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**What Model for the Committee of the Regions?
Past Experiences and Future Perspectives**

**RENAUD DEHOUSSE and THOMAS CHRISTIANSEN
(eds)**

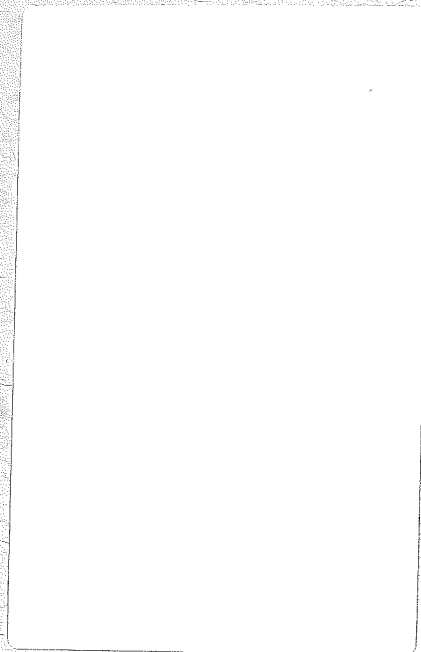
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What Model for the Committee of the Regions?

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Preface

The Maastricht Treaty provided for a consultative "Committee of the Regions" which was to bring the European Union's "third level" into the deliberation of legislation. It began to operate in early 1994. The contributions to this working paper are updated and revised versions of a conference held at the European University Institute in January 1995 to review the experiences and to discuss the prospects relating to this new body.

The question governing this discussion - "what model for the Committee of the Regions?" - indicates the presumption that the role of the Committee within the Union's institutional structure has not been fully defined. It is a novel institution which has, *per se*, no counterpart in other political systems. It has come into being only after prolonged debate and arguments inside the InterGovernmental Conference and within the Member States. Then came the delay due to the late ratification of the Maastricht Treaty itself. And almost as soon as work started for the Committee, the long shadows of the next IGC in 1996 began to fall ahead. Thus a reorganisation of tasks and competences - and with them a redefined role for the Committee - is already on the agenda.

What we are confronted with is, first of all, an apparent paradox: an *advisory body* composed *elected politicians*. There are no ready models for the analysis of a such a novel institution in period of flux. Yet one may hypothesize about the emergence of one or the other institutional form. The structure of the conference and of this working paper have followed this conception. The Committee's official function - consultation - is a broad category, which leaves open whether in the future its representative or the advisory aspects will be more significant. The contributions here take this openness as a point of departure. These diverse experiences with different types of consultative politics, allows us to gain new insights into the operation of the Committee.

The opening chapter by Liesbet Hooghe and Gary Marks on the channels of sub-national representation demonstrates the range of inter-mediative tools regional actors have in the recent past developed to influence Community

decision-making. His discussion of the various, complementary routes of access of regional and local government to the Community centre demonstrates the dynamics underlying these cross-level relationships in recent years. His chapter also helps to put into perspective the role of the Committee. In many ways its 'consultative' functions were already preempted by the emergence of intensive lobbying by regions - individually and collectively. Thomas Christiansen in his contribution charts the difficult first year of the Committee, illustrating that much of the credit and high expectations were not borne out by recent practice in the chamber. A number of divisions cutting through the Committee membership, above all along national lines, sheds a questionable light on the idea of a 'common interest' among regional governments - an idea, after all, which was a major driving force in the creation of the Committee.

Against this context of developments, different experiences of consultative politics are then discussed. Andrew Barker begins this exercise with a paper on policy-advice, pointing to the power, but also the perils, of what he calls 'knowledge authority'. Comparing the results of his research on the practice of policy-advice in the UK, he points to the Committee's political ambiguity: its quality is its 'representational value', i.e. the fact that *locally* elected politicians bring in their expertise might provide additional legitimacy. At the same time the nature of party politics might damage the notion of neutral and objective advice, and consequently the standing of the Committee might suffer.

This is echoed in the conclusion of John Kincaid's chapter on the US experience. Here the Advisory Commission on Intergovernmental Affairs has become the victim of partisan party politics after a proven track record of influential policy-advice. Roger Morgan presents the experience of the Economic and Social Committee of the European Community. This, too, has in past years seen a decline of its significance. The reasons for this lie not simply in the unbinding nature of its opinions, nor only in the fact that it brings together three antagonistic forces, but is also due to direct lobbying which social and economic interests increasingly undertake, thereby eclipsing the institutionalized tripartite model.

These attempts at consultation are compared, in the final contribution, by Roland Sturm's paper on the experience of second chambers. Yet also they have benefitted more from the avoidance of conflict with first chambers and from the accomplishment of in-depth and sober problem analysis rather than from rising political tension.

The respective usefulness of these different approaches demonstrates that each goes some way to explain the dynamics of the Committee of the Regions. Some paradox outcomes have thus been brought to the fore. What was to be "Committee of the *Regions*" had turned out to be divided along *national* lines; the 'strong regions' from Germany, Belgium and Spain that had pressed most for its establishment were now that the Committee had begun to work in earnest a disenchanted minority; and what was meant as a body for deliberation and consultation had become an organ for political representation and was seen by some as the future second or third chamber of the Union.

Consequently, the discussion also points to some of the risks involved in the decisions which have yet to be taken. The problematic relationship between policy-advice and representational politics is one such instance which will require further attention in future research. We hope that this working paper succeeds in not just indicating the major strands of institutional development, but also in pointing towards the consequences of the difficult choices ahead.

Florence, April 1995

Renaud Dehousse

Thomas Christiansen

Channels of Subnational Representation in the European Union

Liesbet Hooghe*

Gary Marks**

One of the most important consequences of European integration is the multiplication of channels for subnational political activity. Subnational governments are no longer constrained to diadic political relations with central state actors, but interact with a variety of actors in diverse arenas. In recent years there have been many signs of this. Local and regional governments from several member states have set up autonomous offices directly in Brussels; subnational governments, across the EU and beyond, have created a complex and still largely uncharted maze of formal and informal networks; in regions designated for EU cohesion funding, subnational officials help design and implement economic development plans alongside national and Commission officials; in Belgium and Germany, regional actors participate directly in their country's representation on the Council of Ministers; and, finally, subnational governments are represented in highly visible, though primarily symbolic, assemblies -- most notably the new Committee of the Regions established in the Maastricht Treaty. But, and this is a distinctive feature of multi-level governance in the European Union, regions do not engage in these activities equally. There is no congruence, nor even convergence, in the political role of regions in the European Union. Instead, there are enormous disparities in the level of organization, financial resources, political autonomy, and political influence of subnational governments across Europe¹.

Before we outline the activities of regional governments in more detail, it is worth considering the implications of such territorial diversity. Political channels, both formal and informal, for regional actors have multiplied beyond recognition, and now they stretch far beyond the boundaries of their respective

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states, but there are wide differences in the capacity of regional actors to exploit these channels. A multi-level polity has developed, but there is no territorial uniformity in its operation. In fact, the creation of new avenues for regional mobilization brings into focus persistent differences in the organizational and political capacities of regional actors. At one extreme, German Länder, Belgian regions, and Spanish comunidades autónomas are well funded, strongly institutionalized, entrenched within their respective states, and active in the European arena. At the other extreme, regional governments hardly exist in Greece, Ireland, or Portugal and are virtually silent at the European level.² If one wishes to find subnational political actors in the latter countries, one has to look to town and city mayors who, even if there are aware of opportunities in the European political arena, lack the resources to mobilize there.

There is, therefore, little sign of the kind of territorial convergence implied in the notion of a "Europe of the Regions." In perhaps no other area of political institutionalization in the European polity is there greater diversity than in the territorial politics of the member states. Multi-level governance seems to be leading not to uniformity but to continued diversity as contrasting regional actors are brought together within an overarching polity.

In this paper we survey the five principal channels of subnational representation in the European Union: the Committee of the Regions, the Council of Ministers, the Commission, Regional Offices, and transnational associations. To what extent do these channels empower subnational governments within the European Union?

The Committee of the Regions

At Maastricht, the member states agreed in a Protocol attached to the Treaty to expand the Consultative Council of Regional and Local Authorities, set up by the Commission in 1988 with consultative rights over the formulation and implementation of regional policies, into a Committee of the Regions on lines parallel to the existing Economic and Social Committee. The Committee of the

Regions has a larger membership than the previous Consultative Council (189 against 42) and although the new body remains largely symbolic, it is given a wider consultative role³. The Protocol directs the Council of Ministers and Commission to consult with the Committee of the Regions on regional issues. In addition the Committee can forward its opinion to the Council and Commission "in cases in which it considers such action appropriate."

The Committee has advisory, not co-decision, powers. It must be consulted by the Council or the Commission (not the Parliament) on five matters: education and vocational training, health, culture, trans-European networks, and economic and social cohesion. It may also provide opinions on any other matter. Ultimately, the Committee has to rely on persuasion or on those members who could pressure their national governments (Belgian, German and Spanish regions in particular)⁴.

Several features weaken the Committee's capacity to act cohesively for subnational interests. In certain countries it is the national government that selects its subnational representatives on the Committee. The 24 representatives of the UK are picked by the central government to represent a patchwork of local and 'regional' authorities. In France, central government's role in selecting representatives is enhanced because not all regions and only a handful of localities are able to be represented. In contrast, Belgian, Spanish, German, and Austrian regions each have their own seat in the Committee, and national constraints are virtually absent.

In the second place, the Committee is severely divided internally. The major conflict is between local and regional interests. The representatives are mostly regional in Austria, Belgium, Germany, France, Spain and Italy, while in Denmark, Finland, Ireland, Greece, Luxembourg, the Netherlands, Portugal, Sweden and the UK they are mostly local. The local-regional divide comes down largely to the difference between federal or regionalised countries, on the one hand, and unitary member states on the other⁵. This cleavage is crosscut by a rift between the North and the South of Europe, pitting contributors to the EU

budget against beneficiaries. The North-South rift is reinforced by a contrast in political styles⁶.

The Council of Ministers

Although subnational governments now have a European institution of their own through which they can channel their concerns, this is not necessarily the most effective strategy. Their influence on European decision making may be greater if they are able to work through other European institutions such as the Council of Ministers or the European Commission, but this depends on certain conditions. To the extent that subnational governments are entrenched in their respective states, they have been able to exert pressure on their respective state executives to gain voice on particular policies and institutionalized influence on the most powerful EU institution, the Council of Ministers.

Under the new Article 146 of the Treaty a member state can send regional ministers to the Council of Ministers, who are allowed to negotiate and bind the member state⁷. So regional authorities can be at the centre of decision making. However, this channel is highly selective. Only Belgian regions (and communities) and German Länder currently have access to it. Spanish regions are demanding a similar arrangement, and Austrian Länder will probably be able to take advantage of the new procedure. It is unlikely to be available to subnational authorities in other member states.

The development and character of regional input in Germany and Belgium are sharply contrasting. Germany has taken a gradual and moderate path, while Belgium has changed radically over a short period of time. German regions have also generally worked collectively, while Belgian regions usually link up separately with the European arena. The latter distinction runs through nearly all arrangements. German Länder share a regional observer (Länderbeobachter) in the German Permanent Representation. For Belgium, the Walloon Region and the French Community each have one regional observer, while Flanders has not yet appointed a representative.

In Spain, *Convergencia i Unió* (CiU), the ruling party in Catalonia, exploited its coalition potential after the 1993 election to gain a larger role in EU decision making. In return for CiU's agreement to support the Socialist government, the Socialist party (PSOE) agreed to reevaluate regional representation in all EU organs and incorporate regional representatives in decision making on regional competencies. PSOE also agreed to set up a bilateral commission to inform state institutions of regional government positions on EU issues⁸.

Formal channels are by no means the only ways to involve subnational authorities in European decision making. Most member states have developed practices to take territorially diverse interests into account. In the UK delegation in Brussels, Welsh and Scottish administrations are represented indirectly through appointments in functional areas of special concern to them. For example, European fisheries policy and regional policy tend to be monitored by civil servants from the Scottish Office. However, civil servants in Wales and Scotland work ultimately within a unitary framework⁹. Similarly, the French system of *cumul de mandats*, in combination with party allegiance, can give regional politicians--not necessarily regional administrations--considerable room to influence the French position.

Links with the Commission

A third institutional channel consists of the participation of subnational actors in the EU's structural or cohesion policy, which aims at reducing disparities among the regions in the European Union¹⁰. The 1988 reform of the structural funds stipulates that the Commission, national authorities, regional or local authorities and social actors should work in close, equal and ongoing "partnership"¹¹. The chief bureaucratic expression of partnership has been the establishment of monitoring committees, which include subnational representatives alongside representatives of the Commission and central government, to formulate, manage and assess regional programs within broadly defined guidelines.

Cohesion policy has produced a highly uneven pattern of subnational mobilisation across the EU. This is partly by design, because structural policy, which forms the core of EU cohesion policy, is by definition discriminatory. About 40% of the population is covered by structural policy, including the whole of Spain, Portugal, Ireland and Greece, Southern Italy, eastern Germany, alongside parts of the UK, Belgium, France (and its overseas territories), and western Germany.

Within those selected areas, partnership has operated differently from one member state to another¹². The bulk of the redistribution is organized in *Community Support Frameworks*, economic development plans for each of the participating member states and constituent regions. More than any other EU policy, cohesion policy reaches directly into the member states, directly engaging subnational governments and private actors with the Commission and member state governments. Unlike the budget for cohesion policy, which is determined largely by intergovernmental bargaining, there is a diverse array of networks across individual member states concerned with decision making in structural programming. Actors vary enormously from one network to another, but there is one actor common to all: the European Commission.

To what extent have subnational governments been empowered by the practice of cohesion policy? It would be premature to jump to hard conclusions on this question, for structural programming is a recent innovation. The first round of structural programming began in 1989 and was completed only last year, while the second round is, at this time of writing, only just underway. In such a brief time span one is unlikely to find dramatic institutional recasting of territorial relations. The causal path from structural programming to institutional relations among levels of government is complex and convoluted: first, one might look for rising expectations on the part of key subnational actors as a result of their integration (or lack of integration!) in cohesion policy formulation and implementation; further along the causal path, one might examine the extent

to which this has led to mobilization of demands on the part of subnational actors for political influence and perhaps even demands for some constitutional revision of territorial relations; at the same time, one would expect to find some response on the part of central government actors, perhaps a concerted attempt to use cohesion policy to buttress central coordination; finally, one would have to analyze the dynamics of the resulting contention. One of the basic elements of this story -- and arguably of any sensible modelling of causality here -- is that it involves a sequence of lags. The time scale for major institutional change as a consequence of these processes may be one of decades rather than months or years¹³.

But it is not, perhaps, too early to take stock of initial, more subtle, signs of change that appear to have taken place between the first round of structural programming in 1989 and the beginning of the second round in 1994.

Summarizing the impact of the first round of structural programming in Ireland, Brigid Laffan writes that "the 1988 reform of the Funds undermined the gatekeeper role of central government"¹⁴. While the overall structure of power has not shifted decisively, cohesion policy has "disturbed" relations between central and local actors: local community groups have been mobilized, local input into central government policy has been enhanced, local actors have sought greater control over local economic development, and new impetus has been generated for a major overhaul of Irish local government¹⁵.

In Greece, as in Ireland, the first round of structural programming from 1989 to 1993 did not result in a decisive institutional shift in territorial relations. However, at an informal level, Ioakimidis diagnoses that structural programming has energized subnational government, raising expectations and demands, modernizing bureaucracies, and creating new communication channels for local and regional authorities, linking them with central government, with subnational governments in the rest of Europe, and with the Commission, bypassing central government¹⁶. Ioakimidis writes that the "rudimentary bases of multilevel governance can be discerned in these developments," a strong claim given that

Greece remains one of the most centralized states, if not the most centralized, in the European Union¹⁷.

In Belgium and Spain cohesion policy feeds into pressures for regionalization and the ongoing conflict concerning the allocation of competencies across levels of government. In both countries territorial relations have been in flux, but in each case the effects of cohesion policy interact with deep-seated and more powerful forces rooted in ethno-cultural conflicts.

In Belgium, according to De Rynck, the introduction of structural programming has coincided with, and reinforced, the territorial restructuring of the Belgian state. There has been a simultaneous centralization and decentralization of competencies from the first round of structural programming (1989-1993 to the second (1994-1999) as decision making has shifted to the regional level at the expense of both the central state and localities. Structural programming has taken place in a contentious situation in which political actors at each level of government were already mobilized, and as a result it has been the object of strategic interaction rather than a source of new expectations or demands as in Ireland or Greece. The chief independent effect of structural programming has been to stir up the already complex institutional pie of Belgian administration by facilitating the creation of new agencies which are controlled by the regional government rather than by local or national authorities.¹⁸ As Liesbet Hooghe has observed, although the European Union has offered opportunities to local actors, "the EC clearly constitutes a window of opportunity for regions to strengthen their position vis à vis a weak nation-state government"¹⁹.

The effects of structural programming in Spain have interacted with the ongoing process of regionalization and the ongoing conflict between the central state and regions, particularly Catalonia and the Basque Country, about regional competencies. The *Comunidades Autonomas*, particularly those empowered under the special statutes, were too strongly entrenched to be excluded from structural programming, but neither have they been integrated into it. Successive Spanish governments have tried to bypass the regions, or where this was not

feasible, have tried to contain regional influence by splitting funding across national and regional budgets.

In Italy, coordination problems have impeded structural programming and a significant proportion of allocated EU funds were never spent. Jürgen Grote observes that "relations between the European Union and the regions, for example during the implementation of the Integrated Mediterranean Programmes and under the reformed structural funds, take place in an extra-legal space without any basis in constitutional or other legal provisions"²⁰. Within this disarticulated context, structural programming appears to have been a pressure for the reform and rationalization of regional-national relations in the direction of informal partnership.

In France, Germany, and the UK, territorial relations are highly institutionalized and the funds provided by the EU for regional development are either about the same (in the case of France) or less (in the cases of Germany and the UK) than the funds provided by the central state. The Commission has had little influence over policy making or the allocation of competencies across policy participants. Richard Balme and Bernard Jouve find that, in the case of the Rhône-Alpes, "there is no evidence of [new] networks substituting or replacing previous ones"²¹. The central government planning agency, DATAR, along with Regional Prefects, were successful in coordinating subnational governments and, thereby, constraining regional autonomy. Structural programming in Germany has been integrated into the existing, and very highly institutionalized, Gemeinschaftsaufgabe network linking regional governments to the Federal state and to each other. Moreover, German territorial relations already embody aspects of the partnership principle promulgated by the Commission, and so EU structural programming advances norms that are already established in Germany. In the UK, as well, structural programming has left formal institutions intact. Local authorities remain constitutionally impotent and dependent on central government, which dominates not only resources but the allocation of competencies across levels of government.

However, in France and the UK, there are signs that the experience of structural programming has buttressed demands on the part of subnational actors for participation in regional planning and has, at the very least, intensified contention between subnational and central government.

Regional Councils in France have begun to play a more influential role in negotiating the Contrats de Plan that form the basis for the French CSF. No longer does DATAR dominate the process of formulating the plans; under the most recent round of structural programming they are determined by negotiation between Regional Councils and Prefectures²². The result of this is not that central government has lost its predominance. Rather, the outcome seems to be increased conflict and mistrust across levels of government focussed on issues such as the unresolved composition of the Monitoring Committee and the role of Regional Councils in cross-border arrangements.

In the UK, structural programming has enhanced expectations among subnational actors concerning their role in regional development and has precipitated a variety of new subnational partnerships including, most notably, the North-West Regional Association, a broad based association of regional-level actors. Exposure of local government officials to structural programming has opened new perspectives for them and made them impatient with London's resistance to the implementation of partnership²³. In short, according to Bache, George, and Rhodes, "cohesion policy triggered institutional changes supporting the role of local and regional authorities in EC policy making at both the national and supranational levels"²⁴.

Regional Offices

In recent years subnational governments have established independent offices in Brussels which lobby, gather information, and network with other regional actors and with EU political actors. The first regional offices were set up in 1985 by Hamburg and Saarland. Three years later there were 18 such offices. At this time of writing there are 70 if one includes offices representing individual cities and national associations of local governments alongside those

representing regions and localities. They range from poorly funded bureaus, staffed by one or two part-time officers, to large quasi-embassies employing (in the case of the Catalan office and several Länder offices) as many as 20 representatives in addition to secretarial staff.

The existence and type of regional office in Brussels varies decisively across countries. All sixteen German Länder plus Berlin are represented, both Belgium regions are represented as are half of the Spanish comunidades autonomas. These are countries with a strong tier of regional representation, and in each case that tier dominates representation in Brussels. In France the regional tier of subnational government is weaker and although most offices were established by régions, two départements also have offices. In the United Kingdom, where subnational government is relatively weak, local authorities, regional quangos, regional enterprise organizations, national local authority organizations, and even universities, fund 17 offices representing an individual city (Birmingham), individual local authorities, regional groupings of local authorities, a national local authority organization, alongside offices representing the North of England, Northern Ireland, Scotland, and Wales.

Independent representation of subnational governments in the remaining countries is very weak or non-existent. Italy provides just two offices, neither of which represent regional governments. An office from Lazio is funded by private business, while the Italian government funds an office representing the Mezzogiorno. Regional governments in Italy are impeded from setting up offices by the 1970 constitution which gives the state executive exclusive competence in international affairs. Denmark, which has a weak tier of regional administration, is represented by three towns. Ireland has just one regional office, while no subnational governments in Portugal or Greece have offices in Brussels (see annex 1).

Quantitative analysis of this phenomenon reveals that the regions having representation are not those that receive the most funding from the EU, or the poorest, most needy, regions. Rather, the most politically entrenched, most ethnically distinct, and richest regions are present. Hence, the contrast between

Spain on the one hand and Portugal and Greece on the other. The influence of resources on representation can also be seen *within* Spain. Among the comunidades autónomas there is a strong positive association between having an office in Brussels and size of budget²⁵.

The regions that are represented directly in Brussels engage both in competition and cooperation depending on the issue. On issues having to do with the institutional structure of the EU and the role of subnational governments within it, subnational governments may develop a common position. They form a variety of loose and opportunistic alliances, often with subnational governments in other countries, to better compete for EU funding, including particularly, funding for industrial reconversion and funding for transborder regions. Several regions and localities also share office space and even personnel in Brussels. Usually these offices represent subnational governments in the same country, but there is one case of a transnational office, set up by Essex and Picardie. Block analysis of data gathered in a survey of subnational offices in Brussels reveals that the informal networks they form with each other are particularly dense among offices in the same country, so there is strong national basis to regional interaction²⁶. We also find that these offices interact intensively with EU institutions, particularly the Commission.

On many issues subnational governments are intensely competitive. They are in continual competition for EU spending, and this leads them to compete for prior knowledge of funding opportunities, privileged access to information, contacts with private industry, and access to regional coalitions²⁷. Regional representation seems to be driven by a dynamic of competitive mobilization and counter-mobilization across and particularly within countries that induces regional governments to establish offices so as not to be at a relative disadvantage in competing for scarce resources.

Transnational associations

The past decade has seen the emergence of a diverse and growing number of overarching and specialized transnational organizations representing subnational governments, including the Assembly of European Regions, the Council of European Municipalities and Regions, the Conference of Peripheral Maritime Regions, the "Four Motors for Europe," Eurocities, the Association of Regions of Traditional Industry, C-6 (a network of six French and Spanish Mediterranean cities), the European Association of Border Regions, the Union of Capital Regions, associations covering the western, central, and eastern Alps and the Pyrenees, the Association of Frontier Regions, and the Coalfields Communities Campaign, among many others²⁸.

The Assembly of European Regions was founded in 1985 by nine interregional associations and in 1993 was made up of delegates of 235 regional parliaments representing around 80 percent of EU population²⁹. The blind spots are in Ireland, Greece, the United Kingdom (mainly the southeast) and Denmark.

The organisation has developed a close working relationship with the European Commission, particularly in the area of structural funds, but also on institutional issues. It has pushed for increased involvement of regions in European decision making, pressing for a Committee of the Regions, Article 146, and the inclusion of the subsidiarity principle in the Maastricht Treaty. The AER was instrumental in the practical preparation for the Committee of the Regions, although its relations with the new body have become tenuous³⁰. The Assembly seems set to become a more traditional interest group organisation as the Committee of the Regions gains greater standing.

The Council of European Municipalities and Regions (CEMR), which was founded in 1951, is the European section of the International Union of Local Authorities (IULA). Although its name (dating from 1984) suggests differently, it really represents local interests. Its role on the European arena is similar to that of the AER.

Alongside the AER and the CEMR are more functionally specific transnational networks. Some have been created expressly by the Commission and are attached to a specific Community programme or initiative. These include associations for objective 2 regions and for objective 1 regions, and narrower networks purpose built around Community initiatives like Leader (local networks in rural areas), Rechar (conversion of coalmining areas), Retex (textile areas), or Renaval (shipbuilding)³¹. Some are composed of regional governments, others of local authorities.

In addition, the Commission runs specific networking programmes that are not limited to structural policy. One is the *Exchange of Experience Programme* (EEP), to aid transfer of know-how between developed and disadvantaged regions, which was initiated by the European Parliament in 1989 and then adopted (and part-financed) by the Commission. To receive EU money regions from at least three different countries have to design a joint year-long program. In 1993 there were 60 such projects involving more than 100 of the 183 regions in the EU.

Recite (Regions and Cities of Europe) was launched in 1991 by the Commission to fund thirty-seven subnational networks focussed on self-help exchange programmes. For example, *Roc Nord* allows Danish subnational representatives to share know-how in economic and environmental planning with Crete. The *Quartiers en crise* project links 25 cities on problems of social exclusion and *Dionysos* pools technology among ten French, Italian, Spanish and Portuguese wine-growing regions.

These programs involve the peak subnational organizations. The AER helps the Commission oversee the Exchange of Experience Programme, and the CEMR acts as the intermediary between the subnational authorities and the Commission on Recite projects.

A second set of networks has its origins in self-directed mobilization among regions with common territorial features or policy problems. Networks in this category include the Association of European Border Regions (AEBR), the Conference of Peripheral Maritime Regions (CPMR), the three Alpes

associations, the Working Community of the Pyrenees, the Working Community of the Jura, and the Association of European Regions of Industrial Technology (RETI--in fact regions in industrial decline). Analyses of such organizations are scarce³².

A crucial factor determining their effectiveness as lobbyists is their capacity to recruit widely. And here, most associations face a dilemma. On the one hand, the European Commission has consistently been reluctant to deal with narrow organisations³³. On the other hand, the Commission is unable to reward organised members and 'punish' non-organised actors; it is committed to a generally applicable and objective policy. That confronts an association often with serious collective action problems, which are worsened by the fact that potential members are usually very unequal (from local to regional authorities, and from weak to very strong authorities) and that there is often no concrete agenda. Regions are therefore not keen to invest energy in a difficult enterprise knowing that they would benefit anyway from the association's eventual success³⁴.

The large encompassing associations do not face these collective action problems to the same degree. Even though the diversity of members and interests often causes significant strains within the organisations, they have been accepted by the Commission as the most representative interlocutors for subnational interests. The AER runs now a few policy-specific networks on its own. In 1989, it started eg. the Interregional Cultural Network (ICON) for the exchange of information and the implementation of joint projects. It has intensified collaboration between the European regions' cultural administrations. In 1993, it received some funding from the EU (AER documentation). Similar initiatives emerged around local authorities associations over the past twenty years.

The networks in this second type seem to share a concern to reduce disparities or imbalances. Most focus on, or include, less well-off areas of the European Union, which often are in desperate need for EU money for restructuring and development. Hence, they represent the bottom-up cohesion

effort by subnational authorities, but have in the process become dependent on the European Commission.

The last category of networks has emerged from a position of strength in the European Union. The most famous example is the Four Motors arrangement between Baden-Württemberg, Rhône-Alpes, Catalonia and Lombardy, which combines the most dynamic regions in their respective countries. The purpose of the 1988 agreement is to promote technological collaboration, research and development, and economic and cultural exchanges. The signatories of the agreement explicitly endorse greater European integration. Wales established links with the four in 1990 and 1991. Essentially, the regional governments act as brokers, who set a broad regulatory framework and bring interested parties together, while the decisions about possible collaboration are mainly left to business or other private actors. Other examples are the Euroregio partnerships, such as the Euroregio encompassing the dynamic three-country meeting area of Maastricht (NL)-Liège (B)-Hasselt (B)-Aachen (G)-Cologne (G). On the local side, many longstanding town-twinning schemes have been extended to economic partnerships and trading and technology transfers. The open-textured nature of networking makes it very difficult to come up with reliable data on the density of the networks. The British Audit Commission estimated that 22% of the British local councils are involved in programmes outside the structural funds³⁵.

This third category of networks is more driven by a market logic. Subnational political leaders and civil servants act as 'ministers of external trade' for their subnational territory. That role is in line with the current paradigm in regional development policy, where subnational political leaders are expected to act as brokers rather than development planners³⁶. The success of brokers does not depend on their having direct control over services, but on their political connections with those controlling services and money. In other words, leaders from Baden-Württemberg do not have to create new services nor spend large sums on projects, but mobilise resources from the private sector and from the European coffers.

Conclusion and evaluation

The institutional changes outlined above have brought subnational actors directly into the European arena. Central states still provide important arenas for subnational influence, and, as we have stressed, the participation of regional governments at the European level reflects their institutional capacity within their respective political systems. But central states no longer play the critical role of intermediary between subnational government and international relations. That is to say, subnational governments are no longer nested exclusively within states. They have created dense networks of communication and influence with supranational actors, particularly the Commission, and with subnational actors in different states. There is no hard and fast line for subnational governments separating their respective state arenas from the European arena. European integration is domesticating what would previously have been described as international relations.

The outcome of this process has been extraordinarily messy, and it is not captured by the notion of a Europe of the Regions or even by federalism.³⁷ There is no overarching model of governance across the member states, but a variety of mutually exclusive models with widely different conceptions of how authority should be organized territorially. Even the basic units of subnational governance are widely divergent. As a consequence of this, the mobilization of subnational units within the EU varies enormously from country to country, and even within countries. Hence, representation of subnational governments in Committee of the Regions is disparate and contested. Territory matters more than any other basis of identity in the emerging European polity, but once we probe beneath the shell of central states, there are no common principles of political organization that might provide a coherent basis for a European polity.

It is possible to argue that this is merely a transitional phase in a process of convergence. Subnational governments in several countries are now in routine

communication with each other. Where regional governments are weak or absent, as in Greece, Ireland, or Portugal, subnational officials who participate on the Committee of the Regions can see close at hand the powers wielded by regional actors in Spain or Germany, and they may demand the same for themselves. There are strong grounds for expecting diffusion as an unintended outcome of multi-level governance. But one would also expect that where institutional reforms are generated, they are assimilated within the particular context of the country concerned.

Multi-level governance in Europe is a result of two sets of developments, European integration and regionalism, that converge in pulling decision making away from central states. What we are currently seeing is a messy process of deconstruction and reconstruction, rather than the replacement of one stable political order by another. Territorial relations throughout Europe are moving, rather than fixed, targets. We suggest that far from being a transitory situation, this is a fundamental feature of the European polity. Multi-level governance describes a patterning of authority that is unstable, contested, territorially heterogeneous, and non-hierarchical, rather than stable, consensual, territorially uniform, and hierarchical.

Territorial relations between states and the EU and between states and regional movements turns on normative issues as well as power. Which levels of authoritative decision making are appropriate for which issues? How should governments at different levels relate to each other? How, in short, should political authority be organized? These are complex, contested, and enormously consequential questions that go beyond basic distinctions between liberalism and authoritarianism or democracy and dictatorship. Democratic theory has much more to say about the rights and duties of citizens and the conditions under which divergent interests should articulated, aggregated and mediated, than about the territorial dimension of political life, including how to determine boundaries of political units, levels of decision making, or interaction of subnational

governments. Historically, democracy developed hand in hand with liberal nationalism, and one legacy of this has been the presumption that the nation provides the rational shell for authoritative decision making.

While there is deep and broad consensus on the virtues of liberal democracy in Europe as in other advanced industrialized societies, there is little consensus on the territorial organization of the state or the degree of autonomy that should be given to ethno-cultural minorities. All EU member states share the basic features of liberal democracy. But they vary enormously in their territorial organization, from decentralized polities, such as Spain, Germany and Belgium, to centralized ones, such as Portugal, Greece, or Ireland.

Recent attempts to provide guideposts for territorial distribution of political competencies are fraught with ambiguity and contention. The most commonly discussed principle in recent years, subsidiarity, poses a straightforward principle--decentralization to the lowest feasible level--but provides few clues concerning what is feasible. Subsidiarity, as revealed in the negotiations leading to the Maastricht Treaty, is notoriously ambiguous in practice.

While we diagnose some common directions of development, there are few grounds for supposing territorial convergence in the EU. The powers of subnational governments vary immensely across the member states, from financially, politically, and organizationally entrenched Belgian regions, German Länder, and more recently, Spanish comunidades autonomas, to weak, poor, and organizationally unarticulated subnational governments in several countries on the periphery of the EU. The territorial pattern of regional mobilization is no less variable. The powers of subnational governments and the degree of regional mobilization vary within the European Union about as much as any political variable could vary.

We have argued that territorial relations across the EU are being transformed in ways that one can generalize about: central states are losing their control over major areas of decision making; new opportunities have been created for regional mobilization; innovative, transnational, patterns of interaction have been established among actors at several levels of government; and peripheral nationalists have been confronted with a new context in which they have had to re-evaluate their strategies and goals. The result, as we conceive it, is the unfolding of common threads of change against a background of impressive variation.

1. Gary Marks, Francois Nielsen, Jane Salk, and Leonard Ray, "Regional Mobilization in the European Union," unpublished paper.
2. See P. C. Ioakimidis, "The Implementation of EC Cohesion Policy in Greece," Paper presented at Conference on "EC Cohesion Policy and National Networks, Nuffield College, Oxford, December 1993.
3. The Maastricht Treaty, (Commission of the European Communities: Brussels, 1992), Articles 189a, 189b, and 189c. The Consultative Council of Regional and Local Authorities (CCRLA) had been attached by the European Commission to its Directorate General for Regional Policy (DG XVI) in 1988. The members were appointed by two European-wide subnational associations, the Assembly of European Regions (AER) and the Council for European Municipalities and Regions (CEMR). The Council was expected to give greater legitimacy to the Commission's role in the recently reformed cohesion policy. In reality, the Council played an unassuming role until it was abolished in 1993. It lacked independence: the agenda was set by the Commission. There was a major cleavage between regional and local authorities.
4. Under the new Article 146, it is conceivable that Belgian and German regional ministers would sit simultaneously in the Council of Ministers and in the Committee of Regions. On culture or regional policy, they would be negotiators in the Council of Ministers, and advisors to the Council in the Committee...hence advising themselves. The internal regulations of the Committee have foreseen this situation, and require that members with conflicting interests are replaced by an alternate.
5. The newly elected president M. Jacques Blanc, (representing a French regional council) announced immediately that the Committee will advise the 1996 Intergovernmental Conference to divide the Committee into two separate institutions, one for regional and another for local authorities. The regions are currently outnumbered by local representatives (about 45% to 55%).
6. Some observers expect representatives to line up according to party political affiliation, which would constitute a third cleavage.
7. Article 146 reads: "The Council shall consist of a representative of each Member State at ministerial level, authorized to commit the government of that Member State."
8. See El País, Oct 7, 1993.
9. Mette Jensen, 'Regional Mobilisation in Response to European Integration. The Potentiality of a Europe of the Regions' (Unpublished M.Phil. Th., Oxford, 1994); James Mitchell, 'Lobbying Brussels: The Case of Scotland Europa,' Presented at the European Consortium for Political Research Workshops, Madrid, April 1994; Sonia Mazey, James Mitchell, 'Europe of the Regions? Territorial Interests and European Integration: The Scottish Experience' in S.Mazey, J.Richardson (eds.) Lobbying in the European Community. (Oxford: Oxford University Press, 1993); Barry Jones, 'Wales and the European Union: The Development of a Regional Political Economy', Presented at the European Consortium for Political Research

- Workshops, Madrid, 17-22 April 1994; Michael Keating, 'Le Monde pour Horizon. Québec, Catalonia and Scotland in the European Union', Presented at the International Political Science Association, Berlin, August 1994.
10. We use the terms cohesion policy to encompass the Structural Funds created in 1988 and the new Cohesion Fund created under the Maastricht Treaty.
 11. The original wording in the regulations spoke of 'competent authorities designated by the member state at national, regional, local or other level' as the third partner, but it was obvious that regional and local authorities were meant. The formulation was strengthened in favour of regional and local authorities in the 1993 regulations.
 12. See L.Hooghe (ed.), European Integration, Cohesion Policy and Subnational Mobilisation (Oxford: Oxford University Press, forthcoming).
 13. Such analysis is complicated by the inescapable fact that cohesion policy is just one, among several, influences on territorial relations. Also, one cannot discount the possibility that these influences may *interact* in complex ways. To name but one example, in Jeffrey Anderson's account of cohesion policy in Germany, the effects of structural programming cannot be understood in isolation from the multiple effects of reunification.
 14. Brigid Laffan in Liesbet Hooghe, ed., Cohesion Policy, the European Community and Subnational Government (Oxford: Oxford University Press).
 15. See Laffan in Hooghe, ed. Cohesion Policy; C. Coyle and R. Sinnott, 'Regional Elites, 'Regional Powerlessness' and European Regional Policy in Ireland', *Regional Politics and Policy*, 1/2: 71-108.
 16. Ioakimidis in Hooghe, ed., Cohesion Policy.
 17. Ioakimidis in Hooghe, ed., Cohesion Policy; S. Verney, S., and F. Papageorgiou, 'Prefecture Councils in Greece: Decentralization in the European Community Context', *Regional Politics and Policy*, 2/1, 1992:109-38.
 18. De Rynck in Hooghe, ed., Cohesion Policy.
 19. Liesbet Hooghe, 'The Crisis of Representation in the EU and Subnational Mobilization', unpublished paper.
 20. J. Grote, 'Cohesion in Italy: A View on Non-Economic Disparities,' in Hooghe, ed. Cohesion Policy.
 21. Richard Balme in Hooghe, ed., Cohesion Policy.

22. T. Conzelmann, 'Patterns of "Regionalism" in EU Policymaking: Lessons from North Rhine-Westphalia, Nord-Pas de Calais and North West England', unpublished paper, 1994.
23. M. Keating, 'The Nations and Regions of the United Kingdom and European Integration', in *Die Politik der dritten Ebene. Regionen im Prozess der EG-Integration*, 1993.
24. Bache, George and Rhodes in Hooghe, ed., *Cohesion Policy*.
25. $R = 0.525$ for the 17 Spanish cases. See Gary Marks, Francois Nielsen, Jane Salk, and Leonard Ray, 'Regional Mobilization in the European Union,' (Chapel Hill, unpublished paper, 1993).
26. Jane Salk, Francois Nielsen and Gary Marks, 'Patterns and Determinants of Cooperation Among Subnational Offices in Brussels: An Empirical Investigation' (Duke University, unpublished, 1994).
27. Sonia Mazey and Jeremy Richardson make the point that the complexity of the decision making leads to an "unstable and multi-dimensional environment" which is highly unpredictable for interest groups. Gaining advance warning of EU policy initiatives is thus a not insignificant function for regional offices in Brussels. See Sonia Mazey and Jeremy Richardson, "Policy-Making Styles in the European Community: Consultation of Groups and the Process of European Integration."
28. See Francesc Morata and Xavier Muñoz, "Vying for European Funds: Spanish Territorial Restructuring and the Implementation of Structural Funds," in Hooghe, ed. *European Integration, Cohesion Policy, and Subnational Mobilisation*; Sonia Mazey and James Mitchell, "Europe of the Regions? Territorial Interests and European Integration: The Scottish Experience" Sonia Mazey and Jeremy Richardson, eds., *Lobbying in the European Community* (Oxford: Oxford University Press, 1993); and Gary Marks, "Structural Policy and Multilevel Governance in the EC," in Alan W. Cafruny and Glenda G. Rosenthal, eds., *The State of the European Community: The Maastricht Debates and Beyond*, Vol.2 (Boulder, CO: Lynne Rienner Publishers, 1993).
29. Failing this (which is the case in six member states), they are appointed by an association or body constituted at the regional level by the local authorities at the level immediately below. *AER documentation: Visiting Cards. European Regions* (Brussels: AER, Dec 1992, Dec 1993).
30. Interview with a spokesperson of the AER in Brussels, June 1994. The AER considers it as its role to promote the interests of the weaker regional authorities in particular. It had therefore asked for a privileged link with the Committee as institutionalised 'patron' for the weaker regions, but was rebuffed. Confirmation from an interview with a Commission official, June 1994.
31. Liesbet Hooghe and Michael Keating, 'The Politics of EU Regional Policy', *Journal of European Public Policy*, Vol.1, No.2 (1994); John Bennington and Janet Harvey, 'Spheres or Tiers?...', Paul McAleavy, 'The Political Logic of the European Community Structural Funds

Budget: Lobbying Efforts by Declining Industrial Regions', European University Paper RSC No.94/2 (1994).

According to McAleavy, the objective 2 network had its origins in a meeting held in Brussels in July 1991, which brought together the sixty regions eligible for objective 2 assistance (regions in industrial decline). It was organised by the European Commission. Ostensibly a gathering of experts in regional economic development, it had also a clear political goal: to put pressure on the European institutions as well as the national governments to support further funding for objective 2. The Commission let it be known that further initiative would have to come from the regions. Within two weeks, eleven objective 2 regions got together to organise a follow-up meeting. That second gathering appointed a core group of eight regions to represent the interests of the objective 2 regions in meetings with Commissioners and representatives of other EU institutions.

32. See Susanna Borrás, 'The Four Motors for Europe and its Promotion of R&D Linkages Beyond Geographic Contiguity in Interregional Agreements', *Regional Politics and Policy*, Vol.3, No.3, (1993), pp.163-176.

33. W. Averyt, 'Eurogroups, Clientela and the European Community', *International Organization* Vol.29, No.4 (1975), pp.949-972; Justin Greenwood, Jürgen Grote, and Karsten Ronit (eds.) *Organised Interests and the European Community* (London: Sage, 1992); Robert Hull, 'Lobbying Brussels: A View from Within' in S.Mazey and J.Richardson (eds.), *Lobbying in the European Community* (Oxford: Oxford University Press, 1992), pp.82-92.

34. The difficult and uncertain ascendancy of RETI illustrates the dilemma. RETI was formed in 1984 as the Association of Traditional Industrial Regions of Europe. The European Commission was present at its first meeting. From the beginning, its membership was flawed. The core consisted of such diverse partners like the French region of Nord Pas-de-Calais, the Belgian province of Hainault, the German Land North Rhine-Westphalia, and the British local authority West Yorkshire Metropolitan County Council. Moreover, the association was not representative, in the sense that it was numerically dominated by UK local authorities, and had no representation of a number of member states. The Commission took a very cautious stand throughout the 1980s, even to the point that it decided in 1991 to persuade the objective 2 regions (de facto the RETI constituency) to form a new representative lobby (see footnote 12). The challenge transformed RETI in 1992. RETI changed its name to the more optimistic European Regions of Industrial Technology and declared it sought to encompass all objective 2 regions. The new objective 2 lobby and RETI are now working closely together to lobby the European Commission. However, the basic collective action problem deriving from unequal members, diverse interests and absence of clear membership advantages remain alive. One outcome is that the most powerful member, Nord Rhine-Westphalia, allowed its membership to lapse, implying that it has much more effective channels for defending its interests in the European arena than the troubled association. RETI is dispensable. The RETI tale illustrates also how the survival of these networks seems to depend on the receptiveness of the Commission. The European Commission is centrally placed to encourage or discourage, direct and shape interest formation. (McAleavy, 1994)

35. Quoted in Stephen George, Ian Bache, and Rod Rhodes, 'The UK and the Committee of the Regions' in J.J. Hesse (eds.) The Institutionalisation of the EC Committee of the Regions. First Intermediate Report to the German Länder, 1993. Further sources: Peter John, 'The Presence and Influence of United Kingdom Local Authorities in Brussels' P. Dunleavy, J. Stanyerl (eds.), Contemporary Political Studies, 1994, (Political Studies Association of Britain, 1994), pp.906-922; Barry Jones, 'Wales and the European Union: The Development of a Regional Political Economy', Presented at the European Consortium for Political Research Workshops, Madrid, 17-22 April 1994; Susana Borrás; Michael Keating.

36. See: Udo Bullmann, Michael Goldsmith and Edward C. Page, 'Subnational Government Autonomy and Political Authority: Regions, Localities and the Shifting Balance of Authority in Europe', Presented at the American Political Science Association, New York, Sept 1-4 1994; Michael Goldsmith, 'The Europeanisation of Local Government', Urban Studies Vol. 4/5: pp.683-699; Raffaella Nanetti, 'Cohesion Policy and Territorial Restructuring in the Member States', Presented at the Conference for 'Policy Networks and European Cohesion Policy', Nuffield, Oxford University, 2-5 December 1993; Robert Leonardi, and Raffaella Nanetti (eds.), The Regions and European Integration. The Case of Emilia-Romagna (London: Pinter Publishers, 1990).

37. This point is made by Jeffrey Anderson, 'Skeptical Reflections on a 'Europe of Regions': Britain Germany, and the European Regional Development Fund.' Journal of Public Policy (1991).

LEVEL OF REPRESENTATION

	NUTS 1	NUTS 2	NUTS 3	Other
BELGIUM				
		Vlaams Gewest ¹		
		Région Wallonne		
		Bruxelles-Capitale		
DENMARK				
				Aarhus ²
				Aalborg ²
				Odense ²
GERMANY				
		Baden-Württemberg		
		Bayern		
		Berlin		
		Brandenburg		
		Bremen		
		Hessen		
		Mecklenburg-Vorpommern		
		Niedersachsen		
		Nordrhein-Westfalen		
		Rheinland-Pfalz		
		Saarland		
		Sachsen		
		Sachsen-Anhalt		
		Thüringen		
				Hanse ³
SPAIN				
		Andalucía		
		Cataluña		
		Galicia		
		Madrid ⁴		
		Extremadura		
		Pais Vasco		
		Comunidad Valenciana		
		Murcia		
		Canarias ⁵		

FRANCE

Nord Pas-De-Calais⁶

Alsace

Bretagne⁷

Côte d'Azur

Martinique

Pays de la Loire⁷

Picardie⁸

Rhône-Alpes

Bouches-du-Rhône

Manche Expansion⁹

Centre-

Atlantique¹⁰

Grand Est¹¹

Grand Sud¹²

ITALY

Lazio¹³

Mezzogiorno¹⁴

UNITED KINGDOM

North of England

Northern Ireland

Scotland

Wales

Yorkshire and Humberside

Cornwall and Devon

East Midlands

Essex⁸

Highlands & Islands

Kent

Lancashire

Strathclyde

Surrey

East of Scotland

Notes for Annex 1

- 1 At this time of writing Flanders has not selected a representative for this office.
- 2 The Danish offices represent towns rather than NUTS regions and are not listed by A.R.E. or the Conseil de la Region Bruxelles-Capitale list of regional offices.
- 3 The Hanse office represents Hamburg and Schleswig-Holstein.
- 4 Madrid is also a NUTS 1 and NUTS 3 region.
- 5 The Canary Islands is also a NUTS 1 region.
- 6 Nord Pas-De-Calais is also a NUTS 1 region.
- 7 Bretagne and Pays de la Loire share an office
- 8 Picardie and Essex share an office
- 9 The Centre Atlantique office represents Poitou-Charente, Centre, and Castille-Leon.
- 10 The Grand Est office represents Champagne-Ardenne, Bourgogne, Lorraine, Alsace, and Franche-Comte.
- 11 The Manche Expansion office represents Manche.
- 12 The Grand Sud office represents Aquitaine, Mid-Pyrenees, Languedoc-Roussillon, Provence-Alpes-Côtes d'Azur, and Corse.
- 13 The Lazio office is funded by private firms rather than the regional government of Lazio.
- 14 The Mezzogiorno office is funded by the Italian state, not regional governments.

- Second Thoughts -
The Committee of the Regions after its First Year

Thomas Christiansen*

Introduction

The Single European Act created a fundamentally different environment for regional governments**. The Single Market programme with its promise to open national frontiers to the four freedoms - the free movement of capital, services, goods and people - changed the basic assumptions about the operation of regional economies (Jensen-Butler, 1987; Prodi, 1993; Begg, 1992). Furthermore, a number of crucial institutional and procedural reforms - the enlargement of community competences, the extension of majority voting in the Council and the systematic use of regulatory competition - demonstrated that a significant part of public policy-making was now moving outside the control of domestic actors (Dehousse, 1992). In addition, the 1988 reform of the structural funds as well as their doubling in size raised the significance of European policy-making for the large number of regions concerned (Marks, 1992; Tömmel, 1992).

The combined effect of these developments has been that regions have become not only aware of the significance of the Community, and has also generated an intense interest in participating in European policy-making and institution-building. Apart from an exorbitant rise in informal lobbying, the creation of hundreds of regional "information offices" in Brussels and the

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** For the sake of convenience, the term "regional" is used here and in the following as an umbrella, denoting regional, local as well as intermediate territorial units. If and when there is a need to differentiate between these diverse level, the terms will be used individually.

forging of trans-European alliances and networks, there was also a demand for an institutional presence in the structure of the Union. Once the Treaty revision leading to Maastricht began in the early 1990s, regions across the Community specified their expectations. In particular the German *Länder* - whose participation in domestic policy-making is most entrenched and who could threaten to veto the ratification of the reformed treaty - insisted that the creation of a regional chamber or a regional council was put on the agenda. Thus the German government was obliged to carry these demands into the IGC and was ultimately able to sway other, more sceptical Member State representatives. The 'need' was for the creation of a consultative body that would formulate and represent these regional interests on the European Union level. In Article 198a of the Maastricht Treaty a "Committee of regional and local bodies, hereinafter referred to as "the Committee of the Regions", [was] established with advisory status.

Further stipulations in this article included the following:

"The members of the Committee and an equal number of alternate members shall be appointed for four years by the Council acting unanimously on proposals from the respective Member States. Their term of office shall be renewable.

The members of the Committee may not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the general interest of the Community."

As indicated above, the establishment of a Committee of the Regions (CoR) was ultimately the result of the transfer of competences to the European arena. Over the years - and again with Maastricht - the European Union (EU) had acquired a policy-making role in a growing number of fields (Dehousse, 1994). Many of these new powers bordered on or even invaded the responsibilities of regional governments in at least some Member States, in particular in Belgium and in Germany. In this context the creation of a consultative body representing regional and local government contained the promise that lower levels would be more directly involved in decision-making processes which concerned them but

from which they had so far been excluded. In other words, CoR presents regional actors with an additional channel of representation that might be more effective than previous alternatives (Hooghe, 1994; Conzelmann, 1994). For the supranational institutions the creation of such a Committee was attractive because it carried the advantage of added legitimacy to European policy-making while its advisory nature carried little potential for obstructing decision-processes. On the national level CoR was less welcome since its very institutionalization and the required decisions regarding its membership meant that difficult questions had to be answered. Some of these answers might (re)open Pandora's Boxes in some Member States' territorial politics - politics which had already exhibited considerable tension since the mid-1980s (Rhodes and Wright, 1987). As it happened, the extended period of domestic deliberation about the make-up of the Committee demonstrated more clearly than before both the potential for 'Europe' to intrude into hitherto guarded areas of national politics as well as national governments' ability to exert considerable control over the unfolding of this process.

A preliminary assessment must therefore take account of this context of tension. Expectations about the evolution of CoR were divided between those who - in the words of Jaques Delors - were "pinning unduly high hopes" on the new body, and those "viewing [it] warily" (Delors, 1994). This "double challenge" put CoR between the promoters of a regional body within the EU institutional structure and those fearing a delegitimization and/or further fragmentation of EU policy-making, on the other.

The more extreme opinions in this regard demonstrate the range of expectations that surrounded the establishment of the new Committee. The (over)optimistic view of CoR's value is perhaps best captured in one of the numerous declarations of a meeting of European Regions:

"... The delegates expect, that the [CoR] will from the start vigorously use all its political resources in all areas, so that the now existing opportunities for influencing [EU] decision-making will be utilized exhaustively. ... [Since regrettably not all demands have so far been

fulfilled], they demand at the next Treaty revision ... co-decision powers in addition to the consultative role and the right to bring cases to the European Court" (Assembly of European Regions, 1992).

The contrasting flavour of exaggerated fear about the damage CoR might do to the established Community structure can be sampled from the heated debate in the British House of Commons:

"The [CoR] could, at best, be a waste-of-time, quango-type talking shop, but at worst it could be the means by which the European Community will seek to bypass the [British parliament] (Mrs T.Gorman, MP (Con) for Billericay)" (House of Commons, 1993: 1052).

"Is it not also possible that this Committee of the Regions might turn out to be able to bypass the House [of Commons] ... It is a way in which the Community can end up saying it has authority to act in a particular way while leaving the House entirely out of it (Mrs T.Gorman)

"... in line with the point made [above] that the nation state itself and its own status are at risk, the Committee of the Regions ... [is] the nucleus of a new unitary state in Europe. In other words, ... [are we] acquiescing in a unitary vision of the European Community ..? (Mr. W.Cash, MP (Con) for Stafford)" (House of Commons, 1993: 1029-1030)

As will be argued below, the experience so far suggests that neither the 'positive', functional thesis nor the 'negative', fragmentation thesis hold true: substantive regional interests - whether collective or individual - have so far not been served effectively by the new Committee, and its establishment has not made the European policy process more difficult. Still CoR has been at the centre of regions' interests. This apparent paradox is explained by the significant impact the Committee has had on a symbolic level.

In the following the article will sketch out the recent trends along these lines of development. An analysis of the potential cleavage-lines running through the Committee will address both the functional and the fragmentation argument, while a subsequent section on legitimacy gains deals with the normative claims

and the issue of symbolic politics. By way of conclusion the article will evaluate the experience so far and the expectations regarding the 1996 IGC.

Cleavage-Lines in the Committee

Looking at divisions within CoR might seem strange against the frequently cited image of a "Europe of the Regions" (Clement, 1991; Bullmann and Eißel, 1993; Hebbert, 1989). This image, transmitted by the political discourse, is one of harmony and unity of sub-national governments in their struggle for direct representation in the Community. In this context the very establishment of CoR is sometimes attributed to the common front of regional representatives, organised in the Assembly of European Regions (AER) and the Council of European Municipal and Regional Authorities (CEMR). The exponential growth not just of individual regions' lobbying efforts, but also of the intensity of collective lobbying through such transnational associations is to a large extent responsible for the increased attention that regions have received from EU policy-makers in the 1990s. Numerous potential conflicts remained covered under a thick layer of rhetoric, yet the discourse about a vertically harmonious, regional Europe became dominant in the 1990s (Borras *et al.*, 1994; Hainsworth, 1994). It took the disagreements and conflicts surrounding the establishment of, and the work in, CoR to demonstrate to a wider public that European regions could well be divided and noncooperative.

Search for conflict is an agreed way of analysing institutional contradictions. That is why below the work of this new EU institution will be studied by looking at its - potential or actual - cleavages. Such structural divisions could be expected along any of the following lines:

- local v. regional representatives
- Left v. Right party politics
- urban/industrial regions v. rural regions
- 'executive' regionalism v. 'deliberative' regionalism
- Northern v. Southern regions.

Local v. Regional

Trans-European associations of regional and local authorities had already clashed before work began. Major issues of discontent concerned their respective membership and the statute of the Committee. It was among their representatives that a previous, advisory body - established by the Commission in 1985 - had been divided. In a number of Member States - Germany, France, Belgium being the most prominent examples - the regional-local divide was the main difficulty in the selection of members for CoR (Hesse, 1993). Consequently, the expectation has been that this would turn out to be one of the main dividing lines in CoR (van der Knaap, 1994). As it happened, local and regional delegates, which are about evenly represented in CoR, have been able to avoid a split and agreed on a rotating presidency. The President of Languedoc-Roussillon, Jacques Blanc, backed by the majority of 'weaker' AER members, was elected President for the first two years, to be succeeded afterwards by the current Vice-President and Chairman of the CEMR, Pasqual Maragall.

On the whole, therefore, the disagreements and institutionalized divisions between local and regional level representatives which had marked the initial phase of CoR have not been reproduced since the Committee set to work. The split envisaged by some into local and regional sections - even leading to two separate committees with the former advisory council continuing to function with a purely local membership - has not come about. The reasons for this are not so much in an unexpected outbreak of consensualism between the two levels, but rather in their own internal heterogeneity.

In fact, the work of the Committee did rather rapidly expose the apparently linear division of its membership into a "regional" and a "local" government camp - institutionalized in AER and CEMR and thus reproduced in the public discourse - as a myth. For one, the whole issue of local v. regional is diffused by the rather large number of intermediate authorities which to some extent combine the features of regional and of local government. This group includes the German *Kreise*, the French *departements*, the Italian, Spanish and Dutch

provinces, the British and Irish counties and the Danish *amtskommuner*. This diverse make-up of CoR is illustrated by the table below:

Member State	Local	Intermediate	Regional
Austria	3	-	9
Belgium	-	-	12
Denmark	5	4	-
Finland	7	1	1
France	6	6	12
Germany	2	1	21
Greece	12	-	-
Ireland	2	7	-
Italy	7	5	12
Luxembourg	6	-	-
Netherlands	6	6	-
Portugal	10	-	2
Spain	17	-	4
Sweden	12	-	-
UK	16	8	-
Total	110	38	74

In addition, local government representatives from those member states not possessing a regional level could be expected to represent also some regional interests, at least in those cases where they actively campaign for the establishment of regional institutions. Local councillors from Wales and Scotland, for example, would be counted as 'local' members, even though some of these delegates to CoR perceive their voice as one for their region/nation, rather than for their respective local government.

Expectations of a serious local-regional split (v.d.Knaap, 1994: 90-93) have been proven wrong because, quite simply, territorial interest formation does not follow the size of the units, but the distribution of resources and competences across different levels. This distribution is not *a priori* given. Unlike the size of units, which may be clearly determined, it is constructed in the political and constitutional process. Size and function sometimes *run in tandem*, but rarely so much as to allow for a clear-cut overlap of interests from one Member State to the other (Engel, 1993). When interests are structured conflictually, we witness considerable confrontation even *within the same level of government*, as the problems of German fiscal equalization after unification show (Exler, 1992). Naturally, an unproblematic and stable cooperation of either regional or of local government across the EU is even harder to imagine. Across Western Europe the result of such diversity of interests is the patchwork of local, intermediate and regional government which is reflected in CoR's mixed membership. Differences within the AER resulting from the diversity of 'regional' interests had already become apparent at the 1993 AER plenary in Barcelona.

The interests of sub-national governments are therefore so diffused that any one-dimensional demarcation into "local" and "regional" must turn out to be flawed. By contrast, the ability of either group to form stable alliances is severely restricted. Consequently, "local" and "regional" positions which appeared clear before CoR began its work were bound to collapse. In its place, more transient alliances, coalitions and oppositions, based on fundamental political or economic cleavages in Western Europe, have appeared.

Left v. Right

There is a recognition of party political affiliations of Committee members in that, for example, socialist and EPP members of CoR meet in a party caucus before plenary sessions. Even before its constitution there had been party-political squabbles about CoR membership in the UK and in Portugal (Hesse, 1993). Moreover the envisaged presidency rotation from Blanc to Maragall takes into account not just local-regional, but also left-right ties that CoR has to

represent, very much in the fashion of the European Parliament. Party politics did play a role in the competition for the Presidency, but it did ultimately reveal how weak party ties are in CoR. Scottish Labour delegate Gray withdrew from the four-way competition in order not to divide the Left vote, but subsequently the sole remaining Socialist candidate Maragall ignored the decisions of his political group and agreed with Jacques Blanc on the Presidency switch-over after half-term. Thus the use of established party political procedures was attempted, but, due to lack of cohesion of the political groups, has so far failed to become significant. Equally, in the formulation of opinions, it is difficult to see disagreements generated by a left-right nexus among the regions. So far there are no instances in which the party political affiliation has overridden other sectional interests so as to influence the outcome of voting in the chamber.

In addition, what is viewed in a the national context as a split along a left-right dimension has on the European level so far proved to be the 'grand coalition' of European People's Party and European Socialists. As in the European Parliament these two groups for the time being also cooperate in CoR with the aim of increasing the power of the institution as such. Such bipartisanship is a general feature of EU politics, facilitated also by the generally weak position of political parties in the EU system and in the consensual nature of 'government by committee' - the dominant feature of EU policy-making which is often characterized by the term 'comitology' (Bach, 1992).

Nothing so far indicates that CoR does not follow this trend. If anything, the consultative nature of its activity and the cross-cutting cleavages running through its chamber suggest that a partisan division into Left and Right is even less probable here than in other European institutions.

Urban v. Rural

The most significant policy area that has so far attracted the attention of regional and local interest representation is Community regional policy and related financial disbursements to subnational authorities. Divisions in the Committee

might have been expected along the lines of the "objective" areas among which the structural funds are shared. After the 1988 Fund reform, which had created the five objectives, and especially in the run-up to the 1993 reform, alliances of regions defending the interests of 'their' objective began to form. In particular, intense lobbying for more funding to either industrial (objective 2) or rural (objective 5b) was the result. The emergence of a sectoral, regional alliance - RETI - that worked to defend the funding for, and involvement of regional governments in, Objective 2 aid, is the best documented example (McAleavey, 1994). But similar developments have been observed in rural areas (Andy Smith, 1994). Consequently, regional policy deliberations in CoR were expected to bring this diversity of interests to the fore.

But while EU structural policy was meant to become one of the prime issues in the work of CoR, the major reform of the funds had just been concluded at the end of 1993 - concluded, as it happened, under intensive bargaining among national government representatives. As a result, little in the area of regional policy was left for CoR consultative process. A CoR opinion on the designation of Cohesion Fund programmes for Greece, Spain, Portugal and Ireland has been issued. Yet with this Fund so strongly oriented towards the national level and its financial parameters already fixed by the Council, there was little space for controversy within CoR.

Faced with an empty plate, CoR members went in search of business and have in the meanwhile delivered a large number of "Own Initiative Opinions" on a variety of issues, most of which had little or nothing to do with the specific economic interests of the respective subnational units. CoR's potential divide into industrial and rural, centre and periphery, or high-tech and declining regions has therefore been deflected.

Executive v. Deliberative Regionalism

Surprisingly perhaps for some, a split occurred not between regional and local representatives, but *within* the regional group. More specifically, there was a division between what could be called strong and weak regional governments.

This division was an expression of the diversity of constitutional and legal responsibilities among regions in Western Europe, and the resultant differences regarding their administrative culture and practice (Engel, 1993).

Clearly, within the universe of sub-state government in the EU the German *Länder* are on a different planet when compared to UK counties or Luxembourgish municipalities. But also within the strictly regional group - Austria, Belgium, Germany, Spain, France and Italy - serious variation remains. Here one can distinguish between administrative or executive regionalism on the one hand, and parliamentary or deliberative regionalism, on the other. In the former, the emphasis of regional activity lies in the execution and administration of public policies, sometimes legislated for at higher levels, whereas for the latter the regional institutions are mainly a place for debate and deliberation with only very limited policy-making competences. Comparison of the number of administrative staff or the regional share of public spending give a clear indication of this distinction.

Members from these different types of regions brought into CoR the experience and the habit of their domestic environment. As a result, the Committee experienced a clash between those regional representatives that usually rely on a larger bureaucracy and with a broad range of policy-competences - namely those from Belgium, Germany and Spain - and those whose activity at home centred on the work of a regional or district assembly. More than a struggle between 'regional' and 'local', or left and right members, Jacques Blanc's election as President was thus much more the victory of a "councillor"-type regional president over an "administrator"-type regional prime minister (the Flemish candidate van den Brande). Ironically, it was the 'stronger', executive regions - which had pushed through CoR in the first place - that were now in the minority and lost out in a number of institutional choices.

The most important of these was the issue of CoR members being represented in plenaries and Commission meetings by delegated deputies. This is long-standing practice in, for example, the German *Bundesrat*, and a similar CoR procedure was somehow taken for granted by the German members. On

this understanding the Germans, the Belgian and the Spanish regions had selected a high-ranking membership list for CoR which included, for example, from Germany, four regional *Ministerpräsidenten*, and, from Belgium, practically half the Flemish cabinet. Spain had also sent regional heavyweights including the Catalan President Jordi Pujol (who is also president of the AER), the Galician president Fraga Iribarne and Barcelona's mayor Maragall. The idea was obviously to grace CoR with important political persona, while detailed consultative work would be transferred to delegated officials or the CoR administration. In the event, both these possibilities were ruled out. The CoR administration did not become a policy-making nucleus with specialized know-how, remaining instead comparatively small in size and recruiting staff mainly on the basis of links to members rather than relying on experience in EU policy-making. And the CoR majority voted to not allow elected members the delegation of their participatory and voting rights to subordinate officials.

This did have serious repercussions for the work of the members - mostly regional ministers - from Germany and Belgium. Used to the delegation of powers to, and constant advice from, a large number of specialized staff, they were now less able to participate effectively. Due to, above all else, time pressures, attendance of these members sank and so did, consequently, their influence - through argument and through vote - on CoR opinions. A forceful illustration of this trend was given during the December 1994 plenary session when a controversial draft opinion on the wine market came to a vote. The German and other 'Northern' members opposed the Opinion that was seen as benefitting Mediterranean wine-growers, but lost the related vote. One of the reasons for the defeat was their number being reduced by absenteeism.

In this way differences in administrative traditions, policy styles and, ultimately, constitutional prerogatives translate into conflicts over policies and institutional choice. What CoR exhibits in such cases is the general tension between, on the one side, the great variance of intra-state arrangements in Western Europe and, on the other, the requirement for uniform procedures at the European level. It is a conflict that is also visible in other European institutions - Parliament or Commission, for example - and might well be stimulating due to

mutual learning of the participants. However, if and when politics are locked in a bargaining or conflictual mode of decision-making - as opposed to being concerned with problem-solving - inefficiencies and suboptimal outcomes can be expected (Scharpf, 1988). The difficulties in the cooperation between executive and deliberative forms of regionalism indicate that problem-solving is so far not the normal mode of CoR decision-making.

North v. South

A broader fault-line than the one above has already been implicitly referred to: the difference in interest and style between 'Northern' and 'Southern' regions. These are less analytical categories than empirical groupings, owing their emergence to the overlap of a number of cleavage lines. One can distinguish regional and local government activity between North and South through constitutional factors such as tax-raising powers, size of budgets, extent of competences, and legislative powers as well as the general disparity in economic and geographic structure, distance to EU core markets, etc. Obviously, in a number of cases there are exceptions - namely the strongly institutionalized regions in Spain and those without political institutions in the UK and in Ireland - , but on the whole the political, fiscal and economic potency of subnational government is greater in the North than in the South. One illustration of this is, for example, the presence in the South - France, Italy, Spain - of what has been called the "Napoleonic" or prefect model: the presence of central government officials and institutions on the regional and local level (Sharpe, 1988). 'Northern' states, by contrast, generally look to or co-opt local government for the execution of central policies.

The overlap of diverse economic interests and distinct constitutional regimes makes for a difficult cooperation across this dividing line. Surely some sort of *modus operandis* will be found, but there is detectable disenchantment on all sides about the difficulty of bridging the division. As it has sunk in among members and their decision-makers that the mere existence of CoR is no guarantee for a convergence of styles or of interests, it also becomes clear that

the operation of the Committee will not be as smooth as, say, the German *Bundesrat* or the US Senate. The disagreements resulting from economic disparities and of diverging constitutional systems are therefore likely to remain, and could become one of the more durable features of the work of CoR (Kalbfleisch-Kottsieper, 1994).

CoR as a Collection of 'Member State Delegations'

Implicit in most of the above observations has been the continuing significance of differences between Member States rather than between regions as such. Since the distribution of competences, the fiscal powers, the macroeconomic context, and the size of administrations are derived from the respective Member State's domestic system, regions are exhibiting their similarities and differences primarily with regard to their national environment, and less of their own right. What this means is simply that CoR is less a Committee of Regions than a 'Committee of Member State Representatives'. It was already conceived as such in the Maastricht Treaty, which defined the membership along national lines. Subsequent practice has shown that allegiance, interest and practicality often force regional deputies to form national 'delegations'. These are perhaps not very cohesive, but at any rate they frequently seem to be overriding other, trans-national alliances or divisions in case of conflict.

The internal structure of CoR reflects the significance of the 'national' variable. Official publications of the Committee, including its own press releases, indicate the origin of individual members and the membership of the Bureau solely in national terms (CoR, DG for Press and Communication, 1994). Further evidence of this development is the creation of 12 commissions to prepare the work of the Plenary (eight full commissions and 4 sub-commissions). This number is designed to allow each of the 'national delegations' one chair. The fact that there is perhaps not enough subject-matter to justify this number of commissions - which is bound to increase to 15 after the recent enlargement - is indicated by the fact that "Regional Development"

(COM 1), "Spatial Planning" (COM 2), "Urban Planning" (COM 4) and "Land-Use Planning" (COM 5) are more than well covered.

One can conceptualize this 'nationalisation' of CoR as the result of two state-building processes dominated by regionalization and 'state socialization'. As regards the former, the intimate relationship between decentralized government and the state has frequently been noted in the literature (Keating, 1991; Loughlin, 1994; Sharpe, 1988). Regionalization in the 1970s and 1980s, for example, is often seen as a response to 'overload' on the part of the welfare state (Ashford, 1988; Balme *et.al.*, 1994; G.Smith, 1981). The central state, faced with diminishing ability to fulfil commitments and control policy-output, engages in the creation of lower levels of governance as a means of diffusing protest, improving planning and enhancing support. Even though this is only part of the story, it still leads one to an understanding of "region" which is inseparable not just from the respective national context, but also from the very structure of the state in which the region is located. Regionalization and the resulting regions are then seen to be an element through which states - while adapting to a changing environment - maintain their central position in the structuring of political life (Cerny, 1990).

'State socialization' is meant to describe here the way in which political rules, norms and styles - informal patterns of behaviour as much as formal procedures of policy-making - have over decades, even centuries, been structured by the respective state. Distinctive 'policy-styles' from one country to another have been the result (Richardson, 1982). These different styles, to be found also in the other European institutions (Christoph, 1993; Egeberg, 1995), unite CoR members along national lines and weaken the cohesion of transnational 'coalitions'.

Considering the long-term effects of these processes of state-centred 'regionalization' and 'socialization' on the operation of CoR, it appears as less of a paradox that the institutions which was meant to become a forum for *regional cooperation* has so far turned out to be a forum for the *representation* of *Member State* interests.

Legitimation and Symbolic Politics

Despite the negative overtones above we have to recognize that even the nationally-skewed activity of CoR is more than just a collection of Member State representatives and interests, in the same way in which the EU at large must be understood as more than merely a Community of states. An important role of the Committee goes beyond the representation of political interests or the submission of policy advice. This is the question of symbolic politics and of legitimizing the actors involved and the EU policy-process itself.

Legitimacy Problems of European Governance

There is a fairly clear link between, on the one hand, the legitimacy crisis of the European project during the early 1990s (Weiler, 1991) and, on the other hand, the general desire to involve a wider range of policy-recipients in the process of policy-making (Streeck and Schmitter, 1991). The accelerating intensity of European integration following the '1992 programme' required the mustering of additional support beyond the political class that had so far dominated Community decision-making. It went not, as was noted *after* the signing of Maastricht, as far as involving a regular dialogue with the European electorates - in spite of the many declarations about the "citizen's Europe"; the tenuous link between the European Union and 'the people' became clear once it came to ratification.

The referendum debates in Denmark, Ireland and France, as well as the extended public debate surrounding the parliamentary process in the UK and the judicial review of the Treaty in Germany, revealed deep-seated suspicions among the electorate about the direction of the European project. Clearly, regular elections towards a Parliament with limited powers, do not, any more, suffice to legitimize a system which to a large part of the public appears to combine technocratic, intransparent policy-formulation with the power-politics of Member State bargains.

The structure of the European Union being as it is, it is very difficult to conceive of alternative ways to legitimate it. Involving the public at large - increasing, for example, the degree of direct participation of EU citizens, a frequent demand post-Maastricht (Murswieck, 1993) - is difficult. At the very least, a trans-European 'communicative space' that could host the necessary debate is lacking (Schlesinger, 1994).

One attempted remedy has been the involvement in EU policy-making of what could be called 'intermediate level' actors - groups and institutions 'below' the state which are most directly affected by European legislation and by the restructuring of political opportunities and constraints. This development has so far included social actors - the Commission's attempt to establish regular dialogues with trade unions, European business and environmental pressure groups - as well as the territorial actors which are now represented in CoR. Often this was in connection with technical aspects of specific policies, in cases where effective regulation - efficient rules and substantial compliance with them - demanded the participation of local actors. As mentioned above, with regard to regions this was mainly in the field of regional policy, which after the reform of 1988 had become increasingly complex (Marks, 1993; Hooghe and Keating, 1994). Apart from the opening up of a variety of channels this also included the creation of the Advisory Council of Local and Regional Authorities (European Commission, 1988). Less than actually "advising" the Commission or other Community institutions in the making of regional policy, the recognition has been that the legitimacy of this increasingly important policy area depended also on a structured public deliberation of its contents and the inclusion of elected politicians in this deliberative process.

This specific legitimacy deficit results from the asymmetry of inputs and outputs in this policy process. On the one hand, there is the extremely technocratic and intransparent nature of Community regional policy, in which important decisions, also budgetary decisions, are made by administrators on different levels and by committees composed of them. On the other hand there is the political nature of much of the subject matter - redistributive financial transfers, economic development priorities, the sheer size of the structural funds.

Regular and public meetings of elected, regional level representatives deliberating - being, in fact, "consulted" on - the issues involved could be expected to take some of the technocratic flavour away from this expanding policy, even though in practice the nature of policy-making might not change much.

What was needed - and what CoR has subsequently provided - was a deliberative space that would demonstrate to the wider public that European integration and regional policy in particular are being dealt with by elected politicians and not by faceless bureaucrats. The legitimacy gain that European institutions as well as the regional actors could reap from such a perception is considerable. Commission President Delors stated the overriding importance of this function quite frankly in his opening speech to CoR first plenary:

"The task of [CoR] is nothing less than to enhance the democratic legitimacy of the Union... That is why your Committee is so important: you will help to close the gap. Firstly, your involvement will bring the Union, perceived as being too distant, closer to local reality. You will be able to communicate local concerns and grass-roots reactions... The other side of the medal is that you will have the task of explaining Community policies to the people back at home." (Delors, 1994).

Summing up the argument resulting from these observations, one can say that if, firstly, effective EU policy-making is considered a common good, and if, secondly, added legitimacy improves the effectiveness of these European policies, then CoR can contribute significantly to the legitimacy and effectiveness of the policy-process. The creation of the Committee is thus a case demonstrating the way in which European integration has a positive-sum logic. For it is at relatively little financial and political cost - no large administration is necessary, no delays or blockages of policies are possible - that all actors involved gain substantially in their standing *vis-à-vis* their respective reference groups. Legitimacy is gained by all actors involved through the publicly documented cooperation: Commission officials and Council working group members, when faced with criticism of the "comitology" or "technocracy"

variety, can point to the body of regional representatives who have been consulted on a given issues. The latter, in turn, when faced with local disenchantment over controversial policies emanating from the "distant Brussels", can argue that they have been in Brussels doing their best for the respective local interest. In any case they will claim the credit for EU subsidies being channelled to "their" region (Keating, 1994), but apparently have now more reason to do so.

The Symbolic Politics of Regions in Europe

This legitimising role of CoR might seem at odds with the previous conclusion that its representative and consultative functions are largely flawed. Yet there is no contradiction. While democratic procedures and efficient governance are certainly factors that legitimize systems of rule, they are not the only ones. In the realm of identity politics, in particular, the use of symbols and rituals has been an important source of legitimate rule (Friedland and Alford, 1991). Without going into details here, it may be noted that historical as well as contemporary regional movements make intensive use of symbols and rituals in their discourse and political practice (Bourdieu, 1991). In fact, the construction of nation-states is intimately linked to the symbols associated with respective nationalisms (Anderson, 1983). And, since the 1970s the traditionally fragile legitimization of EC policy-making has been met not just with policies and institutional reforms, but also with the promotion of an increasing number of symbols and symbolic acts (European flag, anthem, passport, driving license, cultural capital, youth orchestra, woman of the year, etc.). Thus there is widespread recognition of the value of symbolism in what has been referred to as European 'identity policies' (de Witte, 1987).

The limited success to date of these 'identity policies' indicates the size of the problem:

"how far can [the EU] induce in the great majority of Europe's populations a sense of commitment and passion towards a European

identity? ... there seems to be as yet a very deep and clear gulf between the aspirations for political (and economic) unity of Europe and the development of a genuine European cultural identity which can compete in popular consciousness and loyalties with deeply rooted national affiliations... can this commitment be generated, or must we wait for it to 'grow'...? (Anthony Smith, 1994)

The special relevance of CoR lies in this respect, occupying, as it does, the intersection of both regional and European identity formation. It is an example for what Smith has called "the creation of supra-national facts" which are supposed to entail rather than presuppose certain social or political developments. It is in this respect that - regardless of practical or substantial problems - the creation of an official, public arena for both Europe and the regions is so significant. Given, for example, the difficulties of even identifying a European level of regional government, the mere existence of CoR fills this gap and conveys an image of uniformity. Thus the legitimacy of EU regional policy - partially based on the pretence that there *is* a regional level of government - is greatly assisted.

On the other end of the policy chain, regional decision-makers - who are, as we have noted above, often closely linked to, and dependent on, central state administrators - gain in stature by exhibiting their apparent independence in Brussels. Now regional representatives have, in addition to their previous, purely informal lobbying efforts, an official mandate within the institutional structure of the Union. In regional politics, more often than not, compromises with higher levels of decision-making have to be struck. As a result, the authority of regional politicians and institutions might be progressively undermined. In this context, the newly won celebrity of "going to Brussels" on behalf of the region is a valuable asset in the construction of the 'self-determined region'. Regional authorities which in many cases came into existence only in the last couple of decades are now demonstrating their significance with a bargaining role not just in domestic politics but also in the processes at the European level. It is hard to think of an action that would have a stronger impact on the consolidation of regional power structures. And, as this is about *symbolic* action, this effect of

CoR membership is not, at least in the short term, obviated by the fact that the 'European presence' of these regional representatives says little about their actual involvement in, or their impact on, EU decision-processes. Precisely because so much of *EU policy-making* remains intransparent and hidden, the creation of a symbolic arena for regional participation in *EU politics* must be seen as an important innovation.

After all, it would be impossible to understand the intense interest in, and the conflicts about, CoR membership in most Member States, if the function of the Committee was seen as merely consultation and representation. The crucially added value of CoR was the added legitimacy its creation delivered to those consulted and those being consulted alike.

The Impact of CoR: Influence or Irrelevance?

The previous discussion can now be related to the expectations and fears mentioned at the outset of this article. Has CoR the potential for significantly influencing EU decision-making? Has it raised the profile of EU politics and thus helped the Union's legitimacy? Has it done much to improve, or endanger, the established institutional structure of the Community? What are realistic expectations for the 1996 Treaty revision? The following sections will briefly assess the impact CoR has had on these questions.

Policy-Making and the Legislative Process

Analysing the impact on the policy-process of the more than 20 opinions CoR has so far produced is difficult. For one, most of the related legislation has not yet been finally adopted. It remains to be seen, therefore, how much CoR opinions will be taken into account by the other EU institutions. Commission and Parliament had both claimed, before CoR's creation, that they were taking an active interest in the opinions of subnational government. After Maastricht it is questionable how much of this interest survives the competition with these

institutions' self-interest. In this regard it is worth noting that the increasingly important relationship between these two institutions has in recent years become more confrontational (Westlake, 1994). This makes it unlikely that in the current climate of two-dimensional tension - between EU and Member States, and between Commission and Parliament - the voice of CoR will find many supporters on either side.

Another difficulty lies in the nature of CoR opinions adopted so far. Most of these are actually positive about the proposed legislation, and offer as comments only very general recommendations of improved involvement of subnational governments. These opinions allow little impact-assessment, since they often don't require explicit changes in the piece of legislation under discussion.

Finally, CoR has made some choices which are bound to reflect negatively on its ability to influence EU policy-making: the exclusion of civil servants, the emphasis on deliberation and debate, the partisan nature of some its opinions, the wide range of subject matter addressed. This means that the representative mode has been preferred to the consultative, and that consequently CoR would have to rely on power rather than on persuasion to get its opinion across. Clearly this choice is at odds with the as yet absent power the Committee has to force changes in the proposed legislation. This option is somehow based on the anticipated extension of powers at the 1996 IGC, with a view to some sort of co-decision arrangement or even the creation of a Third Chamber. This anticipation will be discussed below.

Institutional Structure

From the observations in this article it follows that CoR does not constitute a major disturbance to the Union's institutional structure. Initial fears that CoR might be able - consciously or not - to block decision-making by not delivering the required opinions seemed to be confirmed when it got off to a late start, rescheduling the inaugural session repeatedly, even though the delay in the ratification has added another year to the preparations for this new body. As it

happened, CoR has willingly delivered its opinions and sought to do so within the set time span. Domestic or internal procedures of consultation - as, for example - the involvement of regional parliaments and their committees - have suffered, since it was these rather than the dispatch of opinions that were cut short.

A second cause for concern lay in the relationship between CoR and its sister organisation, the Economic and Social Committee. A Maastricht Protocol stated that the two were to share a common administrative structure, but as a matter of course squabbles broke out between the Committees, as between them and the Council, about the organization of this common administration. It became generally accepted, though, that CoR would have its own Secretary-General and its own Press, Documentation, and Research Divisions, while it would share more technical tasks (printing, translation, catering, security, etc.) with the ESC. ESC and CoR subsequently cooperated on the budget proposal which included limited joint and larger separate expenses. The Council accepted this division, but overturned the emphasis, creating a larger joint and smaller separate budgets. CoR's original budget proposal of 26.4m Ecu was reduced to an actual 15.7m Ecu in the 1995 budget, whereas the requested 37.8m Ecu for the common administrative structure was increased to 57.7m Ecu. Therefore, while the EU expenditure has almost doubled - from 56m Ecu for the ESC in 1993 to 99.7m Ecu for ESC and CoR together in 1995 - Council maintains considerable control over the way in which the additional money is spend.

On the whole, the impact of CoR on the Union's institutional structure is still a potentiality which largely depends on the reforms envisaged for the 1996 InterGovernmental Conference. Soon after its inauguration the CoR began to prepare its own agenda for 1996, setting up a special commission. This is chaired by Jordi Pujol and has so far come up with proposals for the re- definition of the subsidiarity principle and the right for CoR to call upon the European Court of Justice should this be violated (Hrbek and Weyand, 1994: 156). In view of the generally hostile climate to further integration, these demands are widely seen as utopian. 1996-1997 is not expected to offer major advances to the powers of European institutions, and the initial claims for co-

decision powers for CoR or the elevation to becoming a 'Third Chamber' have gone. As the general trend in integration is towards consolidation after a period of turbulence, CoR can not hope for more than a mere acknowledgement of its role. Even Parliament and Commission, which in the run-up and the run-down to Maastricht were favourable to more regional powers, will not spend valuable resources on demanding litigation rights for body with unpredictable majorities. After all, these litigation rights are bound to be used against the 'older' institutions themselves, as any increase in CoR voting power carries with it the danger of harming vested interests and established procedures.

The open question regarding the 1996 IGC is the way the EU can address the issue of democracy, participation and the citizen's Europe. As indicated above, it is in this respect that serious fissures in the European construction have been revealed after Maastricht, and this issue will need to be addressed if any other changes are to be carried. And it is in this respect that CoR was supposed to make an impact: helping to legitimize policy-processes and the activity of other actors involved.

As was discussed earlier, there have been developments to aid the legitimation of EU policy-making. CoR has offered a public forum where none existed before in which solely the concerns of lower levels of governments are aired. Yet, in terms of the Union's 'democratic deficit', the utility of the new body depends on the actual linking up of social and political life in the localities. The following section on public discourse will briefly look at the impact CoR has had in this respect.

Public Discourse

The expectation - cited also by Jacques Delors at the outset of this article - was that a new regional body would bring the discussion of EU matters down to local level. Evidence on the way CoR has brought this about is mixed. As the evolution of public discourses is a long-term affair, a few remarks shall suffice here.

A collection of press reports (CoR, *Press Book*, 1994) indicates two developments. On the one hand there appears to be an increase in the discussion of European matters in the regional and local press. Even if not always positive, this is at least the beginning of a wider, active 'engagement' of the European public, which is generally deemed necessary to solidify the institutional superstructure of the Union. In this respect it seems that CoR has fulfilled one of its designated functions, even if the actual increase in discussion can only be determined through more extensive, quantitative research.

The other development detracts a little from this positive view, because the way CoR and the Union at large are actually portrayed in this wider public debate is very inconsistent and piecemeal. It is here that the 'national' as opposed to 'regional' membership of CoR takes its toll. For clearly not every locality has a member in the Committee, since the constraints of national quotas of membership have meant that many members represent associations and collectivities of districts, towns or counties. Consequently, many municipalities remain without a CoR member and thus without any increase in EU interest in the local media.

Finally, a critical question remains about the assumed link between CoR delegates and their publics. Not much is known about the general incidence of this link. But evidence from the UK, for example, indicates that the political links between local government and citizens are much less structured than the respective ties to Members of Parliament. Local election turnout is usually less than half that reached at parliamentary elections. It is worth querying, at the very least, the actual closeness between CoR members and their reference groups at home. And with regard to the kind of substance that CoR has sought to address in its debates, it may be asked further, whether activity in the CoR has not damaged rather than helped this supposedly close relationship between local and regional politicians and their electorates. More precisely, the question is whether socialization in CoR has not led members to become 'out of touch' with 'their people'. But this, too, can only be stated hypothetically. More extensive research is required to substantiate these concerns.

Concluding Remarks

At the outset we mentioned that expectations about the work of CoR had been divided between positive - benefits for the EU derived from its consultative function and benefits for regions from its representative function - and negative - risks about the fragmentation of the policy process and the potential obscurity of regional demands. Summing up the present analysis we can say that neither thesis has so far been validated.

The effectiveness of consultation remains limited, since the expertise for persuasive policy-advice is present in the Commission or in the regions itself, but is not associated with the Committee as such. The value of CoR as a representative organ of regional demands is limited due to the divisions that have opened within the membership on policy as well as on institutional choice. While numerous opinions have been drafted and adopted, they have no visible influence on the decision-making by the institutions to whom they are addressed. Disagreement within CoR has at times been great, but that has neither slowed down the EU machine as whole, nor even blocked CoR itself. There is a learning curve among participants which includes also the realization that conflict is part of inter-regional cooperation; it remains to be seen the consequences of this realization are going to be adaptations of style and procedure or, whether, on the other hand, disenchantment with the difficulty of reaching consensus within CoR and the impossibility of commanding authority within the Union will turn Members and the public away from the new body.

The "added value" of CoR, insofar as it can be assessed, lies in the way in which it aids the legitimation of the complex European policy-process. European institutions and regional representatives derive this benefit out of their mutual recognition. Most of this is symbolic, yet it is precisely this 'symbolism of significance' which is of great value to both regional and European institutions alike.

The near future will put to the test the arrangements of CoR which have come under the strain of its diverse membership. The attributed legitimacy gain of the Committee is ultimately a short-term phenomena: unless political *practice*

soon becomes aligned with the *image* of active involvement of regions in European governance, this image is bound to lose its value. Political symbols, here as elsewhere, rely on a minimum of substance for their reproduction and reconstruction. This implies that sooner rather than later the Committee and the EU at large must address the question of whether the emphasis of its work is on consultation and the provision of specialised expertise or on the representation of partisan, regional interests. Some consistency with regard to either one or the other role is necessary - for both are largely incompatible - if the image of an actively involved regional level is to gain substance and therefore also weight. If not, the outcome might be a shift towards the pessimistic scenario mentioned at the outset. The exposed 'facade' of regional participation might delegitimize the EU's policy-process and institutional structure further, while the continuing inability to bridge their differences might increase splits among regional governments, endangering their cooperation even in other fora. This would then lead to increasing fragmentation and obscurity.

None of these trends are as yet probable, but as this article has tried to show, the potentiality is present in some of the choices already made. Yet there is still sufficient space for the actors to steer the ship into different ports. The near future must show whether - the optimistic scenario - the symbolic power of "regions in Brussels" can be converted into substantive policy-making advantage for the European Union and/or its regions, or whether - the pessimistic scenario - the widening gap between public claims about regional involvement, on the one hand, and the lack of power to actually fulfil these promises, on the other, will lead the new body into obscurity.

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Political Authority and 'Knowledge Authority': A Distinctive Role for the Committee of the Regions?

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This paper considers the Committee of the Regions as an advisory body within the context of governmental advisory bodies in general and the theory and practice of advice-giving to governments as a whole. It concludes that whatever authority a formally designated official advisory body may come to enjoy is most likely to be based on its perceived expertise (or its perceived access to expertise in others). If the CoR is likely to find it hard to compete with the Parliament of the EU and its regional affairs committee in the political sense, then it may make a stronger mark by becoming the acknowledged arena and repository of the best available information and analysis on EU regional issues. Such perceived expertise would entail specialising in these issues and avoiding party political controversy whenever possible. Neither of these conditions would be easy for a committee of elected political figures to meet, particularly when the regions in question (in all their variety) will be engaged in an increasingly zero-sum competition for EU funds.

The academic study of the institutions and processes of officially-mandated advice-giving to governments is one particular approach, among others, to an understanding of how governments devise their formal policies and informal positions on issues. It has some particular claim to attention, partly because it has been neglected as a facet of public policy studies, but mainly because it is a broad approach to policy-making which puts it into the wider context of that particular national political system. Observing and comparing how policy advice

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is officially solicited or received places the focus of enquiry midway between the government departments who receive advice and the mainly private or quasi-private sources who provide it: industry, commerce, professions, academia.

From this mid-point between official and unofficial worlds, a view can be taken of the official political system's culture: how open is it to outside stimuli or even challenge?; how transparent is it in its receipt and treatment of outside advice?; how rigid in the face of outside challenge to policy and thus how likely actually to shift its position because of contrary but convincing advice received? Looking in the other direction, outward towards the private and quasi-private world, an equivalent view can be taken of the character and quality of that political system's non-state civil society. How well developed, how self-conscious or confident, how well imbued with a sense of public service so that the government is not left without specialist advice which it ought rationally to receive (whether it appreciates or welcomes this fact or not)?

Each country has its own traditions and level of achievement in these terms of a pro-active society whereby groups and interests with particular information and insights will feel both a right and a duty to supply these to the government, offering some particular balance between substantive information and policy opinion for the government's consideration. The achievement of a self-confident and genuinely pluralist (independent) supply of unofficial advice and information to government (which can then be fed into the supply of official advice which the government itself arranges to receive) varies widely, even among countries which can claim democratic status.

At the one extreme, it is notorious that a former dictatorship, with no democratic experience in general, such as the Russian Federation, will find it a long and gradual process to develop the basic features of a civil society, such as private bodies which take some positive interest in political and government issues and a free press and broadcasting system. Until these exist in a healthy, self-conscious and confident condition, the flow of unofficial advice and relevant information on public policy will inevitably be poor and the substantive support for officially-arranged advice (that is knowledge and analysis which is arranged

by government but generated outside the government's own circles) will therefore also be only meagre. At the other extreme, a system such as Sweden's provides (in the 'remiss' procedure) for automatic opportunities for private bodies to offer their unofficial advice and associated arguments or information to their government before official policy is made. Getting fairly close to that standard of participation and exchange, in some fields of federal and state government at least, is the US case. Procedures for "notice and comment" inform the public of impending issues by official notice and hundreds or even thousands of memoranda and letters may be submitted, containing advice and information from many angles and interests. Combined with a rich tradition of public hearings (and such processes as official meetings of local government authorities where the local residents can address and even debate with the elected representatives) this mass of paper provides a powerful stream of unofficial advice to decision-makers in the American case. In different degrees and manners, major European states such as the UK, France or Italy occupy places between these extremes of high or low 'private plural advice' flowing into the government's work. The UK, for example, is very rich in its civil society institutions and their willingness to address the government, with or without an invitation, on the merits of policy. But the formal institutions of both central and local government are rather conservative and stiff (even 'stiff-necked') on the processes themselves. Thus the formal 'public inquiry' is a high-quality but rather rigid institution, normally confined to specific cases for official decision rather than embracing broad public policy issues. Likewise, local governments do not allow members of the public to address them in formal session, preferring (sometimes) to hold public meetings where elected councillors can speak and listen to local people on the issue in question (which usually relates to town planning and land use).

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In analysing 'decision advice processes' for governments, a basic distinction is to be made between officially requested and unrequested advice. If the government requests it on a particular subject it may be obliged, or may prefer, to arrange for it directly, by establishing a commission or committee to gather and analyse information and (usually) to make recommendations -- or it may activate an existing commission to do this. If, by contrast, the advice is unrequested it can flow in from any non-governmental source, including some which a government would deliberately not approach or encourage, such as its party's political rivals or socially disfavoured groups such as local organisations of prostitutes or former or current prison inmates.

These latter exceptions apart, a representative government is usually glad enough to receive unsolicited advice from as wide a range of private organisations as may exist and which may, out of civic duty or self-interest, decide to send in a document. These typically include associations of professionals, labour unions, trade associations (representing businesses in industry or commerce) churches or innumerable specialist organisations with some interest to advocate or some particular information or experience to offer. This process of government agencies gathering in relevant information and advice may, as already noted, be arranged with support of a commission of inquiry on a particular issue (which would then produce public recommendations to the government) or, less formally, be part of a consultative routine based on a government memorandum which may outline several policy options and request "interested parties" (meaning involved organisations, not other political parties) to respond. This "going out to consultation", as it is known in British government, or 'notice and comment' procedure (US) is more clearly under the government's control than employing a public commission or committee because there is no such intermediary body preparing to give the government highly publicised advice in the form of its recommendations in its report. (Setting up a public committee with a view to receiving certain pre-ordained recommendations, which can then be used to legitimate policy decisions, is of course one of the arts of modern government; but doing so and then having to

deal with quite different, unpredicted and unwelcome recommendations from the committee is one of the hazards.)

In being willing to receive, and sometimes to request and arrange, unofficial advice from outside its own ranks, a democratic government in a pluralist political system society is sharing in the benefits offered by a more-or-less thriving civil society. It recognises that it has no monopoly of information or insight into the myriad problems of an advanced industrial society, notably on technical and professionalised issues or public services, where the detailed facts or work experiences may be difficult and subtle as well as elaborate -- such as medical or social work professionals dealing with (say) abortion counselling or AIDS treatments. Nor can it hope fully to have covered all the details of issues which lie at the local level and yet which remain wholly or mostly the responsibility of national government.

As public issues become more technically demanding and those responsible for dealing with them become more professionalised in the organisation of their work, self-conscious policy networks are increasingly prominent in these processes which generate policy-related information, technical skills and authoritative advice are offered to the state and, in effect, exchanged for some measure of official legitimacy when all this material is received into its agencies or departments by the government. Private bodies earn public status by being seen to originate and offer material which the government recognises that it needs in order to meet a policy challenge -- particularly where the issues are technical and obscure or novel and unfamiliar, or both. This exchange of knowledge and status is collaborative: not the dealings of the ruler with the ruled. Nor do the government's internal expert advisers on such extremely difficult technical issues assume a superior, hierarchical position towards their professional peers (doctors, accountants, scientists, nuclear engineers, *et al.*) who work outside government and who are engaged in presenting information and advice to their civil service colleagues -- if they are realists, at least. It is a commonplace of organisation studies involving scientific creativity and innovation that new approaches, discoveries and additions to best technical practice are more often made outside government laboratories or research

establishments in the less formal atmosphere of either academic life or unofficial scientific centres. Government scientists usually look to non-government colleagues to learn the latest ideas or developments. This long-established perception (which led the US Air Force to create the RAND Corporation as an applied research think-tank deliberately outside its own organisational boundary after the Second World War) strengthens yet further the idea of authority and status being bestowed on the sources of vital information and technical advice which governments realise that they need.

If this 'knowledge legitimacy' rests on technical authority and access to essential information, then the more familiar concept of political legitimacy rests on representative authority. A committee of elected public representatives (usually sitting as a committee of the national, state or local government's legislature) possesses a quite distinct type of authority involving no claims to technical expertise or professional or other practitioner experience. It needs those things to be offered to it in 'evidence' if it is engaged in either legislative scrutiny or reporting to the public on some policy issue. Without such input it remains helpless, with only the ideological and other personal views of its members as a basis for forming a joint report. As a scrutiny or investigative committee, this would be inappropriate, so it must gather information and advice to fuel its work. By contrast, 'the experts' in any field have 'knowledge legitimacy' (taken together as a group, even though they will only rarely fully agree) but, of course, are not elected representatives. As in their relationship with the government itself, they will seek to exchange status for knowledge with such a committee of elected politicians.

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The Committee of the Regions is very unusual in being composed of elected persons, which gives it a measure of representational legitimacy, while being given an advisory role, which usually entails obtaining (or already possessing) some level of 'knowledge legitimacy', based on recognisable substantive

expertise. In order to be a success as an EU institution, therefore, the Committee will need to make a mutually beneficial link between itself and the 'knowledge' or 'policy communities' which can deal authoritatively with the EU's 'regional' problems. This could not be at all easy until these regional issues become less varied as between the member states and less vague as a concept with which a practical senior body such as CoR can actually deal.

Of course, the Committee can claim both political and substantive collective knowledge of the EU's various perceived 'regions' because its members are elected by various types of constituency within those areas of their respective countries. It is hardly a committee of neophytes with regard to EU regional issues. But it is not as well-based politically as it might be if maximum representational legitimacy was either its aim or the governing EU institutions' purpose. Its members are not elected directly by the voters onto this committee: they are either the individual nominees of higher political authorities within the member states or they have been nominated *ex officio* following election elsewhere. So even their nomination lacks a special regional base (that is nomination by and from the most suitable elected public authorities existing within one or other regions in their member country). As a result they are in virtually the same political position as their closest rivals, the regional affairs committee of the Parliament, but will always lack the background authority of being a committee of that more senior and longer-established EU constitutional element. Indeed, the entire Parliament is too close for comfort as a comparison to the CoR's status as an advisory body of elected persons: it was not long since that the Parliament itself was not much more than an advisory body (and some critics maintain that it is still not today and may not be for some time to come). Obviously, when the EU's would-be legislature has itself so recently been close to a merely advisory role, it will not be enthusiastic about a rival political focus for one of its principal policy interests: the EU's role in the 'regions' of the member countries (however they may be defined or enumerated).

If the CoR's political legitimacy based on its representational authority will be hard to establish because of the close rivalry of the Parliament and its regional affairs committee, an alternative basis for legitimate authority in the

eyes of the other EU institutions may be worth seeking. As this essay has implied, this would seem to be some attempt to provide the EU with a powerful source of the best available information and analysis of its regional problems. The value of such an input would grow as the zero-sum character of regional funding becomes ever more plain and the political conflicts more fraught -- so long as an impartial and expert-based service by CoR could be maintained in such a rising political temperature, which would indeed be very difficult:

Perhaps the elected status of the CoR's members might be turned from being a liability (which it is *vis à vis* their rivals in the Parliament) into an unusual asset by adding to its political legitimacy as a committee of elected persons the 'knowledge legitimacy' which would come from sponsoring and brokering a supply of technical, detailed information about the regions which was not otherwise available to the EU's main institutions, at least in that ready form, and which they therefore may come to rely on -- to the political and institutional credit of the CoR. As noted at the outset of this essay, this novel role of stimulating, co-ordinating and analysing the best available technical information on regional affairs would achieve authority only if controversy -- particularly partisan controversy -- was minimized and this would be hard for a committee of elected politicians to achieve. A solution would be to insulate the Committee's own meetings from its work as an organiser of valuable information on whose quality its reputation within the EU and its member states may come to rest. If the Committee could operate a technical panel (or even itself meet in 'executive session' and apolitical mode) to develop this information and research work, it might still enjoy its more political character in normal 'plenary session'. But it might reflect that there is no lack of opinions and special claims about regional issues already available within the EU and its member states: and that its voice is the newest and least well-established.

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To conclude, therefore: the Committee's very unusual standing as a body of persons elected by the public (albeit for a different purpose and in a variety of different interest constituencies) but asked to perform only an advisory role is a difficult one, certainly while the shadow of the Parliament over its functioning as a political forum on regional affairs is so apparent. But if the CoR could link together a novel degree of expert-based substantive (or 'knowledge-based') authority or legitimacy with the political legitimacy it enjoys as elected persons, it could differentiate itself from the Parliament and enjoy an authority of its own. To try to become the conduit for all or most of regional issue analysis going on within the EU (even if only in the sense of collating, processing and projecting it in usable and scrupulously objective form to the other institutions of the EU and to member states) would be a difficult but worthwhile endeavour. For the Committee to combine political legitimacy with 'knowledge legitimacy' by coming to preside over a respected information function would constitute a singularly useful role. To focus on expert information and analysis could lead towards the CoR becoming a unique (because politically legitimate) 'think-tank' for EU regional affairs. Eschewing party politics when performing this function must seem to elected politicians a high price to pay. But if the market in political opinions within the EU on regional problems is already fully supplied by the Parliament, its regional affairs committee and the fifteen national legislatures, it may be better for CoR, to try to become something other than just another (probably rather marginal) opinion machine.

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The U.S. Advisory Commission on Intergovernmental Relations: Background and Performance

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The basic weakness of advisory commissions or consultative bodies is precisely that they are advisory. They can be, and often are, ignored by policymaking institutions. Consequently, the fundamental challenge for an advisory body is to make its voice not only heard but also heeded by policymakers.

The Origins of ACIR

The United States Advisory Commission on Intergovernmental Relations (ACIR) was established in 1959 by an act of the U.S. Congress signed into law by President Dwight D. Eisenhower. Essentially, five factors stimulated the creation of ACIR.

First, ACIR's establishment reflected both hope and anxiety about the profound changes in the balance of power in the American federal system produced by (1) Democratic President Franklin D. Roosevelt's New Deal response to the Great Depression of the 1930s and (2) the national mobilization for World War II. Perhaps the best single indicator of the change was the altered fiscal position of the governments in the federal system after the war. In 1927, federal government spending accounted for only 31 percent of all own-source government expenditures in the United States, compared to 52 percent for local governments and 17 percent for state governments. The federal share, however, increased to 50 percent by 1940 and to 72 percent by 1952, then

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dropping back to 65 percent by 1957, at which time states accounted for 16 percent of all own-source government spending while local government's share had plummeted to 19 percent. Fiscally, the federal system was turned upside down. The federal government toppled local government from its more than 300-year reign as the dominant fiscal presence in American life.

Second, the rise of federal fiscal power was accompanied by unprecedented federal policy activism, particularly economic regulation and social redistribution. Although these New Deal and wartime "welfare state" policies were modest compared to the policy standards of many European nations, they were regarded--both positively and negatively--as well-nigh revolutionary in the United States. In addition, the U.S. Supreme Court reversed its historic doctrine of dual federalism by ruling in 1941 that the Tenth Amendment (1791) to the U.S. Constitution is merely "a truism." No longer would the Tenth Amendment (which reserves to the states or to the people all powers not delegated to the federal government) stand as a judicially protected "states' rights" barrier against federal policymaking.

Third, President Eisenhower and many other Republicans were appalled by these developments. In a 1957 speech to the nation's governors, for example, Eisenhower compared the increasing power of the federal government to "the dark background of Eastern Europe. . .the results of extreme and dictatorial concentration of power." He then predicted that "if present trends continue, the States are sure to degenerate into powerless satellites of the National Government in Washington."**

* United States v. Darby Lumber Co., 312 U.S. 100 (1941).

** William G. Colman and Delphis C. Goldberg, "The Eisenhower Years and the Creation of ACIR," *Intergovernmental Perspective* 16 (Summer 1990): 20.

Many Democrats, however, saw in the new federal arrangement opportunities for social reform. In their view, the rise of federal power represented not a usurpation of state power but a necessary majoritarian and democratic response to long-standing failures of the states to address urgent public needs, including the problems of big cities. Many Democrats, especially northern liberals (in the American sense) regarded the new power of the federal government as a weapon to be wielded against the evils of big business and reactionary state policies, such as racial segregation.

Fourth, having been toppled from its position as the preeminent government for citizens, local government sought to institutionalize a new position for itself as the "third partner" in the federal system. Given that the U.S. Constitution is silent about local government and that, legally, local governments are creatures of the states, American federalism had been understood historically as a federal-state relationship. During the New Deal, however, big-city political bosses (who were mostly Democrats) had gained increasing access for local governments to intergovernmental bargaining in Washington, DC. Local officials, along with many congressional Democrats, sought thereby to redefine federalism as a cooperative federal-state-local partnership.

Lastly, the national associations of state and local officials--such as the National Governors' Association, National Association of Counties, and U.S. Conference of Mayors--did not yet have a strong institutional presence in Washington, DC, in 1959. Although state and local officials lobbied in Washington, often successfully, they sought more formal, institutionalized means of extracurricular representation in federal policymaking.

As a consequence of these factors, Eisenhower had pledged, during the 1952 presidential campaign, to establish a temporary commission on intergovernmental relations to recommend reforms. The commission was established in July 1953 and issued a final report to the president and the

Congress in 1955. Not entirely satisfied with the commission's modest recommendations, President Eisenhower joined with the nation's governors to form a Joint Federal-State Action Committee in 1957, which also issued recommendations, some of which were implemented by the president or enacted into law by the Congress. For example, the U.S. Atomic Energy Act was amended to give state governments a larger role in promoting and regulating the peaceful uses of nuclear energy.

As a result of these developments as well as extensive congressional hearings on intergovernmental relations, the Congress enacted a statute to establish a permanent commission on intergovernmental relations. Thus, ACIR came into existence in September 1959.

The Legal Status of ACIR

Legally, ACIR was established as a permanent agency of the federal government; however, the commission belongs to the category of "independent agencies" in the federal government. That is, ACIR is neither a line agency of the executive branch nor an agency of the legislative branch. The commission is free to determine its own agenda, and it reports its findings and recommendations both to the president and to the Congress. Neither branch of government can directly control the commission's work.

The president's ability to influence ACIR comes mainly from his authority to appoint 20 of the commission's 26 members. In turn, the Congress' influence over ACIR stems mainly from the authority of the House and Senate to appoint three members each to the commission and also to appropriate the funds for ACIR's operating budget.

The power of the president was dramatically illustrated during President Lyndon B. Johnson's tenure when, angered by an ACIR recommendation in support of federal general revenue sharing for states and localities, Johnson refused for a year to appoint a chairman for the commission, thus preventing ACIR from holding official meetings during that year.

The power of the Congress has been reflected in its declining support for ACIR since 1985. From 1959 through 1985, congressional appropriations for ACIR, which accounted for most of ACIR's budget, had increased gradually to a high point of \$2.1 million in 1985. From 1986 through 1989, however, the Congress reduced its appropriations for ACIR by 53 percent. Congressional appropriations increased thereafter, but were reduced again to a mere \$1.0 million for 1995.

Relative to the EU's Committee of the Regions, it is perhaps useful to note that ACIR was not established as a first or transitional step toward any intended or hoped-for fundamental constitutional or institutional change in the federal system that would enhance the legal position of regions, states, or localities in the American Union. ACIR was established as a permanent advisory body to the federal government, primarily to promote better intergovernmental cooperation. As such, ACIR also serves as a supplementary and official channel for injecting the views of state and local government officials into federal policymaking.

The Mission of ACIR

ACIR's 1959 enabling statute sets forth the following mission for the commission:

Because the complexity of modern life intensifies the need in a federal form of government for the fullest cooperation and coordination of activities between levels of government, and because population growth and scientific developments portend an increasingly complex society in future years, it is essential that an appropriate agency be established to give continuing attention to intergovernmental problems.

It is intended that the Commission, in the performance of its duties, will--

- (1) bring together representatives of the Federal, State, and local governments for consideration of common problems;
- (2) provide a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;
- (3) give critical attention to the conditions and controls involved in the administration of Federal grant programs;
- (4) make available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the federal system;
- (5) encourage discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;

- (6) recommend, within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues among the several levels of governments; and

- (7) recommend methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between levels of government and to reduce the burden of compliance for taxpayers.

In short, ACIR is authorized to investigate and make recommendations on virtually all aspects of intergovernmental relations. The only conspicuous omission from the mission statement is authorization to examine the role of the federal courts, especially the U.S. Supreme Court, in the federal system. Generally, ACIR did not address judicial issues until the 1980s.*

ACIR's mission, moreover, is purely advisory. The commission has no authorization to promulgate or enforce rules or regulations or to engage in juridical functions. ACIR does, however, have limited authority to compel federal executive departments and agencies to provide the commission information necessary for ACIR to carry out its mission and to compel executive-branch civil servants to testify at commission hearings.

The Members of ACIR

ACIR consists of 26 appointed members, each of whom serves a two-year term on the commission. Because of interim turnovers of members during the years, all 26 members do not begin and end their terms at the same time.

* ACIR, Reflections on Garcia and Its Implications for Federalism (Washington, DC: ACIR, 1986).

Consequently, the members' terms of service are staggered, and there is annual rotation of various members. In addition, a member may serve beyond two years until he or she is replaced by a new appointee.

The membership of ACIR is also bipartisan; that is, both Democrats and Republicans must, by law, be represented on ACIR. The purposes of this rule are (1) to enhance the independence of ACIR against the party in power in the Congress and/or the presidency and (2) to enhance the non-partisan objectivity of the commission's work.

Three members of the commission are private citizens appointed directly to ACIR by the president. By custom, presidents have, with one brief exception, designated a private-citizen member to serve as chairman of the commission. The assumption behind this custom is that a private citizen--unlike a federal, state, or local official--can serve as a more neutral chairman of the commission, mediating among the claims of the federal, state, and local government members. Ordinarily, the private-citizen members of ACIR are supporters of the president and his political party; however, by tradition, the citizen designated as chairman by the president has usually been a prominent person possessing more of a civic rather than a partisan political reputation.

The president also appoints three Cabinet-level officers to ACIR, ordinarily two Cabinet secretaries and the head of the White House Office of Intergovernmental Affairs. These three members, of course, are invariably strong, overt supporters of the president and his party.

The U.S. House and the U.S. Senate each appoint three of their members to ACIR. Two of the members from each house are members of the majority party, and one member from each house belongs to the minority party.

The president appoints four governors and four mayors (two Democrats and two Republicans each) as well as three state legislators and three elected county officials (two each from the president's party and one each from the opposition party). However, the president is obligated by the law to appoint these state and local officials only from nominations submitted by the national associations of these respective officials. The associations, though, must present the president with two or more choices for each seat on ACIR. Governors, therefore, are nominated by the National Governors' Association, state legislators by the National Conference of State Legislatures, county officials by the National Association of Counties, and mayors by joint nomination of the National League of Cities and the U.S. Conference of Mayors. Ordinarily, the associations nominate their leaders.

In summary, ACIR's members include three private citizens, three executive-branch "civil servants," and 20 elected federal, state, and local government officials. The 23 government members of ACIR retain their seats on the commission for their two-year terms only as long as they hold their primary public office. If a governor, for example, loses a reelection bid in his home state in the middle of his two-year term on ACIR, then he also loses his seat on ACIR.

The members of ACIR receive no salary. They are, however, paid travel and subsistence expenses for attending commission meetings and other official functions. The private-citizen members receive \$50 per day for attending commission functions. Members who are part-time state or local officials also are eligible for the \$50 per day honorarium, but none have claimed this payment in recent memory. The commission ordinarily holds four plenary meetings a year, with various committees of the commission meeting as necessary (and usually infrequently).

Relative to the Committee of the Regions, it might be noted that the Commission's membership emphasizes elected government officials representing general-purpose governments. The three federal executive officers serve on ACIR out of practical necessity because the executive branch's only elected officials--the president and the vice president--cannot be expected to join the commission's quarterly meetings and otherwise attend to the details of ACIR's work. In addition, neither the private-citizen members nor the elected official members of ACIR are permitted to send voting alternates to ACIR meetings. The members must be present in person in order to vote on official ACIR business.

The composition of ACIR is intended to facilitate its mission in several respects.

For one, except for the three private-citizen members, membership is limited to the nation's three general-purpose units of government: federal, state, and local. Consequently, there is no ambiguity about regional, territorial, or other areal representation. Within these membership limits, moreover, efforts are ordinarily made to ensure that all sections of the country, as well as small jurisdictions, are represented on ACIR.

Townships are not represented on ACIR because they exist in only 20 states and because, in some states, they are little more than road-building and road-maintenance districts. Similarly, special districts and independent school districts are not represented on ACIR because they perform only one or a few public functions. Tribal governments are not represented because of their different status as "domestic dependent nations" and their direct relationship to the federal government. However, all of these forms of government have agitated periodically for membership on ACIR.

Second, ACIR's membership reflects an effort to bridge three major divides in the American system of government: (1) the separation of powers between the legislative and executive branches in the federal and state governments; (2) the division of powers between the states and the federal government; and (3) the cleavage between the nation's two dominant political parties. As such, ACIR is consensus-oriented and tends to be most politically effective when it produces and promotes consensus recommendations. Dissension on ACIR tends to reflect dissension in the larger intergovernmental system.

Third, disagreements among members of ACIR do not always follow party lines. Instead, differences often reflect disagreements between state and local officials and federal officials, between legislative and executive officials, between small and large jurisdictions, and so on. The members do not feel constrained to follow party lines, and the diverse self-interests of each member--as member of a party, elected official of a particular government, and member of one branch of government--encourages the members to seek consensus positions.

Fourth, ACIR has provided an institutional seat at the intergovernmental bargaining table for local governments. The creation of ACIR acknowledged the position of local government as "third partner" in the federal system. Given ACIR's purely advisory function, this seat may be more symbolic than substantive, but its importance to local officials has been reflected in their high levels of participation on the commission. Generally, local officials have been ACIR's most active members, followed by governors and state legislators from small states (e.g., North Dakota). Governors and legislators from large states, such as California, New York, and Texas, have rarely been active participants in ACIR's functions, in part because those states have large congressional delegations and many other channels of political clout in Washington.

Fifth, the party composition of ACIR indirectly reflects party control of the various governments and branches of government in the federal system. Consequently, ACIR is sensitive to the partisan outcomes of elections but not radically or quickly altered by those outcomes, as suggested by the following party consequences for ACIR of the Republican victories in the 1994 elections:

	ACIR Members			
	Democrats		Republicans	
	1994	1995	1994	1995
Private Citizens	3	3	0	0
Federal Executive Branch	3	3	0	0
U.S. House	2	1	1	2
U.S. Senate	2	1	1	2
Governors	2	2	2	2
State Legislators	2	2	1	1
County Officials	2	2	1	1
Mayors	2	2	2	2
Totals	18	16	8	10

If the Republicans capture the White House in 1996 and retain control of the Congress, then the number of Republican members of ACIR would increase from 10 in 1995 to 18 by 1998 or 1999, depending on how many ACIR members President Clinton would appoint for two-year terms during the last days of his administration. The maximum number of commission seats that can be held by one political party is 18 (69 percent of ACIR's membership).

The ACIR Staff

ACIR has long had a good reputation for hiring competent professional staff. The ACIR executive director is hired and fired by a majority vote of the commission members. The chairman of ACIR has complete authority to hire and fire all other staff members, none of whom are protected by federal civil-service rules. Despite opportunities for abuse of this personnel power, the chairman ordinarily delegates this power to the executive director. With only a few exceptions, this power has been exercised in a professional non-partisan manner.

Historically, ACIR has had two research divisions: (1) Government Finance and (2) Government Structure and Policy (actually everything other than fiscal matters). For nearly two decades, ACIR also had an Implementation Section that sought to publicize and promote the adoption of the commission's policy recommendations. The Commission's staff reached a high point of about 38 full-time persons in the late 1970s, but declined to 22 persons by 1986 and to 12 full-time persons by late 1994.

Three observations might be made about ACIR's staff. First, the professional non-partisan staff has greatly enhanced the credibility and influence of ACIR. The commission's staff and its work have rarely been accused of being partisan or otherwise prejudiced toward particular political views. Data and other information issued by the staff are as reliable as possible, and staff reports on public issues are ordinarily well balanced and reflective of diverse viewpoints. In carrying out its research, the staff solicits input from many public officials, scholars, and other citizens across the country. Second, a competent professional staff has been essential for ACIR's operation because the commission members, who meet infrequently, rely heavily on staff support. Quite often, the members and staff of ACIR have functioned as genuine partners. Third, the ability to hire and fire its own staff has been important for

maintaining the commission's independence. The commission can supplement its staff with personnel borrowed for various periods from other federal agencies and from state and local governments, but it is not dependent on the personnel largess of other agencies.

The ACIR Budget

As noted above, the Congress has reduced its funding support for ACIR since 1985. To compensate for the reductions, the Congress has insisted since 1985 that the commission levy charges for the distribution of its reports and seek greater "cost-sharing" support from the 50 states.

In soliciting voluntary financial contributions from the states, ACIR encounters the classic free-rider problem. No more than 35 states have ever contributed to ACIR's budget in any given year, and two states--Nevada and Texas--have never contributed to ACIR. Soliciting state contributions requires constant attention and valuable staff time. In addition, some states try to insist on direct ACIR services for their contribution, which is both impossible and inappropriate for the commission. Furthermore, state contributions place the commission in a "Catch 22" situation. Congressional appropriators argue that increased state support for ACIR is necessary to demonstrate the viability necessary to sustain congressional support, but as state support increases, the Congress feels free to reduce its cost share.

The 1985 congressional requirement that ACIR sell its reports had a severe impact on the commission's visibility and political influence. Prior to 1985, ACIR routinely distributed 7,000 to 15,000 or more copies of its reports to federal, state, and local officials, libraries, scholars, and others across the country and even around the world. The initial charges levied in 1986, though modest, reduced dissemination by at least 90 percent. Many prior recipients of

ACIR's free reports resented the charges and mistakenly believed that the user fees had been demanded by Republican President Ronald Reagan. Report sales also required ACIR to advertise and to establish a system for receiving and accounting for sales revenue--thus diverting more staff time from the commission's principal mission. ACIR continued to distribute, at no charge, its quarterly magazine *Intergovernmental Perspective* to more than 17,000 U.S. readers (but no longer foreign readers) but remained prohibited by law from soliciting commercial advertising to help support the magazine.

Another long-standing source of revenue for ACIR has been grants and contracts from government agencies and private foundations for research and specific services. Such funding was not pursued aggressively by ACIR before 1985, but since then, external funding has become more important for the commission's viability. The principal danger of grants and contracts is that they can become ends in themselves, diverting an agency from its mission. Thus far, however, ACIR has been quite successful in limiting the scramble for dollars to projects consistent with its mission.

As a result of these various sources of revenue, ACIR's total 1993 budget (including its congressional appropriation) was the largest in the commission's history.

The Principal Roles of ACIR

ACIR engages in roughly six types of activities.

Recommendations

Most important is the commission's role in making intergovernmental policy recommendations to the Congress, the president, and state and local governments. ACIR has made more than 300 policy recommendations during the past 35 years. Unfortunately, it is impossible to measure the success of this role with precision; however, it is reasonable to estimate that more than 50 percent of the commission's recommendations have been adopted over the years. In addition, many ACIR information reports containing no recommendations have helped to frame policy debates and shape policy decisions.*

At the same time, there have been some spectacular failures. For example, ACIR has long advocated a federal policy of fiscal equalization for the states; nevertheless, the United States remains one of the few federal democracies having no fiscal equalization program for its constituent governments--even though Canada adopted and modified the Representative Tax System measure developed by ACIR in the early 1960s for this purpose.**

* See "ACIR and the Federal System, 1959-1989," Intergovernmental Perspective 15 (Fall 1989) "ACIR at 35--Anniversary Issue," Intergovernmental Perspective 20 (Summer/Fall 1994)..

** ACIR, RTS 1991: State Revenue Capacity and Effort (Washington, DC: ACIR, 1993) and ACIR, Representative Expenditures: Addressing the Neglected Dimension of Fiscal Capacity (Washington, DC: ACIR, 1990).

Research

The recommendations of the commission are based on extensive research carried out by the ACIR staff. The commission selects the intergovernmental issues it wishes to address and directs the staff to conduct the necessary research. The nature and depth of the research depend on the nature of the issue and the availability of previous credible research. The results of the staff research are presented to the commission, which then votes to approve or disapprove the publication of a policy report containing recommendations or simply an information report.

Occasionally, and at its own discretion, though also peril, ACIR engages in research specifically requested by the Congress or the president. It is politically difficult for ACIR to reject a congressional or presidential research request, although the commission ordinarily insists on supplementary funding to carry out requested research of any extensive nature.

Evaluation

ACIR also evaluates developments in long-standing policies as well as proposed laws and administrative rules likely to have an impact on the federal system. In some cases, congressional committees and executive agencies solicit ACIR's advice; in other cases, ACIR provides unsolicited and sometimes unwelcome advice. As the U.S. economy has become more service-based, ACIR has also sought to evaluate the rationales of policies established in earlier eras to govern the intergovernmental taxation and regulation of such major service industries as banking, insurance, and telecommunications.

Monitoring

The members of the commission and the staff are often the first to identify emerging trends and problems in the federal system, such as the problem of federal mandates first identified by ACIR in the early 1970s. The Congress initially responded in 1981 when it enacted the ACIR-recommended *State and Local Government Cost Estimate Act*. Only in 1995 did the Congress enact legislation to provide actual substantive relief for state and local governments from unfunded federal mandates.

Much of ACIR's monitoring activity, however, simply involves the issuance of data and other information annually or biennially. For example, ACIR's annual publication, *Significant Features of Fiscal Federalism*, is a widely used and respected data book. Even though much, though not all, of this information is available elsewhere, ACIR packages the data in accessible forms relevant to measuring fiscal trends in the intergovernmental system. In some cases, ACIR provides the only measures for certain trends extending across decades.

Convening Forum

ACIR also performs an important function by serving as a reasonably neutral forum for convening relevant federal, state, and local officials as well as private interest groups to address specific issues. Some high-level forums engage the president and leaders of the Congress; most, however, involve less prominent officials as well as bureaucrats brought together by ACIR to help resolve specific administrative issues (e.g., river-basin management, infrastructure investment, environmental permitting, and spatial data sharing). These forums are often successful because ACIR is viewed as neutral and seeks to facilitate rather than direct problem resolution.

ACIR also assists federal executive agencies in working with state and local officials. Many federal laws and executive orders direct agencies to cooperate

with their state and local counterparts; however, federal agencies are often unable to initiate cooperation or to respond adequately to overtures from state and local officials. Most federal civil servants have no personal experience with state or local government and, therefore, no idea of how their actions may affect those governments adversely. At times, hostile relations also stand as barriers to cooperation. ACIR, therefore, endeavors to help federal bureaucrats reach out to their state and local counterparts and bring all the relevant officials together in a neutral forum where they temper their hostilities, begin to understand each other, and initiate cooperation.

ACIR does not, however, engage in direct dispute mediation or resolution between specific governments or agencies in the federal system. Such disputes are addressed and resolved in the Congress, executive agencies, or the courts.

ACIR also serves informally as secretariat for ACIR-counterpart bodies, which have been established independently by 26 states and helps to convene an annual meeting of these state ACIRs.

Public Information

In addition, ACIR serves as a major source of public information on federalism and intergovernmental relations. In some areas, ACIR is the only source of certain intergovernmental information. One measure of this function is that despite its tiny staff, ACIR responded on average to 1800 telephone requests for information per month in 1993, in addition to requests received by mail and fax.

Information made available by ACIR is used widely by policymakers, the news media, interest groups, civic organizations, scholars, and teachers. Indeed, during the 1960s, ACIR played an important role in stimulating the academic study of intergovernmental relations, and ACIR's reports often served as

classroom texts. Most recently, for example, ACIR pioneered new research on the re-emerging importance of state constitutions, one product of which was the first 50-state casebook on state constitutional law ever published in American history. This casebook has helped to stimulate the establishment of courses on state constitutional law at law schools.

Another aspect of ACIR's information dissemination is the provision of short-term technical assistance to federal, state, and local government agencies on specific matters. For many years, ACIR also recommended model or template legislation for enactment by state and local governments. These model laws and ordinances were quite popular, even though state legislatures and city councils often modified ACIR's proposals for better or for worse. During the 1980s, however, ACIR ceded this function to other organizations, such as the Council of State Governments and the National Conference of State Legislatures, that now issue such models on virtually all public policy issues.

The End of ACIR?

Unfortunately, this discussion of ACIR may soon have to be read as an epitaph. Despite 35 years of what most observers have regarded as exemplary service, ACIR may cease to exist in the near future. In addition to congressional appropriations reductions, ACIR was zeroed out of the proposed federal budget approved by the U.S. House of Representatives in 1993 and 1994. In each year, an appropriation was restored through Senate action, but the fiscal pressures facing the new Republican Congress are likely to destroy ACIR. Even though ACIR's \$1 million appropriation is an insignificant portion of the federal government's \$1.4 trillion budget, many Republican and some Democratic representatives are determined to cut spending wherever possible. As some members of the Congress have said, "ACIR certainly does good work; nevertheless, we must now defund government agencies that are nice to have in order to fund agencies that we must have." Politically, ACIR is an easy target,

and abolishing a government agency, even a tiny agency with 12 employees, has considerable symbolic appeal to voters.

The decline and possible demise of ACIR can be attributed to a number of factors mostly external to the commission.

For one, an advisory body is, by definition, non-essential and can survive only so long as the subject matter of its advice is regarded as necessary and important by the recipients of the advice. After 35 years, the political actors who saw a need for ACIR in 1959 have passed from the scene, to be replaced by new actors having different interests. In particular, in the early 1980s, members of the Congress who had been strong champions of ACIR since 1959 retired from the House and the Senate.

ACIR had been rendered less essential by the mid-1980s, in part, because the national associations of state and local governments had considerably improved their institutional lobbying presence in Washington from 1959 to the 1980s. These associations now provide information and consultations once available only from ACIR. Furthermore, they present information in ways that best serve their interests. Because of ACIR's intergovernmental and bipartisan composition, the commission is not always a reliable ally of any one governmental interest--federal, state, or local--in the federal system. Hence, some or all of the state and local associations have become quick to criticize ACIR when its policy recommendations do not suit their interests. There is also competition between these associations. In particular, the National Governors' Association (NGA) regards itself as the premier state-local institution in Washington. NGA's view of intergovernmental relations is similar to the Canadian concept of "executive federalism." Because of the separation of powers in the American system, however, executive federalism is not legally viable in the United States. Nevertheless, NGA fights for a premier position and frequently opposes the policy positions of other state and local associations as

well as the policy recommendations of ACIR that do not suit NGA's interests. In particular, NGA does not support efforts by local governments to be the "third partner" in the federal system and to have direct relations with the federal government. For example, NGA has generally opposed direct federal aid to local governments, arguing that federal funds should be given to the states, which should then decide how to pass funds on to local governments. One result of NGA's efforts is that 89 percent of federal aid now goes to state governments.

In addition, there has been a proliferation of non-governmental interest groups and think tanks in Washington, DC, since 1959, thus vastly increasing the flow of information through the political process. These groups use ACIR's information when it suits their interests and oppose ACIR recommendations that cut against their interests. Furthermore, the information overload produced by interest-group activism often relegates ACIR's work to the status of "more of the same." This is all the more true now that federal officials tend to regard state and local governments as little more than "special interests" hardly distinguishable from other "special interests" operating in the system. As a result, some members of the Congress have come to regard ACIR as little more than an inside lobbyist for state and local interests, even though, officially, ACIR is not permitted to lobby on behalf of its policy recommendations.

Interest-group proliferation in Washington, DC, has had profound consequences not only for ACIR but also for the federal system. In essence, interest groups have shifted federal policymaking from the interests of places (i.e., state and local governments) to persons (i.e., constituents directly). For example, in 1978, only 32 percent of federal aid to state and local governments was dedicated for payments to individuals (i.e., welfare and Medicaid). Today, approximately 63 percent of federal aid to state and local governments is dedicated for payments to individuals. In essence, state governments especially

operate increasingly as administrative arms of federal welfare policy, passing federal money through to their citizens under federal rules.*

Non-governmental interest groups have also been strong advocates of unfunded federal mandates on state and local governments. Given the reluctance and often unwillingness of the Congress to raise taxes, advocates for the interests of the poor, persons with disabilities, environmental protection, and the like have successfully lobbied for stronger federal policies that must be implemented by state and local governments with their own revenues, thus forcing state and local officials to raise taxes or reduce other services. Hence, members of the Congress can enjoy the pleasure of enacting popular policies without experiencing the pain of asking citizens to pay for those policies.

Policymaking for persons rather than places has become highly advantageous to members of the Congress because, with "one person, one vote" reapportionment of the U.S. House since the 1960s, the rise of the national media, and the decline of state and local party organizations, the reelection of members of the Congress depends primarily on their ability to appeal directly to voters and serve constituents directly and often personally. In addition, while the non-governmental interest groups serve as major sources of campaign financing for congressional candidates, the associations of state and local officials can do very little to help a member of the Congress win reelection. Hence, as one U.S. Senate member of ACIR commented recently, "There is no longer any political capital in intergovernmental relations, nor is there any political advantage for me to serve on ACIR."

Another major change in the federal system has been a significant increase in federal preemption (i.e., displacement) of state and local authority since the

* John Kincaid, "Constitutional Federalism: Labor's Role in Displacing Places to Benefit Persons," *PS: Political Science & Politics* 26 (June 1993): 172-177.

1969. A recent ACIR study discovered that 53 percent of all explicit preemption statutes enacted by the Congress in 205 years of U.S. history have been enacted only since 1969 (the last 26 years of U.S. history). Ironically, preemption has been stimulated in part by what has been called "the resurgence of the states," namely, increased state professionalism, activism, and regulation. This resurgence has driven many business interests to Washington, DC, to seek federal preemption of state regulation by uniform federal regulation. Concerns about economic competition from the European Union, Japan, and elsewhere have also stimulated federal preemption of "fragmented systems of state and local regulation" in order to establish more uniform national rules for a more common internal market. Although ordinarily protective of their prerogatives, economic concerns have driven even many state and local officials, especially governors and mayors, to support federal preemption of state and local powers. Consequently, despite his New Federalism philosophy of restoring more powers to the states, President Ronald Reagan signed more preemption laws than any other president in U.S. history.*

The rise of preemption, unfunded mandates, and federal policymaking for persons placed ACIR in a difficult political position by the 1980s. ACIR had flourished during the era of "cooperative federalism" when federal aid to state and local governments increased significantly. Federal aid, however, peaked in 1978 and declined thereafter, while also shifting from places to persons. Cooperation deteriorated in the more constrained fiscal climate of the 1980s, and with the rise of mandates and preemptions, intergovernmental relations entered a contentious era of "coercive federalism."** Given that ACIR had been

* John Kincaid, "Economic Union and Federal Diversity: Should a Coca-Cola Bottle Carry 51 Health Warnings and, If So, in What Language?" *Economic Union in Federal Systems*, eds., Anne Mullins and Cheryl Saunders (Leichhardt, NSW: The Federation Press, 1994), pp. 37-68.

** John Kincaid, "From Cooperation to Coercion in American Federalism: Housing, Fragmentation, and Preemption, 1780-1992," *Journal of Law and Politics* 9 (Winter 1993): 333-433.

founded primarily on the premise of cooperation, the commission found it increasingly difficult to champion cooperation under such conditions. In addition, because the primary source of coercive federalism's mandates and preemptions has been the Congress, ACIR's policy recommendations necessarily became increasingly critical of the Congress--ACIR's primary source of funding. During the era of cooperative federalism and rising federal aid, ACIR could work smoothly with the Congress, but in this new era, ACIR's relations with the Congress became increasingly conflictual.

This conflict was exacerbated during the 1980s by the highly partisan climate created by divided government, namely, Republican control of the White House from 1981 through 1992, Democratic control of the U.S. House for the entire period, and Democratic control of the U.S. Senate from 1987 through 1992. Given that the president appoints 20 of ACIR's 26 members, Democrats in the Congress tended to dismiss ACIR as a puppet of Republican presidents. At the same time, given the rules of bipartisan composition of ACIR, which gave Democrats a significant voice in ACIR, Presidents Reagan and Bush could not regard ACIR as a reliable ally. Consequently, in this highly charged partisan environment, ACIR--as an independent, objective, bipartisan institution--became increasingly irrelevant to the immediate political interests of the Congress and the White House and, therefore, of many state and local officials as well, who now had the ability to lobby more directly and forcefully for their own interests. As the chief staff lobbyist for the National Governors' Association put it recently, "I have always supported ACIR and believed that it does good work, but it has simply become academic."

Despite its contributions over the years, therefore, the future of ACIR is in doubt. Although many of the functions performed by ACIR remain valued by federal, state, and local officials and others, the commission can no longer function as a major player in the central political issues of contemporary American intergovernmental relations.

The experience of ACIR poses several potential issues for the Committee of the Regions. For one, the Committee's work is likely to be shaped by the inherent tension between regional and local self-government and the free-trade and mobility requirements of economic union. Subsidiarity could leave regional and local governments to forage for little more than leftover powers at the bottom of a multi-level food chain. Second, strong regions having significant subnational powers are likely to support the Committee so long as it advances their objectives, but to circumvent the Committee when it suits their interests. Third, regional interests will have to contend not only with national government interests but also with non-governmental interests proliferating throughout the EU. Fourth, democratization of the EU will profoundly affect regional interests, producing cross-pressures that could render the Committee irrelevant over time. Fifth, the Committee will have to make strategic agenda choices, especially between strategies of political advocacy and of intergovernmental management and consultation.

The Experience of the Economic and Social Committee of the European Community

*Roger Morgan**

These remarks are based on a report on the Economic and Social committee, which I wrote some years ago. The position of the Economic and Social Committee, among the institutions of the Community, is often rather like the position of the Committee of the Regions in the list of French institutions that Mr. Vallve described earlier: it is absent. The Economic and Social Committee is not always regarded as a prominent feature of the institutional structure of the Community: I was very glad in fact that it was mentioned on the French description that we heard about earlier. It is of course an advisory committee, and the question with this as with other advisory bodies is, why should anybody take any notice of its advice? Why should it have any influence? I suppose there are two answers in the principles which led to the establishment of the Economic and Social Committee. One is, it is a source of expertise which would otherwise not be available; secondly, it is in a sense representative. Now questions have to be asked both about how expert the Economic and Social Committee has been, and about the sense in which it can be regarded as a representative body. I'll remind you that it is a relatively small body. Until the recent enlargement of the Community it had 189 members. There were 24 each from the bigger member States, and smaller numbers, down to the number of 6, from Luxembourg. As for its representativity, it is divided into three groups; it represents three major categories of European society, or European economic life. Groups 1 and 2 of the three represent the so-called "social partners", the employers and their employees, the trade union organizations. Group 3 is other sectors of society, *professions liberales*, experts of various kinds, economists, and so on. You can see right away that with a very small body such as this the

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chances of the expertise being comprehensive are not very high, because there are large elements in society that cannot really be represented in this body, and there are obviously areas of expertise that cannot be represented. The members are appointed by the respective governments. They are members *à titre personnel*. Here we have a problem that was touched on just now, that is, a member of the Economic and Social Committee, even if he or she is for instance there because he holds a high position in an employer's organization or a trade union organization, is there in his personal capacity and cannot be represented by a *suppléant* or a replacement at full meetings of the committee. That has been a problem certainly, among those I will come to later. To take away already one confusion: very senior officials, those with the top responsibility in major organizations of industrial society are generally not going to commit themselves to spend the amount of time that is required, as members of the Economic and Social Committee. So you can say, there are some experts, there are some members of the Committee who are representative and there are some who might be said to be both. The function of the Committee of course is to give an opinion, to exercise an advisory role in the preparation of European Community legislation. Its basic *raison d'être* I suppose could be summarized by saying that it brings the lobbying process out into the open: the process of interaction and conflict between economic interests is brought into an open forum, where there is a confrontation of different points of view. It may produce a consensus on many matters, for instance, on what became the Social Chapter of the Maastrich Treaty, the confrontation of different interests in the Economic and Social Committee certainly played a part in bringing agreement about. Where there is not a consensus, then the bringing to light of conflicting interests is, I think we would agree, better than allowing the influence of important economic interests to be exercised in private, behind the scenes.

What are the other advantages or ways in which a body like this advisory committee can make a contribution to good legislation for Europe? At its best, it can assess what the new issues are, because of its expertise it can see the issues arising from new technology, from migration, from other significant trends in European society, and it can help to identify the importance of these

and draw them to the attention of those with influence and power in the Community. In the preparation of a complex programme like the single-market programme, the Economic and Social Committee certainly could argue that it had among its members expertise that was useful in preparing the legislation. If you are looking for other justifications for a body of this kind, it can help through its expertise in making the European economy competitive in the world market, which everyone would agree is important. Again, at its best, this committee can play a role in the integration of societies, which is a much more difficult operation than the integration of economies. If we are talking about social cohesion in the broader sense, or the establishment of a common sense of a European society, then a body that represents the various sectors of civil society in Europe certainly has a role to play. Again, the old problem of implementation, the problem of supervising and evaluating how well programmes are put into operation, is one where it would seem that the Economic and Social Committee can play a part. As part of its operation, I mentioned that it had the function of giving advice on legislation before it is prepared and enacted. It also has the function of making reports on certain areas of policy: energy policy, the implementation of regional policy and the macroeconomic situation of the EC have been areas in which the Economic and Social Committee has had the function of evaluating the implementation of Community policies. That is a very brief statement of the arguments in favor of a committee of this kind, and to some extent I think the Economic and Social Committee can say that it has lived up to what was expected under these headings.

There are however a number of disadvantages or weaknesses of the Economic and Social Committee, and it may be that these are points on which the Committee of the Regions may be able to draw some lessons. Some are obviously much more relevant than others. One weakness, it seems to me, of the Economic and Social Committee now, in the 1990s, is that its basically corporatist or collective way of organizing social interests or representing them, is not fully in tune with the spirit of the times. Maybe the times are changing, maybe the *Zeitgeist* is changing again, but certainly in the period, let's say in the

1980s, when deregularization and liberalization and so on were the great watchwords, then a body that represented organized corporate interests at the European level, as at the level of some of the member states, was not regarded as corresponding fully to the spirit of the times, anyway by certain governments. A second weakness of that committee (this really doesn't apply to the Committee of the Regions) is that it could be accused of trying to harmonize legislation at the European level, trying to create a common European pattern, aiding in the general purpose of the Community in trying to harmonize legislation and regulations at the European level, and not respecting enough the principle of subsidiarity. Now that is obviously not an accusation or a weakness that could be regarded as attaching to the Committee of the Regions. Of course by definition, if there is a body that stands for subsidiarity in the institutional set-up, I suppose it will be the Committee of the Regions. A rather different sort of weakness that has been apparent for the Economic and Social Committee is that it has not really found an influential place in relation to the other institutions of the Community. It has not on the whole been welcomed by the European Parliament (EP), although it might have been accepted that the expertise of the Committee could be useful to the EP. This has certainly been true in one or two specific areas, quite technical ones, like the harmonization of value-added tax. On this, for instance, I recall that the preparatory work of the Economic and Social Committee was appreciated and used by the Rapporteur of the relevant committee in the European Parliament. But these are exceptions, it has not yet been normally the case that the work done on policy issues by the Economic and Social Committee has been appreciated by the members of the European Parliament or by the Parliament as a whole. Sometimes its relations with the Council of Ministers have been bad. Certain people in the Secretariat of the Council of Ministers would argue that the opinions of the Economic and Social Committee are not very important and therefore there is no particular reason to spread them very actively among members of Council working parties. Representatives of the Economic and Social Committee would argue that certainly the Council Secretariat sometimes fails in its duty of making sure that the opinions of the Economic and Social Committee are brought to the attention

of members of Council working parties. One important point perhaps is that the Economic and Social Committee has not succeeded in synchronizing its timetable of work very effectively with the Council working parties. The timetables of the Community institutions are obviously extremely complex and very heavy. I believe it is true to say that the Economic and Social Committee has succeeded in coordinating its work quite effectively with the work of the Commission, but when it comes to Council working parties, there have often been cases when the Council is not represented at the Economic and Social Committee section meeting (that's the group of the Economic and Social Committee that deals with a particular problem) by anyone who had any knowledge of the problem. And there have been problems with the timetable for the work of the organs, especially the Council, not being well coordinated. Now why is that? The Council has not taken the Economic and Social Committee very seriously. I don't know what the answer is as to how the Regional Committee will be able to get itself taken more seriously, but I point to something that has been a problem.

More serious maybe is that the Economic and Social Committee has not always been taken very seriously even by the organized interests that it is there to represent. The major trade union federations, the major employers' organizations who should be represented and are represented in Groups 1 and 2 of the Economic and Social Committee, often have their own direct channels of communication to the Commission, or to the national governments, and have not regarded this Committee as being a relevant or useful channel for them. That is linked with the fact that the very top office-holders of these bodies will not or cannot find the time to be members of the Economic and Social Committee. A further weakness is that, I think it's fair to say, the Economic and Social Committee has tried to spread its efforts too widely. It has tried to give attention to every question of Community policy, and to comment on every proposal for regulation; on some of them, what it can manage to say is interesting but on some others it is less interesting. So I have an impression that the value of Ecosoc opinions in general has been rather devalued, because some of them are just routine statements. That is, I repeat, because the Committee has made an

attempt to find something to say on every question that was submitted to it. There may be a lesson there, that the Committee of the Regions should try to be more selective. A further possible weakness in Ecosoc is the question of whether it really is representative. Groups 1 and 2 represent, in a sense, the major organized bodies, the social partners of industrial society. But Group 3, which we must remember, is only one-third of the total membership of the Committee, doesn't fully represent all of the sectors of modern society or of modern economic life. Information, technology, science, research, are not adequately represented, whereas agriculture for instance is massively represented, partly through the presence of agricultural employers in Group 1 as well as farmers in Group 3. So there is a question: I don't think this problem arises in the regional representation, because here we are talking about a committee representing territorial entities, but in this functional body that I am talking about, certainly some major sectors of modern society are not represented. A further aspect of lack of representation is that the representation of the big member-states is not big enough. It is disproportionate, in that the large member-states still have only 24 members each. This makes it quite hard to say that all of the aspects of society in those countries are represented.

I have mentioned the problem about the absence of the top leaders. Maybe the answer to that, which has been discussed for Ecosoc, is that the working members of the Economic and Social Committee would not normally be the top office-holders in the various organizations, but there might every year be one special session at which the big bosses of the big labour unions, the big heads of the employers' organizations, would be present so as to be associated with the work of the Committee. I don't know how relevant that idea might be to the Regional Committee. Again, Ecosoc's links with the national counterparts of the Economic and Social Committee are not as good as they should be. Almost, every member state of the Union has some kind of an Economic and Social Committee (the British one, "Neddy", the National Economic Development Organization, was abolished a few years ago). But even though most of the states have something of this kind representing the major sectors of society, Ecosoc has not always managed to maintain successful links with them, nor

indeed with regional authorities in the member-states, nor with the economic interest groups that operate at the European level. In a Europe in which economic interests are now increasingly represented by federations at the European Community level, Ecosoc is slightly old-fashioned in the sense that it contains representatives of the national economic and social interests, but has inadequate links and no direct representation of the interest groups at the Community level.

There may be some good news in the end, though I am giving you mainly stories about weakness and problems. I'm afraid another problem is that the Economic and Social Committee has not been very effective at communicating to the outside world just what is special about the advice that it can offer. In some cases an opinion from the Economic and Social Committee really does bring together the points of view of different and conflicting interests: as I said, the Social Chapter developed from debates about the idea of a European "social space", conducted in the Economic and Social Committee. There are ideas which one can see have had an effect on the structure and policies of the Commission: for instance, studies done in the Economic and Social Committee of the cooperative productive sector, the so-called *économie sociale*, or social economy, led to the creation of DG 23 in the Commission to develop policy for this economic sector. There are other, perhaps more specific, things, like codes for nuclear safety, where the Economic and Social Committee can say it contributed something. In helping the Community programs for vocational training in Eastern Europe -- quite a large area -- again the advice of this Committee was relevant. There is still a tendency in the Commission, however, for officials to say "well, we know what these different interests are, if we want to talk to the unions we talk to them, if we want to talk to employers we talk to them, and what can the Economic and Social Committee provide that is more than just the total of the different partial points of view that we can get anyway". I think that there is an answer to that, and that in some cases what comes out of the Economic and Social Committee is more than just the sum of the parts, but that the Committee is not very effective at convincing the outside

world that that is the case. It could do more for its public image, and I think here there may be lessons for the Committee of the Regions. The Economic and Social Committee could do more work as well, despite all the competition from other think tanks, which makes Brussels very like Washington: the Committee could undertake studies of problems that are not yet ripe for political decision - problems of an aging population, problems of what happens with migration, estimates of future demand for different sorts of skilled labour, and so forth. Think-tank, forecasting work is something the Economic and Social Committee has done a bit of, but perhaps could do more. Again, there is evaluation: I mentioned that when the Commission makes a report every year of implementation of the legislation for the single market, or implementation of the regional development program, there is an evaluation of that report by the Economic and Social Committee, but again I think that Committee probably could do more. It could do more on active lobbying: the Committee sometimes acts as if it thinks all it has to do is to produce a formal report for the Council, and then its job is done. But in practice (and this may be a lesson for the Committee of the Regions), if influential members of the Economic and Social Committee can talk to ministers in their own countries, or talk to parliamentarians, and put in a bit of personal lobbying, this is something the Economic and Social Committee could do, and maybe the Committee of the Regions could do more actively. That is often more useful than some formal report through the formal channels. I suppose that if I had to say whether the Economic and Social Committee is more valuable because it has expertise or because it is representative, I think I would have to say, it is more valuable because of its expertise. It has been able to mobilize expertise for quite obscure things such as veterinary regulations, etc. I don't think the Economic and Social Committee can be regarded as a body that is influential through having political legitimacy, and that, I think, makes it different from the Committee of the Regions. But my suggestion would be that there are a number of ways in which an assembly of elected regional political leaders who thus have democratic legitimacy, may draw some lessons from the contributions made by a body which is essentially a body of experts from different sections of society.

Participation and Representation: The Experience of Second Chambers and the Committee of the Regions

*Roland Sturm**

Introduction

This paper will set the discussion about the Committee of the Regions into the context of a wider institutional debate. Increasingly there is reference to a - however organisationally diverse - "third level" of policy-making in Western Europe, adding a regional to the national and European levels. German scholars, in particular, with the domestic framework of federalism in mind, often appear to search for a European analogy (see for example Bullmann 1994). Regarding the Committee of the Regions, however, the problem with this approach is twofold. Either it simply assumes an automatism that will lead from a third level of policy-making to a "chamber" of the regions (Kalbfleisch-Kottsieper 1994), or else there is a preoccupation with muddling-through tactics that are expected, in the near future, to increase the power of the Committee of the Regions (Hrbek/Weyand 1994: 157f.).

More systematic constitutional arguments of alternative role models for the Committee of the Regions are thus frequently ignored. Yet, before attempting to widen the perspective by bringing in the experience of Second Chamber arrangements (see Mastias/Grangé 1987; Schüttemeyer/Sturm 1992), one point needs to be stressed. The broader aims of achieving constitutional coherence of the EU, or, as some would argue, of eliminating the "democratic deficit", may serve as a useful incentive for a redefinition of the role of the Committee of the Regions. But more limited institutional reform will probably not have the Committee of the Regions as its prime objective. Though the focus here is on

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the Committee, this is not meant to suggest reforms in this area will trigger a more general institutional reform of the EU. In the following, I have divided my argument into two parts, namely aspects of participation and aspects of representation.

I. Participation

Participation in the European decision-making process can take different forms. For a new institution, such as the Committee of Regions, the initial aim must be to move beyond a symbolic participation - already achieved by the very fact of its creation - and to become a source of influence in its own right. Although one could in principle argue that the greater the democratic legitimacy of an institution the greater will be its political influence, the experience of the directly elected European Parliament shows that this logic is inapplicable in the EU. The same is true for Second Chambers where elected ones are not necessarily superior with regard to their political influence to non-elected Chambers (The House of Lords has a stronger role in the political process than the Irish Seanad.). In other words, it is possible to debate the issue of participation separately from the issue of representation.

1.1. Advice

The Committee of the Regions was given an advisory role by the Maastricht treaty, a fact which leads to the more general question about the circumstances under which advice can yield influence. Second Chambers have at least the institutional role of providing second opinions in the policy process. The "mythology" of Second Chambers even has it that they are the necessary moderating part in political life, the "*senior pars*". It can be fairly clearly pointed out under which pre-conditions their advice is heard. There is a demand for their advice when the resources of either time or knowledge are in short supply. For the British House of Lords, for example, the point is often made that its task is to improve on bills which, because of time constraints come to it from

the Commons in a very imperfect form. The German Bundesrat introduces in the legislative process the administrative know-how of the states (Länder). They are, in this respect, in a superior position *vis-à-vis* the federal government, because in the German political system public administration is, by and large, the task of the states.

Advice is more likely to be successful when it is given on issues which are politically uncontroversial. If there is, however, a difference of opinion between the two Houses of a Parliament and the role of the Second Chamber is legally not guaranteed, its advice will simply be ignored.

For the future role of the Committee of the Regions this means on the one hand that the growing complexity and size of the EU which is accompanied by an exploding workload provides a window of opportunity for an institution which at least in theory can offer time and specialized knowledge. Of course, the fulfilment of this institutional promise will only be possible if the advisory role of the Committee defined in Art. 198c is given a clear sense of direction. It will certainly overburden the Committee and take away any advantage of time it may possess, if it reacts to all initiatives of the Council or the Commission. The necessary selectivity which is the precondition for sound work should be guided by the special type of knowledge assembled in a regional assembly. At least in a technical sense of improving the work of EU institutions the Committee could in this way establish itself as an indispensable source of information and help.

1.2. Decision-making

However, the advisory role is not a core element of the decision-making process. The critical variable here for Second Chambers is their relationship to other Chambers. But even if we have a clear-cut situation of dominance in which the First Chamber can force the Second Chamber to accept its decisions, it is possible to establish procedures which give Second Chambers a voice, such as the "navette" in France or the "Vermittlungsausschuß" in Germany in the case of bills which do not need the consent of the Bundesrat. Where, as in Italy,

Switzerland, Germany (for bills for which the Bundesrat has a veto), or the United States, the Second Chamber is needed as partner in the process of decision-making, it even has an efficient veto.

Three options are available to the Committee of the Regions in the European decision-making process:

- a) the status quo. This means that the Committee remains without any powers of decision-making. It does not succeed in linking up institutionally with key actors, such as the Council, the Commission, or the European Parliament.
- b) A first step for an improved role of the Committee in decision-making could be a formalized procedure which asks for the consent of the Committee in the decision-making process. Even if, for example, the Council may be able to override the Committee's opinion, this role would strengthen the public profile of the Committee. One possibility for such a more formal role would be, of course, to change the current status of the Committee and to install it as the Second Chamber of the European Parliament with a role similar to the Irish Seanad, the French Sénat, the Spanish Senado or the House of Lords. This means above all the power to delay decisions and the ability to rewrite the wording of decisions.
- c) A veto power of the Committee of the Regions is at the moment merely of systematic interest. As its precondition a complete change in the responsibilities of European institutions would have to have taken place. In the relevant scenario Europe would be united, the nation-states would be a phenomenon of the past, and the only political counterpart to the European "state" level would be the regional level. Only this scenario would make it possible to argue successfully for a Committee with general veto powers. A more plausible aim may be a veto for the Committee in cases in which decisions have a clearly defined regional dimension.

1.3. Control

Three forms of control of the political process are usually debated: *ex ante*, implementation, and *ex post* controls. *Ex ante* control through Second Chambers is defined by their involvement in policy advice and decision-making. Second Chambers usually have, with the exception of the US Senate, which has access to the Congressional Budget Office and the General Accounting Office (GAO), fairly little control over the policy implementation process and the policy evaluation process.

Yet the current debate on more efficient government, be it the "Reinventing Government" literature (Gaebler/Osborne 1992 and others), or the British Next Steps-Initiative (Sturm 1994) stresses the need for paying greater attention to the control of outcomes of policies than to input factors. Gaebler and Osborne also stress the importance of responsiveness to the needs of regional communities and of local control for the success of public policies.

The Committee of the Regions is in a privileged position to contribute to this efficiency debate. It could be the eyes and ears of the European Union in the regions. It could monitor the regional dimension of policies, and especially of regional politics embodied in the structural and cohesion funds. It could play a pioneer role in initiating and supporting cross-border regional cooperation and in finding efficient ways of shaping regional infrastructure.

1.4. Recruitment of Political Personnel

Second Chambers are often a kind of last chance for politicians at the end of their careers. While the Canadian Senate has been particularly singled out for critique in this respect, this is a fairly common criticism of Second Chambers with appointed members. There is indeed little incentive for active politicians to seek membership in those Second Chambers which have only a limited role to play in politics. Though this is rarely the case (for example in the House of Lords or the Irish Seanad) occasionally even members of Second Chambers in a fairly weak constitutional position become members of government. For members of those Second Chambers with a constitutionally strong role, such as

the Bundesrat or the US-Senate, membership in a Second Chamber is a logical (first) step in a successful political career. This kind of career orientation raises public attention for the Second Chamber, although this is not necessarily advantageous for its institutional profile. Career-oriented members use the environment of the Second Chamber as their forum. They may hesitate, however, when it comes to more general support for the institution "Second Chamber" as such.

So far the membership of the Committee of the Regions seems to offer only limited career opportunities. This may be different for the Committee's President. Two kinds of careers as a result of a successful Committee membership are - in theory - possible: on the national and on the European level. The value of the latter avenue depends very much on a stronger profile of the Committee. If the Committee is successful in carving out its political territory within the European Union's institutional structure and in acting as a respected voice of the regions, it may attract ambitious politicians. If, however, the effect of the Committee's existence is reduced to giving politicians a chance to increase their influence in national contexts, then this involves the danger that the parochialism of national or regional priorities will become so dominant in the work of the Committee that no incentive for a general support of regions of a broader regional dimension of European politics will remain. Such decisions, made when the national perspective has priority, are necessarily without clear direction and are bound to do little to improve the Committee's institutional standing.

II. Representation

The models of representation which we find in Second Chambers differ widely. They range from traditional representation of the nobility in Britain, to the representation of social groups as in Ireland, or to the representation of regional and local government, as in Spain or France, or of states, as in Germany, or even directly of the people, as in Australia or in the United States. Though at

present the Maastricht Treaty clearly defines membership in the Committee of the Regions by two categories, nationality and territorial government, it is important to note the broader implications of the problems of representation and interest intermediation. Before these are discussed in more detail, a brief note on the problem of territorial representation at a time in which the principle of individual equality has become the general norm is necessary.

Territorial representation postulates the supremacy of equal treatment of "places" over the equal treatment of "persons" (Kincaid 1994). This principle may become coercive in cases in which the rights of regions in Europe are in conflict with the rights of individual citizens in Europe (an example could be the regional choice of a uniform language in public education, a telling example is Québec in Canada). Institutionally the representation of people and the representation of places may become a source of conflict between the European Parliament and the Committee of the Regions.

II.1. Symbolic Representation

In cases of Second Chambers, such as the Senates in Italy, Spain and France, where we find - similar to the Committee of the Regions - a mixture of territorial entities of different size and competences, the outcome of the decision-making process is very often determined by non-territorial factors, above all party. The territorial dimension then becomes *de facto* symbolic. Yet, the social dynamics of a society may come back to the imagery of political symbols, transforming it into a reality of political demands. Spain, which is on its way to a kind of *de facto* asymmetrical federalism, is the best example here. (for the debate see Agranoff 1995).

At the moment having a Committee of the Regions is mainly of symbolic importance. For some EU Member States, Germany in particular, it has also been an important matter of national politics to possess institutionalized representation for their regions on the European level. Here the hopes and expectations that *de facto* symbolic representation will be transformed into efficient participation are very strong.

In general it can be said that one should not underestimate the power of symbols to change perceptions. Now that a Committee of the Regions exists, it is probable that it will become the source of demands for a stronger representation of regional interests on the European level as well as an influential factor in the national debate of those Member States with weak regional structures. Especially in the British case it can be shown that the example of other European regions has provoked demands for regional organisation and regional representation. (Keating/Loughlin 1995). The symbolism of a Committee of the Regions may thus add legitimacy to regional demands in those unitary states which have so far paid them little attention.

II.3. Territorial Representation

Many Second Chambers refer to territorial divisions as the principle guiding the selection of their membership. This is even the case for the appointed membership of the Canadian Senate. The decisive factor for territorial representation is, however, whether or not the membership of the Second Chamber is elected by units which themselves represent territories. Membership becomes a case of indirect territorial representation when individual citizens do not elect representatives to the Second Chamber directly. Such indirect representation is in many ways problematic when it comes to interest representation. The German case is of special interest here, because of the strong role the *Bundesrat* plays in the national decision-making process. The most obvious problems (see Schultze 1993) which occur in this context have provoked a broad debate. They can be summarized by two observations:

- 1) There seems to be a rather weak link between regional interests and the consequences of regional interest articulation in regional parliaments. Regional parliaments seldom successfully transmit regional interests to the level of the Second Chamber.
- 2) Due to the need to compromise, regional interests articulated by regional governments in the Second Chamber never reach the decisions finally made in their original form. This leads to a decoupling of the decision-making

process from interest articulation, combined with a lack of transparency created by the behind-the-door negotiations of the representatives of regions. Because of the parliamentary majority of regional governments regional interests are quasi-automatically bound by compromises made in the Second Chamber, whether they find these compromises convincing or not.

Indirect territorial representation is also a feature of the Committee of the Regions. This fact led the representatives of the German *Länder* to the mistaken assumption that in the Committee they could expect decision-making processes similar to the ones in the *Bundesrat*. But interest intermediation is made more difficult in the Committee, because of the great differences in the constitutional quality of the single regions represented, their differences in size and in policy-style traditions, and the different degree of responsibility they may feel towards the individual citizen in the regional entity they represent. This may influence their respective abilities to come to compromises and to defend these compromises at home. At the same time, the more general problems of indirect representation - transparency, responsiveness and democratic accountability - remain.

II.4. Direct Elections

Directly elected Second Chambers have a greater degree of legitimacy in their national political systems than indirectly elected ones. They avoid to some extent the problems of accountability and responsiveness. However, direct elections to Second Chambers always involve the danger of a duplication of the election to the First Chamber. The general solution found for this problem is that different electoral systems are used for the election to the two chambers.

Following from these observations one could advance a strategy that has so far not been debated: regional elections could be contested for the membership of the Committee of the Regions. Of course, unitary states will have some difficulties with such a suggestion, because it would no doubt also entail consequences for the national balance of power between regions and national

level as well. The experience of elections to the European Parliament for which, as yet, no unitary electoral system operates does not offer much encouragement. But this experience could also be helpful, since it shows that regional elections under different electoral systems in the Member States may be an alternative.

II.5. Representation and Party Politics

As parties have become central actors in domestic interest intermediation, West European politics are now also party politics. In Second Chambers party politics compete with or have even become dominant over territorial politics. In extreme cases (as in the German Bundesrat) parties may use their majorities in Second Chambers to make up as much as possible for their minority position in the First. Alternatively, the national executive may threaten to change party political majorities in the Second Chamber by new appointments as Brian Mulroney did when he was prime minister of Canada.

On the European level the party system is much less coherent than on the national level. This is not surprising as we do not yet have a fully developed European political system. There exist, however, ideological families of parties who share some values, strategies and aims. If there is a broad consensus on the aim of the Committee of the Regions, namely to strengthen the regional level of government in Europe, it may well be possible that party politics become a useful tool of interest aggregation. This may be supported by the presence of parties in other European institutions, namely the European Parliament and by the transnational associations of political parties.

III. Conclusion

Second Chambers are in a situation comparable to that of the Committee of the Regions. They, too, stand for an alternative notion of representation and participation within their political systems. Whereas historical arguments can be found to explain the existence of Second Chambers, the most valid theoretical argument for the presence of the Committee of the Regions is the subsidiarity

principle. In this respect the Committee of the Regions may be seen as part of the strategy to fight the "democratic deficit". (Scott/Peterson/Millar 1994: 60)

A less abstract argument could justify the existence of the Committee of the Regions, that is, that it can assist in the functioning of European integration. As has been argued, from the perspective of participation the advisory role of the Committee has its potentials, especially if knowledge of regional problem-solving capacity (Clement 1993:170) proves to be a first step for a broader access to European decision-making. Administration and culture (Majone 1990) are fields in which, without too much controversy, a more formal role of the Committee may be possible. With regard to representation it is certainly necessary for the Committee to overcome the stage of symbolic representation and to strengthen its territorial links. One way of raising its profile in the regions may be the - admittedly still utopian - idea of direct elections of its members. Holding meetings of the Committee in European regions might be another improvement. One big chance for the Committee lies, of course, in a more general reform of EU institutions. But the Committee does not need to wait for this kind of *deus ex machina* to improve its role as a voice of the European regions.

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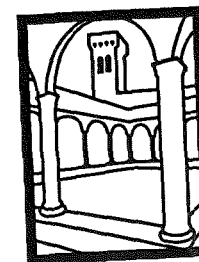
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