of a proposal during the legislative path.

In cases where the Commission has in effect tabled a new proposal, the Committee will be able to state that the proposal is not the same as the one on which it gave its initial opinion. But the question of the right to refer the matter to the Court of Justice ultimately proved controversial, because the CoR argued that this advance, if not accompanied by the recognition of the status of institution, was to be interpreted as a concession by the other institutions community, which could, in this way, discard many of the other

³⁷ See A. SIMONATO, *Il rapporto tra Regioni, Stato ed UE alla luce della crisi economica, dell'attualità istituzionale, del dibattito sul paradigma della multilevel governance*, in *www.federalismi.it*, 9/2013, 29 ss.

requests. In fact, various points relating to the greater effectiveness of the Committee and of the territorial components during the elaboration of community norms remained open: the issue of competences, the issue related to the role of certain Regions, the role of cities, and finally the better application of the subsidiarity principle³⁸.

In any case, the possibility of the CoR to influence the legislative institutions under consultation it must be concluded is quite limited³⁹, as an advisory body established with no binding powers, but more influential in regional issues than in other policy issues under co-decision because its participation provides for additional legitimacy.

The Lisbon Treaty, as we know, brought important innovations to European law⁴⁰. It recognized sub-state bodies as an integral part of the political and constitutional structure of the Member States; it has included respect for the system of local and regional autonomy among the fundamental principles of the Union (Art. 4, paragraph 2, TEU); it has identified territorial cohesion,

³⁸ See M. ESPOSITO, *Dal Libro bianco sulla governance europea alla Convenzione sul futuro dell'Europa: il Comitato delle Regioni e le sue componenti*, in *Le Istituz. del federalismo*, 2004, 143.

³⁹ 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.

⁴⁰ See for all H.J. BLANKE, S. MANGIAMELI (Eds.), *The European Union after Lisbon. Constitutional Basis, Economic Order and External Action*, Berlin, Heidelberg 2012.

the focal point of regional policy, among the fundamental objectives of the Union (art. 3, par. 3, c. 3 TEU); and made a reference to the proximity to Art. 10 TEU dedicated to the principle of representative democracy.

As has been pointed out so far the Treaty has also introduced significant innovations in relation to the subsidiarity principle which substantially translate into a new formulation and a wider involvement of sub-state levels in the pre-legislative consultation and in the framework of the control mechanisms, parliamentary (*ex ante*) and judicial (*ex post*) in order to protect its correct application.

The Treaty has carried out a restyling of the principle of subsidiarity, extending its applicative dimension at the regional and local level and thus overcoming the previous approach that limited its application to relations amongst EU and Member States (art. 5, par. 3 TEU).

We have seen that the participation of sub-state levels in the pre-legislative phase, assigning a tendentially prescriptive character to the consultations of regional and local authorities by the UE Commission and binding the latter to accompany each draft legislative act with a form (subsidiarity) containing detailed elements to assess compliance with the principles of subsidiarity and proportionality (Protocol on the application of the principles of subsidiarity and proportionality No. 2, art. 2).

In terms of preventive control of the subsidiarity principle, as noted, it has introduced the so-called *early warning system* (EWS), the innovative mechanism that allows individual national Parliaments, called upon to consult the Parliaments of the Regions with legislative power if necessary, to intervene in the ascending phase of European law to verify that draft legislative acts respect the principle of subsidiarity (Prot. No. 2, art.6)⁴¹.

⁴¹ Finally, as regards judicial review, the Treaty, despite not having fully satisfied the most ambitious requests from the Regions, has offered them new possibilities to promote,

7. *Italian regions in the CoR*

In Italy, the issue concerns the role of the Regions in the process of European integration which is linked to the tendency to coincide between the start of the regional system and the consolidation of European integration, starting respectively from the second half of the '70s and the second half of the 80s as represented by what in the history of the European Union.

It should however be remembered, in this regard, the role of the State-Regions Conference in the European Session deserves a separate consideration in the Italian legal system. In this regard, it is worth recalling what was originally provided for in Art. 5 of Legislative Decree no. 281/1997 and article 17 of the law of February 4th 2005, no. 11.

These rules govern the procedures relating to the functioning of the European Session of the State-Regions Conference by identifying the areas of competence on which the same Conference is called to express its opinion, and this for at least twice a year. It should also be remembered that,

albeit indirectly, judicial action in defence of their competences. Art. 8, c. 2., of Prot. no. 2, establishes that each Member State, even at the request of Parliament, or one of its Chambers, and also the CoR, limited to the matters for which its consultation is requested, may appeal against legislative acts that violate the principle of subsidiarity. The main novelty consists indeed in having included the CoR among the subjects entitled to refer directly to the Court of Justice, before which it can appeal not only to protect the principle of subsidiarity but also to defend its own prerogatives pursuant to art. 263, par. 3, of the TFEU, verbatim L. FROSINA, *Regioni e Unione europea dopo il Trattato di Lisbona. Il Comitato delle Regioni, i Parlamenti regionali e le sfide della multilevel governance*, cit., and S. F. NICOLOSI, L. MUSTERT, *The European Committee of the Regions as a watchdog of the principle of subsidiarity*, in *Maastricht Journal of European and Comp. Law*, 2020, 284.

subsequently, in accordance with the provisions of par. 2 of art. 22 of the law of December 24th 2012, no. 234 (*General rules on Italy's participation in the formation and implementation of European Union legislation and policies*)⁴² the current regulations have been supplemented by providing that the State-Regions Conference, in European session, must express its opinion: 1. On the general guidelines relating to the drafting and implementation of European Union acts which concern the competences of the Regions and Autonomous Provinces; 2. the criteria and methods for making the exercise of the functions of the Regions and autonomous Provinces conform to the observance and fulfillment of community obligations; 3 on the outlines of the bills referred to in Art. 29 of the same law (in particular, the outline of the bill containing: «*Provisions for the fulfillment of the obligations deriving from Italy's membership of the European Union. European law*» and the draft law containing: «*Delegation to the Government for the transposition of European directives and the implementation of other European Union acts - European delegation law*», based on the provisions of article 5, paragraph 1, letter b, of Legislative Decree August 28th 1997, n.281, and subsequent amendments.

The Italian Regions have played a very significant role in the formulation of opinions during the twenty-five years of the Committee's life, in the

⁴² About this law see for all P. CARETTI, *La legge n. 234/2012 che disciplina la partecipazione dell'Italia alla formazione e all'attuazione della normativa e delle politiche dell'Unione europea: un traguardo o ancora una tappa intermedia?*, in *le Regioni*, 2012, 840 ss.; A. ESPOSITO, *La legge 24 dicembre 2012, n. 234, sulla partecipazione dell'Italia alla formazione e all'attuazione della normativa e delle politiche dell'Unione europea. Parte I - Prime riflessioni sul ruolo delle Camere*, in *www.federalismi.it*, 2/2013, 43 ss.; G. RIVOSECCHI, *La partecipazione dell'Italia alla formazione e attuazione della normativa europea*, in *Giorn. dir. amm.*, 2013, 468 ss.

guidance of the Commissions and once in the Presidency of the Committee itself⁴³.

The representatives of the Regions are members of regional governments and of regional parliament. The last Italian delegation (regional and local representatives) is composed of 24 members. The appointment of the members of the Italian delegation operates under the Art. 27 of Law n. 234 of 2012.

The *Conference of Regions and Autonomous Provinces*, of the *National Association of Italian Municipalities* (ANCI), of the *Conference of Presidents of Legislative Assemblies of the Regions and Autonomous Provinces* and of the *Union of Italian Provinces* (UPI) propose to the Italian Government the names of the 24 members of the CoR and the 24 alternates.

The division of the members of the delegation between regional and local representatives is established in a specific agreement concluded at the conference that brings together the local and regional authorities and the government (Unified Conference). For the choice of members to be indicated to the government, each association adopts its own method, based on criteria of geographical and political representation. Sicily has a strong presence in the life of the CoR.⁴⁴ In particular, in the last term of the CoR the representatives

⁴³ E. GUALINI, *Challenges to multi-level governance: contradictions and conflicts in the Europeanization of Italian regional policy*, in *Journal of European Public Policy*, 10(4), 2003, 616 ss.

⁴⁴ Members who have represented the Region of Sicily at the CoR, since its foundation to date: G. Ardizzone, President of the Sicilian Parliament, R. Crocetta, President of the Sicily Region, S. Cuffaro, President of the Sicily Region, G. Firrarello, Member of the Sicilian Parliament, F. Martino, President of the Sicily Region, F. Musotto, Member of the Sicilian Parliament, G. Provenzano, President of the Sicily Region, F. Scoma, Member of the Sicilian Parliament, S. Musumeci, President of the Sicilian Regional and who write, as Vice President of the Sicilian Regional Government and Minister of Economy.

of Sicilian Region, finally has the presidency of the insular interregional group to sustain the insular condition⁴⁵.

8. *The CoR's role and the Conference on the Future of Europe*

The President of the European Commission, Ursula von der Leyen, has proposed six political priorities: a *European Green Deal*, an Economy that works for people, a Europe fit for the digital age, Protecting our European way of life, A stronger Europe in the world, a new push for European democracy.

These priorities are the right ones. They are, moreover, discussions about terminology aside, the subject of broad consensus in European politics. On the other hand, when we talk about the means to be used, things get more complicated. The differences involved are not, however, political in nature: the vote in the European Parliament on October 10th last demonstrates this, where a resolution was adopted – with a very large majority – reaffirming the ambitious objectives for the future *Multiannual Financial Framework*.

⁴⁵ Article 174 of the Functioning Treaty of the European Union requires particular attention in the cohesion policies for those Regions that present «*serious and permanent disadvantages*» citing the islands specifically in this area. We are used to remember article 174 as the article concerning insularity, but it is actually the first article of title XVIII concerning economic, social and territorial cohesion with the aim of reducing the gap between levels of development of the various regions. This article, which is the foundation of cohesion policies, states in the third paragraph that “*particular attention*” in these policies should be directed to the islands. But unfortunately, this part of Article 174 has not been fully implemented until now. About this topic please allow me to recall my work *Foreword to an estimation of insularity costs in Sicily*, Palermo 2020, <https://pti.regione.sicilia.it/portal/pls/portal/docs/152565731.PDF>.

The target of a budget of 1.3% of EU-27, but the problem, in this phase, is solidarity between Member States⁴⁶.

According to the position of the Presidency of the European Committee of the Regions, stand alongside the European Parliament in calling for a budget commensurate with the ambitions set by the Commission President. The new challenges call for new own and stable resources⁴⁷.

Likewise, and perhaps more unexpectedly, cohesion policy has a key role to play in making Europe stronger on the world stage. This role was, moreover, highlighted in the discussion paper on harnessing globalisation, published by the European Commission in May 2017. Cohesion policy has allowed interaction between European industries through smart specialisation strategies. It is currently the only germ of a European industrial policy that

⁴⁶ The thinking of each one of them is being clouded by the logic of fair return, to the detriment of the European interest: as if there could now be a defence of national interest without emphasis on European interest. It was nowadays no longer possible to identify net contributors and net beneficiaries of the EU budget. It was impossible to quantify, for each Member State, the benefits of a European satellite navigation system, the construction of missing cross-border transport links or the establishment of secure external borders.

⁴⁷ «We need to move forward in the negotiations to have a financial framework in time, but not at any price. If the negotiations in the European Council result in a level of ambition that is not high enough, I am sure that the European Committee of the Regions will continue to stand by you, should the EU Parliament decide to reject this proposal. Europe's common budget is in fact now derisory for a Union of 500 million citizens. In addition to budgetary resources, we are also calling for investment margins, i.e. accounting rules which do not constrain investment. This is a big taboo amongst European leaders, but more than ten years after the onset of the financial crisis, it is high time that we stop viewing public investment as a danger to our economies starting to see it as a necessity for giving Europeans support», Statement of Apostolos Tzitzikostas, President of the European Committee of the Regions and Governor of the Region of Central Macedonia, Greece, in <https://cor.europa.eu/en/news/Pages/Agreement-on-MFF.aspx>.

enhances the overall competitiveness of European economies. Finally, cohesion policy also plays a role in developing new democratic impetus for the EU⁴⁸.

It is the only policy to implement, and this is an obligation enshrined in regulations and the principles of multilevel governance and partnership. It therefore remains an essential instrument for strengthening people's support for EU policies.

Policy for strengthening economic, social and territorial cohesion is one of the most important and comprehensive EU policies, since it is aimed at everyone living in the EU and important aspects of their daily lives. This policy is also an essential component of the Treaties and a pillar of the European integration process and of Europe's economic growth, just like the internal market or the economic and monetary union.

Cohesion policy creates a level playing-field as an essential counterpart to the internal market rules and helps to protect existing jobs and create new ones through strategic investments in the real economy, especially where the traditional market is failing. It ensures that the less developed States, Regions and municipalities may benefit from the advantages offered by EU integration. As a result, cohesion policy makes a significant contribution in terms of solidarity to strengthening the EU as a whole and a considerable increase of European added value that is tangible for each EU citizen. Cohesion policy in all its three aspects – economic, social and territorial – remains more topical than ever. At the same time, cohesion policy also requires renewed momentum, so that the specific challenges of individual Regions can be tackled more effectively by adopting a territorial approach. The future cohesion policy should form part of a shift towards greater

⁴⁸ See J. SCHÖNLAU, *Beyond mere consultation : Expanding the European Committee of the Regions role*, in *Journal of Contemporary European Research*, 13(2), 2017, 1166-1184 in <http://www.jcer.myzen.co.uk/index.php/jcer/article/view/780>.

solidarity for the benefit of citizens, to reinvigorate the EU's ailing legitimacy.

In conclusion which perspective will prevail between the Europe of Regions, felt in crisis after the crash of the European Constitution in 2005, and the functionalist approach to the Regions as part of a multilevel mechanism of government and of implementation of European politics of cohesion? It hasn't been not very clear until now. And the activity of the CoR, in particular the powers and the implementation of its opinions and decisions is remarkable.

Europe is still in the middle of the river. The federalist perspective struggles with the intergovernmental perspective. As Sergio Fabbrini point out, the future of Europe is a pluralistic institutional order, wherein different project should find their distinct institutional form. This future is in the hands of those European political leaders who attempt to answer the question Hamilton raised some time ago: «*whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force*»⁴⁹.

Someone again evokes, correctly, the concept of “*regional blindness*”⁵⁰, elaborated in German studies, to define the situation of EU stressed from the

⁴⁹ S. FABBRINI, *Which European Union? Europe After the Euro Crisis*, Cambridge 2015, 288.

⁵⁰ With the expression “*federal blindness*” or regional (*Landes-Blindheit*) the German constitutionalist H.P. IPSEN, *Als Bundesstaat in der Gemeinschaft*, in E.V. CAEMMERER, H.J. SCHLOCHAUER, E. STEINDORFF, *Probleme des Europaischen Rechts. Festschrift fur Hallstein*, Frankfurt 1966, 248 ss., spec. 256, referred to that phase of the community experience (now outdated) in which the European institutions had an approach of

crisis of their principal components, the national State and the multilevel governance shows its difficulties, but others suggest, in this particular season of EU, with the rebirth of the regional thrusts and the relaunched of the “*double federal entanglement*”, described by Antonio D’Atena⁵¹.

Europe needs to redevelop the regional and local perspective to find its future and bring the EU institutions and bodies closer to its citizens starting from reinvigoration of powers of the CoR, for example, establishing that the overcoming of the opinions issued by the same can only take place by a qualified majority of the body to which they are addressed⁵².

indifference towards the territorial articulation of the Member States on the *Kommunal-Blindheit*.

The reasons for the c.d. Federal blindness was manifold: 1) The legal relations of the Community legal order essentially concerned the Community and the Member States, so that while on the one hand the Member States were the masters of the Treaties, on the other, the States were the only recipients of Community law, according to an integration functional type (“*Zweckverband funktioneller Integration*”); 2) The original setting of the Communities was of an internationalistic nature (although the particular nature of the Communities was already deducible). Therefore, the State was essentially in relief as a juridically understood person; 3) At the time of the foundation only Germany had a federal structure. Among the other MS only Italy “tended” towards a regional structure, which would have been realized only later (with the establishment of the ordinary Regions in 1970).

⁵¹ A. D’ATENA, *Il doppio intreccio federale: le regioni nell’Unione europea*, in *le Regioni*, 1998, 1401 ss.

⁵² A. RUGGERI, *Integrazione europea e autonomia regionale: un ossimoro costituzionale?*, in *Diritti regionali*, 1/2017, 69.

There is, however, a new perspective for the EU institutions and bodies: the *Conference on the Future of Europe*⁵³, delayed due to the Covid-19 pandemic, that will be organized by the Parliament, the Council and the Commission and will last two years⁵⁴. Parliament wants citizens of all backgrounds, civil society representatives and stakeholders at European, national, regional and local level to be involved in defining EU priorities in line with citizens' concerns in a bottom-up approach high, transparent, inclusive, participatory and balanced⁵⁵.

⁵³ EU COMMISSION, *Communication from the Commission to the European Parliament and the Council shaping the Conference on the future of Europe*, in https://ec.europa.eu/info/sites/info/files/communication-conference-future-of-europe-january-2020_en.pdf.

⁵⁴ On July 16th 2019 in the EU Parliament, the President/elect of the EU Commission, U. Von der Leyen, presented her “*Political Guide-lines*” for the period 2019-2024 including a two-years’ “*Conference on the Future of Europe*” to begin in 2020. It should «bring together citizens [...], young people, civil society and EU institutions as equal partners” with a “clear objective, agreed between the Parliament, the Council and the Commission” and the possibility to suggest “*legislative action if appropriate*», because the EU needs not only sound financial investment and political unity, but new channels of dialogue that ensures the EU listens and responds to the wishes of its citizens, in [https:// ec.europa.eu/commission/interim_en](https://ec.europa.eu/commission/interim_en).

⁵⁵ The *Conference on the Future of Europe* (CoFoE) was launched on 9 May 2021 in a new process to reflect on the future of Europe It is consultation exercise and a unique opportunity for citizens to express their views about the future European Union. About this issue F. FABBRINI, *The Conference on the Future of Europe: Process and prospects*, in *EU3D Research Papers*, No. 17 August 2021 that pointed out «*the Conference on the Future of Europe can therefore be regarded as an out-of-the-box initiative reminiscent of illustrious precedents, such as the 1955 Conference of Messina and the 2001-2003 Convention on the Future of Europe, which played a key role in prior moments of the EU's history in relaunching the project of*

The aim of *Conference on the Future of Europe* is to relaunch the project of European integration, according to its instituting document, the Conference should serve as a year-long process to «*reflect on [the EU], the challenges we are facing and the future we want [...]*» through a series of citizen-focused initiatives at the national and European level⁵⁶. With the aim to contrast populism and “*Euroscepticism*”⁵⁷ French president Emmanuel Macron launched in 2019 the method of a “*Grand Débat*”⁵⁸, to reduce popular pressure while simultaneously giving his country’s citizens new participation opportunities. The EU, which likes to talk about the “*Europe of the Citizens*”, is still struggling to come to terms with the direct involvement of citizens in European policymaking⁵⁹.

Furthermore, EU Parliament to contrast lack of trust from citizens and difficulties speaking to people, insist on a citizens’ participation process to

European integration at difficult times. Nevertheless, given its unclear constitutional mandate and unsettled institutional organisation, the Conference's prospects remain highly uncertain, and only time will tell if this initiative can turn into a new constitutional moment for the EU».

See also M. AVBELJ, *Revitalisation of EU Constitutionalism*, in *European Law Review* 3-2021, 46 ss.

⁵⁶ See EUROPEAN PARLIAMENT, COUNCIL OF THE EUROPEAN UNION AND EUROPEAN COMMISSION, *Joint Declaration on the Conference on the Future of Europe*, 10 March 2021, in www.europarl.europa.eu/sed/doc/news/flash/25243/JOINT%20DECLARATION%20ON%20THE%20CONFERENCE%20ON%20THE%20FUTURE%20OF%20EUROPE_EN.pdf.

⁵⁷ On these issues see last F. BIGNAMI (ed.), *EU Law in Populist Times. Crises and Prospects*, Cambridge 2020.

⁵⁸ Letter of the French President E. Macron, *For European renewal*, 4 marzo 2019 in <https://www.elysee.fr/emmanuel-macron/2019/03/04/for-european-renewal.en>.

⁵⁹ EUROPEAN COMMITTEE OF THE REGIONS, *From local to European: Putting citizens at the centre of the EU agenda*, Brussels 2019.

establish the purpose and scope of the Conference, and call for a meaningful follow-up to its conclusions, including an explicit commitment by the three main EU institutions to substantive reforms, including potentially a revision of the EU treaties.

Ten years after the entry into force of the Lisbon Treaty, and seventy years after the Schuman Declaration and, even more, in the emergency created by *Covid-19*. An emergency that far from justifying the postponement should instead impose an urgent reflection for a relaunch of the European Union in dialogue with its citizens⁶⁰. As regards the role of the CoR, the Conference should build on the useful experience of the EU's institutions, bodies and Member States from their active engagement with European citizens.

⁶⁰ European Parliament resolution of June 18th 2020 on the European Parliament's position on the Conference on the Future of Europe (2020/2657(RSP)), in https://www.europarl.europa.eu/doceo/document/TA-9-2020-0153_EN.html, «taking into account the EU's existing recovery tools – pointed out the Parliament – and the solidarity already established while guaranteeing ecological sustainability, economic development, social progress, security and democracy». In particular, the second strand should focus on addressing topics specifically related to democratic processes and institutional matters, notably the lead candidate system for the election of the President of the European Commission and transnational lists for elections to the European Parliament. The establishment of transnational lists would at least require changes in EU electoral law. This in turn would require a proposal by the EU Parliament, in the Council by unanimity, and the approval by the Member States in accordance with their respective constitutional requirements. As the Commission does not have competence in this field, its role should be that of a facilitator and honest broker between the EU Parliament and the Council. In this regard, and if useful for the other institutions, the Commission stands ready to make available legal and institutional expertise, research on electoral processes and insight into inter-institutional relations.

The Conference must draw from the experience of different forms of citizens' consultations and participatory democratic events, in this spirit, national parliaments, as well as social partners, regional and local authorities and civil society must play a fundamental role throughout the Conference. But, in the absence of an explicit decision or prioritisation for the Conference on the future of Europe, political dynamics will decide its outcome. Under this perspective «*reputational damage for the EU could be significant if both sides of the debate raise unwarranted expectations*»⁶¹.

It is the time to rethink the rules and establish mechanisms that make viable the recovery of the functions that constitutionalism has played in the modern world, in an unfavourable historical context such as the current one, in which the identification between constitution and state have been overcome and global challenges must be faced through strong supranational structures, such as a fully democratic European Union⁶².

The CoR, of which 18 representatives participate in the work of the Plenary of the Conference⁶³, welcomed the proposal to involve local and

⁶¹ S. FABBRINI, J. E. FOSSUM, M. GÓRA, G. WOLFF, *Conference on the future of Europe: vehicle for reform or forum for reflection?*, in <https://www.eu3d.uio.no/publications/eu3d-policy-briefs/eu3d-policy-brief-1-may-2021.pdf>.

⁶² F. BALAGUER CALLEJÓN, *L'Unione europea di fronte alla Brexit e ad altri processi disgregativi nel contesto globale*, cit., 14.

⁶³ It should be remembered that 18 representatives of the CoR participate in the Plenary of the Conference, distributed among the various political groups. The body is made up of 108 MEPs, 54 from the *EU Council* (two per Member State) and 3 from the *EU Commission*, as well as 108 representatives of all national parliaments on an equal footing, and citizens. 108 citizens will participate to discuss the ideas proposed in the citizens' meetings and on the multilingual digital platform: 80 representatives of the European citizens' meetings, including at least one third under the age of 25, and 27 from national

regional representatives from the EU candidate countries in discussions on the future of EU and highlighted that the Conference will be an opportunity to identify measures that the EU needs in order to increase its capacity to deliver and enhance its democratic functioning in line with the new principle of active subsidiarity⁶⁴. And that will be the appropriate forum for redesigning, strengthening its role and responsibilities, the functions of the

citizens' meetings or events of the Conference, in addition to the President of the *European Youth Forum*. For the *Economic and Social Committee*, 18 members participate, 6 elected representatives of the regional authorities and 6 elected representatives of the local authorities, 12 representatives of the social partners and 8 of civil society. The High Representative of the *Union for Foreign Affairs and Security Policy* is invited to discuss the EU's international role. Representatives of key stakeholders may also be invited.

⁶⁴ See the Resolution on the Conference on the Future of Europe adopted at the 138th plenary session, 11-12 February 2020, in <https://cor.europa.eu/en/news/Documents/Draft%20Resolution%20Conference%20Future%20of%20Europe.pdf>.

Key elements of the Committee's resolution on the conference on the future of Europe are: a) bottom-up debate on the topics covered by the conference, including, but not limited to: EU institutional aspects and the role of regional and local democracy, environmental and climate challenges, digital transformation, social equality, economy and jobs, and territorial cohesion; b) higher representation of the Committee's members in the plenary conferences as well as for a participation in the Conference Steering Committee to ensure political and institutional balance between all levels of governance; c) the EU must continue after the Conference to engage directly with its citizens, building on a wealth of experience derived from participatory models to establish a permanent structured mechanism for dialogue at grassroots level.

CoR in the context of new European governance⁶⁵. It cannot be doubted that the process initiated with the Lisbon Treaty and the reforms has led to the recognition of a more incisive relevance of the Regions in the EU's *multilevel governance system*, although there is still a long way to achieve their closer integration and more stringent participation in the European decision-making process⁶⁶.

In order to support the proposals and the political and institutional role of the members of the CoR delegation to the Conference on the Future of Europe was established the *Committee of Regions High Level Group on European Democracy* (HLG)⁶⁷, an independent advisory body, by providing strategic political analysis, focusing on the challenges for local and regional authorities in Europe and to reinforce the impact and influence of local and regional authorities, through the CoR, in the European policy-making process and to stimulate the discussion about European democracy.

⁶⁵ Apostolos Tzitzikostas, CoR President and Governor of Central Macedonia, warned «*The Conference on the Future of Europe must be the opportunity to have a genuine discussion with citizens and change the European Union. If it is not to be another disappointment, it must be open and inclusive. If it is top-down, centralised, Brussels-driven and does not actively involve its local and regional leaders, the Conference will fail*», in <https://cor.europa.eu/ro/news/Pages/Conference-on-the-Future-of-Europe-is-opportunity-to-change-EU.aspx>.

⁶⁶ The multilevel political system of the EU gives voice to the national level chiefly via the *Council of the European Union*, and to the local level primarily via the *Committee of the Regions*.

⁶⁷ The *High Level Group on European Democracy of the European Committee of the Regions*, chaired by the first President of the European Council and former Prime Minister of Belgium Herman Van Rompuy. The group is composed of seven European “*wise men and women*”, beyond the same Van Rompuy, Joaquin Almunia, Tomasz Grzegorz Grosse, Rebecca Harms, Silja Markkula, Maria João Rodrigues and Androulla Vassiliou.

It is therefore necessary to share the thesis according to which, if the direct influence of the Community system on the development of the regional level of government within the EU States is difficult to demonstrate, indirect one is undoubted, as is the temporal coincidence between the development of the two processes. The momentum came in the 1990s, when even the institutional structure of the Union, after the Maastricht Treaty establishing a governing body of the Union, the CoR with political weight and very limited institutional but with a high symbolic political value.

At the end of these considerations, it must be emphasised that the question that arises, on the other hand, concerns the existence and demonstrable influence of the EU on secessionist pressures in some of the Regions⁶⁸.

Conclusively it can be observed that CoR has been playing an increasingly, but only slowly, political role in the legislative process, as confirmed by some proposals to transform this institution into a “*Third Chamber*” with legislative powers⁶⁹, representative of EU regions⁷⁰ and that

⁶⁸ F. PALERMO, *Autonomia, Europa e secessione. Come stanno le cose?*, in P. LATTARULO, A. OMIZZOLO, F. PALERMO, V. PROVENZANO, T. STREIFENEDER, *Le Regioni d’Europa tra identità locali, nuove comunità e disparità territoriali. The regions of Europe among local identities, new communities and territorial disparities*, Milan 2018, 55 ss.

⁶⁹ See F. CHATZISTAVROU, K. PAPANIKOLAOU, *Revising the Early Warning System to reinforce the ‘third chamber’ of EU multi-level law-making*, in S. BLOCKMANS S. RUSSACK (eds.), *Deliberative Democracy in the EU Countering Populism with Participation and Debate*, Brussels-London, 2020, 169 ss.

⁷⁰ W. VAN AKEN, T. CORTHAUT, P. SCHMITT, A. MARX, *CoR’s Future Role and Institutional Positioning, Committee of the Regions*, 2014, in <https://cor.europa.eu/en/engage/studies/Documents/CoR-Future-Institutional-Positioning/CoR-Future-Institutional-Positioning.pdf>. In this perspective the CoR would

could scrutinise the respect of the principle of subsidiarity⁷¹, however, dropped the proposal, partly in light of the EU Parliament's contrary opinion, and decided instead to strengthen its consultative role⁷² or, in alternative, make the opinions partially binding, in the sense that it can only be overcome by qualified majority approval.

become a new EU institution and a territorial chamber next to the EP and the Council. Under this proposal the EU takes on the more explicit federal structure of a constitutional union mirroring a 'United States of Europe' with different types of government providing more consistency. The more federal structure represents the citizens in the EP, the Member States in the Council and the LRAs in the EU Senate. The *legislative decision-making* would rest with these three chambers. The Commission would maintain its right of initiative and its current executive role; the scenario considers two options: (a) *a symmetric and egalitarian tricameralism*; and (b) *asymmetric and subordinate tricameralism*. In both options the level of (a-)symmetry or (non-)egalitarian tricameralism would depend on the composition of the EU Senate and the level of autonomy of the constituent LRAs. The representation of the LRAs in the EU Senate would be key without losing the capacity for EU decision-makers to act effectively.

⁷¹ A.M. POGGI, *Dove va il regionalismo in Europa?*, in *www.federalismi.it*, 16/2018, 3.

⁷² Again S.F. NICOLSI, L. MUSTERT, *The European Committee of the Regions as a watchdog of the principle of subsidiarity*, cit., 290 that examine the resolution adopted on 1 February 2018, by CoR about a legislative proposal of the European Commission concerning a Regulation that changes the rules governing the EU regional funds for 2014-2020 in breach of the principle of subsidiarity. Accordingly, the Committee considered challenging the legislative proposal before the Court of Justice if the proposal was formally agreed upon. Although at a later stage the EU Commission decided to take into account the Committee's argument and amended the proposal accordingly, such a context offers the chance to investigate more in detail the role of the CoR in the legislative process of the EU and, more in particular, its role as a «*watchdog of the principle of subsidiarity*».

Therefore, it is essential that the effectiveness of the participation of the CoR in the EU law-making process be strengthened⁷³ in a perspective where the regional dimension remains key to the functioning of Europe⁷⁴.

This significant progress which, although it has maintained the central role of the Member States in European governance, ablating the project of

⁷³ See more hypothesis that explore reforms that could strengthen institutions and practices of local representation in the EU political system in EUROPEAN COMMITTEE OF THE REGIONS, *The Conference on the Future of Europe: Putting Local and Regional Authorities at the Heart of European Democratic Renewal*, report of M. BRUTER, S. HARRISON, M. SORACE, E. VIVES (*London School of Economics and Political Science*), Brussels 2021. The aim of the study underline the fundamental importance of the local level in ensuring the robustness and stability of multi-level systems to improve the Committee of the Regions' position and to move subsidiarity from a vague, abstract principle to practice. The theoretical and empirical literature on federalism highlights (a) the importance of empowering institutions of local-level representation in higher level, 'central' decision-making; (b) the importance of clearly spelling out policy competences and clearly demarcated sovereignty boundaries in the constitution/case law; (c) the importance of a stable and integrated party system across all levels, helping citizens to easily navigate the multi-level system. The report point out the relevant interventions to (1) enhance the inclusion and representation of local and cross-border interests at the EU level, as well as citizen access to EU information; (2) enhance the influence of the local/regional level in the EU's policy-cycle.

⁷⁴ About the implications of the democratization-regionalisation nexus and 'Europe with the regions' that may promote good governance and ameliorate the democratic deficits of the EU see G. ABELS (ed.), *Regional Governance in the EU Regions and the Future of Europe*, London 2019.

the “*Europe of the Regions*”⁷⁵, although it is necessary to consider the continuing absence of regional levels in many Member States and the profound differences that exist between the various sub-state entities⁷⁶, has

⁷⁵ On this complex issue see O. CHESSA, L’«*Europa delle Regioni*»: *illusioni e delusioni*, in *www.federalismi.it*, 7/2020 and before C. DE FIORES, “*Remettre les Régions a leur place*”. *Dall’Europa delle Regioni alle Regioni senza Europa?*, in *Ist. del Federalismo*, 1-2013, 57 ss.; L. HOOGHE, G. MARKS, *Multi-Level Governance and European Integration*, Lanham 2001, 35 ss.; P. KUKAWKA, *Le Quadrige européen (Bade-Württemberg, Catalogne, Lombardie, Rhône-Alpes) ou l’Europe par le Régions*, in R. BALME (ed.), *Les politiques di néo-régionalisme. Action collective regionale et globalisation*, Paris 1996, 91 ss.; A. MANZELLA, *Il nuovo costituzionalismo europeo: Regioni e cittadinanza*, in *il Mulino/Europa*, 1994, 39 ss.; L. SENN, *Verso un’Europa delle Regioni*, in A. BRAMANTI, r. RATTI (eds.), *Verso un’Europa delle Regioni. La cooperazione economica transfrontaliera come opportunità e sfida*, Milano 1993, 13 ss. In the context of what has become the cohesion policy, the EU Regions have progressively taken on important activities of Community relevance while the Union has structured a series of interventions that have determined relationships of direct dialogue with the Regions and their structures political and administrative. The formula “*Europe of the Regions*” came into vogue from the second half of ’80, and then through the nineties up to the early 2000, covers the same time interval in which the idea is affirmed that the community legal system has a “*constitution*”, namely a multilevel constitution or *Verfassungsbund* see I. PERNICE, *Multilevel Constitutionalism and the Treaty of Amsterdam: European Constitution-Making Revisited*, in *Common Market Law Review*, vol. 36, 1999, 703-750, and find roots in the “*European regional policy*”, G. PORRO, *Politica regionale della CEE*, in *Novissimo Dig. It.*, V, Torino 1984, 1004.

⁷⁶ «Subnational authorities eschew straightforward definitional exercises for their widely diverse statuses and competences as a matter of domestic law, which necessarily influence their interactions with other actors such as the European Union», verbatim M. FINCK, *Subnational Authorities in EU Law*, Oxford 2017, 60 ss. But see also T.A.

nevertheless strengthened the role of territorial autonomy in the European Union.

Finally it seems appropriate to remember the “*Marseille Manifesto*”, adopted in the French city during the summit of European Regions and cities in March 2022, a call to Europe’s leaders to hear the voices of the million politicians elected at regional and local level across the EU, who are committed to bring Europe closer to people, where it is emphasized that Regional and local authorities are the foundation stones of democracy in Europe, recognised as part of the democratic fabric of the EU⁷⁷.

The manifesto request explicitly, in the perspective of the *Conference on the Future of Europe*, a new role for the CoR, gradually upgraded beyond its current consultative function towards a binding role in a limited number of policy areas with a clear territorial dimension while avoiding additional complexity in the EU⁷⁸. This reinforcement of the principle of subsidiarity can be achieved by granting the CoR better access to negotiations between the EU institutions on legislative proposals (*trilogues*) and «*by giving regional parliaments, in duly defined circumstances, a formal role in proposing EU legislation for a better link of the EU with the realities at local, regional and national levels and ensure citizens receive feedback on their ideas*», to reaffirm

VANDAMME, *Still the Committee of ‘Legislative Regions’? On Heterogeneity, Representation and Functionality of the Committee of the Regions after 2004*, Amsterdam Centre for European Law and Governance Working Paper Series, 2013.

⁷⁷ The “*Marseille Manifesto*” of local and regional leaders: «*Europe starts in its regions, cities and villages*» of March 4, 2020 is available for consultation in <https://cor.europa.eu/en/summits/2022/Pages/Manifesto.aspx>.

⁷⁸ With the aim to give greater consideration to the expertise of local and regional authorities in the elaboration and implementation of EU law will lead to better regulation and greater democratic legitimacy in the EU.

“cohesion” as a «fundamental value and as a compass for all EU policies based on the respect for partnership and multilevel governance».