



**European Committee  
of the Regions**

**Commission for  
Citizenship, Governance,  
Institutional and External Affairs**

# **Charting the course to better EU law-making: optimisation of EU Treaties through inter-institutional cooperation with the European Committee of the Regions**

**CIVEX**

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# Executive Summary

To ensure evidence-based, transparent, and accessible European Union (EU) law-making which adequately accounts for views of citizens, businesses, and stakeholders in the decision-making process, the European Commission (EC), which is the EU institution responsible for initiating and implementing the EU's policies, has embarked on the [EU Better Regulation Agenda](#).<sup>1</sup> Calls for a strategy to improve the quality of policies produced by the EU date back to the early 1990s, with 'high quality regulation' and 'better regulation' initially emerging in waves in the EU.<sup>2</sup> The strategy has subsequently taken a gradual role in the EU policy process, mostly at the stage of policy formulation, in the early 2000s, and has been extended to other stages of the policy process in the last decade.<sup>3</sup> Nowadays, Better Regulation covers the whole EU policy cycle – from planning, to design, adoption, implementation, evaluation, and revision of EU policies – and is governed by key concepts and principles developed by the EC.

Better Regulation ensures evidence-based and transparent law-making founded on the views of those impacted. Several Better Regulation processes and instruments cover the whole EU policy cycle, from the design phase of new initiatives to their implementation at the national, regional, and local levels.

Better Regulation plays a role not only in the EC's work, but also in the work of other EU institutions. For example, in 2016, the EC, the European Parliament (EP), which is the EU's directly elected institution representing European citizens, and the Council of the EU (Council), which represents the voices of EU member governments and coordinates EU policies, signed the [Interinstitutional Agreement on Better Law-Making](#). Based on this Agreement, the three institutions agreed to 'pursue Better Law-Making by means of a series of initiatives and procedures', recognising their 'joint responsibility in delivering high-quality Union legislation' which is 'as efficient and effective as possible (...), as simple and as clear as possible, avoids overregulation and administrative burdens for citizens, administrations and businesses (...), and is designed with a view to facilitating its transposition and practical application and to strengthening the competitiveness and sustainability of the Union economy'.<sup>4</sup>

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<sup>1</sup> European Commission, 'Better Regulation: Why and How', available at [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation\\_en](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation_en).

<sup>2</sup> Claire A Dunlop and Claudio M Radaelli, 'Better Regulation in the European Union' in Martino Maggetti, Fabrizio Di Mascio, and Alessandro Natalini (eds), *The Handbook of Regulatory Authorities* (Edward Elgar 2022).

<sup>3</sup> Ibid.

<sup>4</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making [2016] OJ L123/1 (Interinstitutional Agreement).

The EC, the EP, and the Council signed the Interinstitutional Agreement on Better Law-Making in 2016, in which they recognised their joint responsibility regarding Better Regulation initiatives and procedures.

In addition, the European Committee of the Regions (CoR), which represents the voices of regions and cities in the EU, strives to promote Better Regulation based on multi-level governance and the partnership principle under the overarching concept of active subsidiarity. According to the [Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”](#), active subsidiarity is a new way of working that implies greater participation in EU policy-making by all stakeholders and particularly national, local, and regional authorities, who often have a specific role in implementing EU legislation on the ground. Such active subsidiarity should promote greater ownership and understanding of what the EU does by those involved.<sup>5</sup> The CoR has not only adopted opinions in response to interinstitutional developments and the EC’s initiatives on Better Regulation,<sup>6</sup> but it has also developed its own processes and instruments supporting Better Regulation. These include the Subsidiarity Monitoring Network (SMN), the Network of Regional Hubs (RegHub), territorial impact assessment (TIA), rural proofing, and strategic foresight. Moreover, within the CoR, the Better Regulation and Active Subsidiarity Steering Group (BRASS-G) aims to ‘[s]trengthen the strategic orientation and coordination of the CoR Better Regulation instruments (and to) [e]nhance the CoR’s contribution to the EU Better Regulation agenda’.<sup>7</sup>

The important role played by the CoR for Better Regulation was also underlined during the [Conference on the Future of Europe \(CoFE\)](#), a citizen-led series of debates and discussions on a Europe they would like to live in, which kicked off with an inaugural event on 9 May 2021 and concluded a year later.<sup>8</sup> The final report, containing 49 proposals to the Presidents of the EC, EP, and the Council, called for the reinforcement of the role of the CoR and local and regional authorities in EU policy-making to take into account the experience of the subnational level in the implementation of EU law, and for the recognition of the concepts of active subsidiarity and multi-level governance as core elements of

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<sup>5</sup> European Union, ‘Active Subsidiarity – A New Way of Working: Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”’ (2018), available at [https://commission.europa.eu/document/download/8530a17b-e2b8-4cd4-a68d-597767cfbad7\\_en](https://commission.europa.eu/document/download/8530a17b-e2b8-4cd4-a68d-597767cfbad7_en).

<sup>6</sup> For a recent example, see European Committee of the Regions, Better Regulation: Joining Forces to Make Better Laws (Opinion, 147<sup>th</sup> plenary session, 1-2 December 2021) CIVEX-VII/007.

<sup>7</sup> European Committee of the Regions, ‘Better Regulation and Active Subsidiarity’, available at <https://cor.europa.eu/en/our-work/Pages/Better-Regulation-and-Active-Subsidiarity.aspx>.

<sup>8</sup> European Commission, ‘Conference on the Future of Europe’, available at [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en).

European democracy.<sup>9</sup> The three institutions are following up on these proposals, within their competence and in accordance with the Treaties.<sup>10</sup>

Better Regulation also plays an important role in the work of other EU bodies, such as the CoR, which have developed their own Better Regulation processes and instruments. The CoR's contribution to Better Regulation was underlined during CoFE, which called *inter alia* for the reinforcement of the role of the CoR and local and regional authorities in EU policy-making.

As the EU faces several important developments in 2024, such as European elections, a new term of office for the EC, and a decision from the Council on whether to hold a Convention to revise the Treaties, it is important to position Better Regulation and active subsidiarity as priorities for these developments. At the same time, this atmosphere of change invites action on the CoFE's proposals, and consideration of the stronger inclusion of the CoR in the EU law-making process to guarantee a full representation of regional and local authorities, within the meaning of Better Regulation and active subsidiarity.

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<sup>9</sup> Conference on the Future of Europe, 'Report on the Final Outcome' (May 2022), proposals #39.2 and #40, in particular 40.1 and 40.3 (CoFE report).

<sup>10</sup> European Commission, 'Conference on the Future of Europe' (n 8).

To support the CoR policy priority of bringing Europe closer to its people, as well as the key activities of the Commission for Citizenship, Governance, Institutional and External Affairs (CIVEX), which is responsible for coordinating the CoR's work on constitutional and institutional issues, this report contains findings from desk-research and a stakeholder consultation on the impacts of the CoR Better Regulation tools, and provides recommendations for an enhanced role of the CoR. The research is guided by the following six research questions:

1. Which legal arguments can be put forward for a system of improved EU law-making which effectively includes the territorial dimension, in particular of regional parliaments with legislative powers, and which involves the CoR as an advisory body in full respect of its prerogatives under the treaties as the guardian of subsidiarity?
2. What should be the legal follow-up of the CoFE's recommendations on the EU decision-making process, active subsidiarity and multi-level governance (Nos. 39 and 40)?
3. How have the recommendations from the report of the Task Force on Subsidiarity, Proportionality and "Doing Less More Efficiently" been put into practice and how can the existing Better Regulation tools such as the EC's Fit for Future Platform increase their uptake of CoR contributions in that context?
4. What should change in the Interinstitutional Agreement on Better Law-Making between the EP, the Council, and the EC to include the dynamics of multilevel governance and the local and regional dimension of Better Regulation?
5. How should a process by which the outcomes of the various Better Regulation assessments carried out by the CoR could feed regularly into the preparation of EU legislation be structured, and how can it be linked up with the concept of the right of initiative of the EP and the concept of a 'green card' for regional parliaments with legislative powers and the CoR?
6. In the relatively new and so far less structured areas of Better Regulation, i.e., the inclusion of strategic foresight and its methodologies in the preparation of EU regulation, and regarding the new concept of rural proofing, what are the specific challenges/opportunities to bring a local/regional perspective to EU activity and how could the CoR develop its role in this respect?

Figure 1: Research questions

In this context, a stakeholder consultation for the preparation of the CoR opinion on 'Active subsidiarity: a fundamental principle in the EU Better Regulation agenda' involving CoR BRASS-G members, academics, think tank representatives, and representatives of EU institutions was facilitated by the CoR in a hybrid format and took place on 12 February 2024.<sup>11</sup>

By drawing on this consultation and the desk-research, the report sets out political and legal arguments for a stronger consideration of the territorial dimension in EU law-making, including by closer collaboration of the EC, the EP, and the Council with the CoR, and a paradigm shift towards a genuine application of the active subsidiarity approach. Thus, **Part I** presents and evaluates the *status quo* by analysing the constantly evolving Better Regulation tools at EU level, with a

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<sup>11</sup> 'Stakeholder Consultation: Opinion on Active Subsidiarity: A Fundamental Principle in the EU Better Regulation Agenda' (12 February 2024), available at <https://cor.europa.eu/en/events/Pages/consultation-opinion-on-active-subsidiarity.aspx>.

specific focus on the CoR tools. In doing so, Part I maps and analyses existing EU instruments and processes on Better Regulation including how they interact with each other in relation to the CoR tools. The research finds that the existing CoR Better Regulation tools, namely the SMN, RegHub and its participation in the EC’s Fit for Future Platform (F4F), TIA, rural proofing and strategic foresight under the political steering of BRASS-G, already play an important role in the EU policy-making process. However, Part I of the report also identifies gaps or openings in the existing Better Regulation infrastructure from a local or regional point of view.

For this reason, **Part II** includes a legal analysis of the CoR’s options to improve, both within the current Treaty framework (short-term reforms), existing and potential new tools, as well as with a view to potential Treaty amendments (long-term reforms). The short-term reforms include enhancements of existing Better Regulation tools, such as strengthening TIA and rural proofing through close collaboration with the EC, as well as potential new tools, such as citizens’ panels or a regional, local, and rural test in impact assessments. Long-term reforms include *inter alia* the inclusion of the CoR in the Interinstitutional Agreement on Better Law-Making between the EC, the EP, and the Council.

Based on these findings, the report concludes with a set of recommendations to the CoR decision-makers regarding areas for reinforcing cooperation with institutional partners on specific instruments of Better Regulation, as well as regarding potential institutional changes to strengthen the CoR’s capacity to provide better input to policy-making within the context of the Better Regulation agenda. These five over-arching recommendations are:

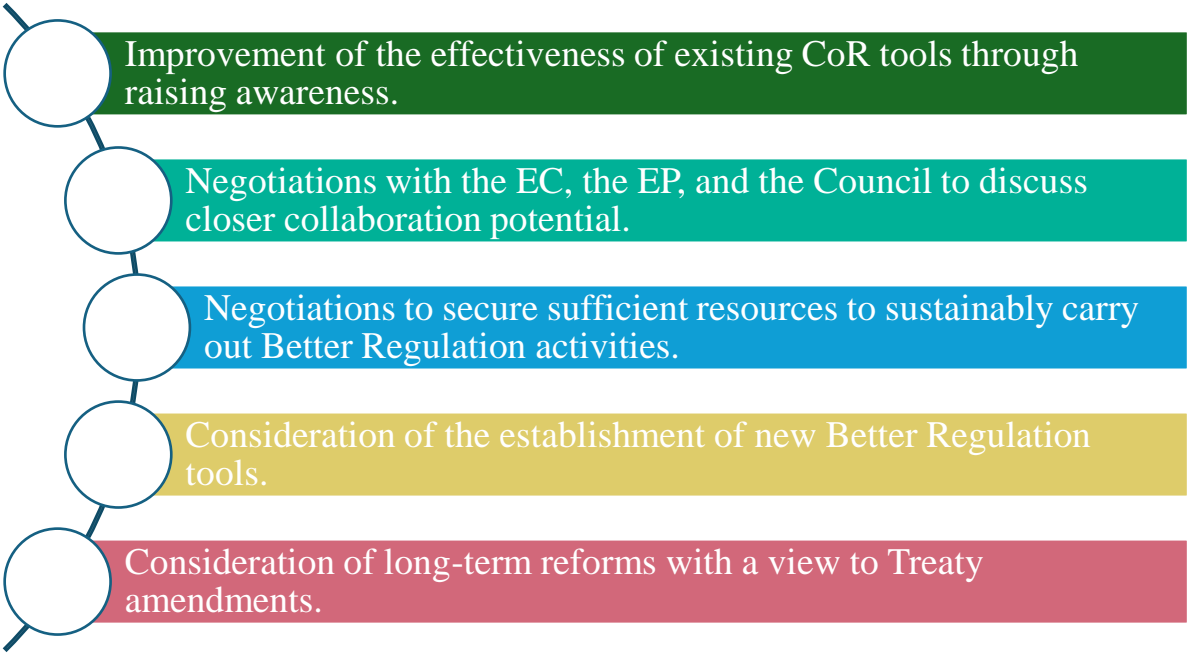


Figure 2: Overview of recommendations

The first recommendation includes a clear and inclusive communication of existing CoR tools to raise awareness, enabling their uptake by local and regional authorities. The second recommendation ties in with the revised Cooperation Agreements between the CoR and the EC, and the CoR and the EP, which serve as a starting point to closely collaborate with the EC and the EP on implementing suggested reforms. At the same time, this recommendation includes a stronger collaboration with the Council. The third recommendation refers to the human and financial resources which the CoR needs to sustainably carry out Better Regulation activities, in particular the suggested reforms in this report. As the securing of resources is essential for the establishment of new Better Regulation tools, the fourth recommendation focuses on the consideration of such tools. Finally, the fifth recommendation suggests considering long-term reforms with a view to Treaty amendments.

Overall, the findings of the report underscore the importance of the role of the CoR in EU policy-making and in ensuring that the ambitions and vital principles, approaches, methods, and tools of Better Regulation processes and instruments are effectively put into practice.

# Part I

The following part starts with mapping and analysing existing European Union (EU) instruments and processes on Better Regulation (I). It then examines how these tools interact with each other in relation to the European Committee of the Region’s (CoR) Better Regulation activities, and where gaps or openings exist from a local or regional point of view (II).

## I. Existing EU Instruments and Processes on Better Regulation

There exist various EU instruments and processes on Better Regulation, including from: 1) the European Commission (EC), 2) the European Parliament (EP), 3) the Council of the EU (Council), and 4) other actors. The recommendations made by the 5) [Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”](#) have further shaped some of these instruments and processes over the last years. Finally, 6) the CoR has developed its own Better Regulation tools.

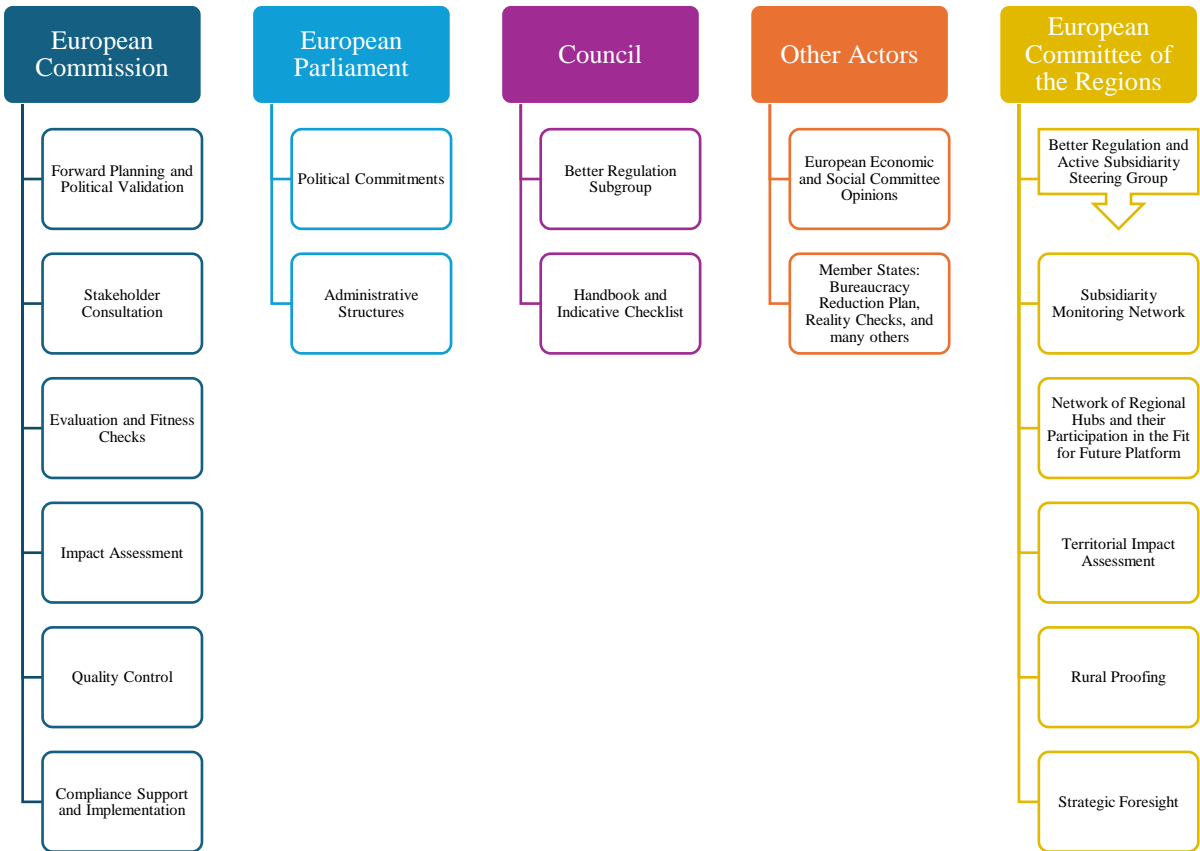


Figure 3: Overview of Better Regulation instruments and processes, discussed in the following sections

# 1. The European Commission's Better Regulation Tools

Starting with the Better Regulation tools developed by the EC, these have been created to achieve the objectives of the Better Regulation Agenda, namely ensuring that EU policy-making is based on evidence, making EU laws simpler and more effective, avoiding unnecessary burdens, and involving citizens, businesses, and stakeholders in the decision-making process.<sup>12</sup> The [Better Regulation Guidelines](#) set out the principles which the EC follows when preparing new initiatives and proposals and when managing and evaluating existing legislation.<sup>13</sup> According to these Guidelines, the key instruments for Better Regulation are: a) forward planning and political validation, b) stakeholder consultation, c) evaluation and fitness checks, d) impact assessment, e) quality control, and f) compliance support and implementation. In addition, the [Better Regulation Toolbox](#) provides operational and detailed guidance on specific aspects of Better Regulation.<sup>14</sup>

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<sup>12</sup> European Commission, 'Better Regulation: Why and How' (n 1).

<sup>13</sup> Commission Staff Working Document: Better Regulation Guidelines (3 November 2021) SWD(2021) 305 final (Better Regulation Guidelines).

<sup>14</sup> European Commission, 'Better Regulation Toolbox' (July 2023), available at [https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0\\_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL.pdf](https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL.pdf) (Better Regulation Toolbox); Better Regulation Guidelines, p.3.



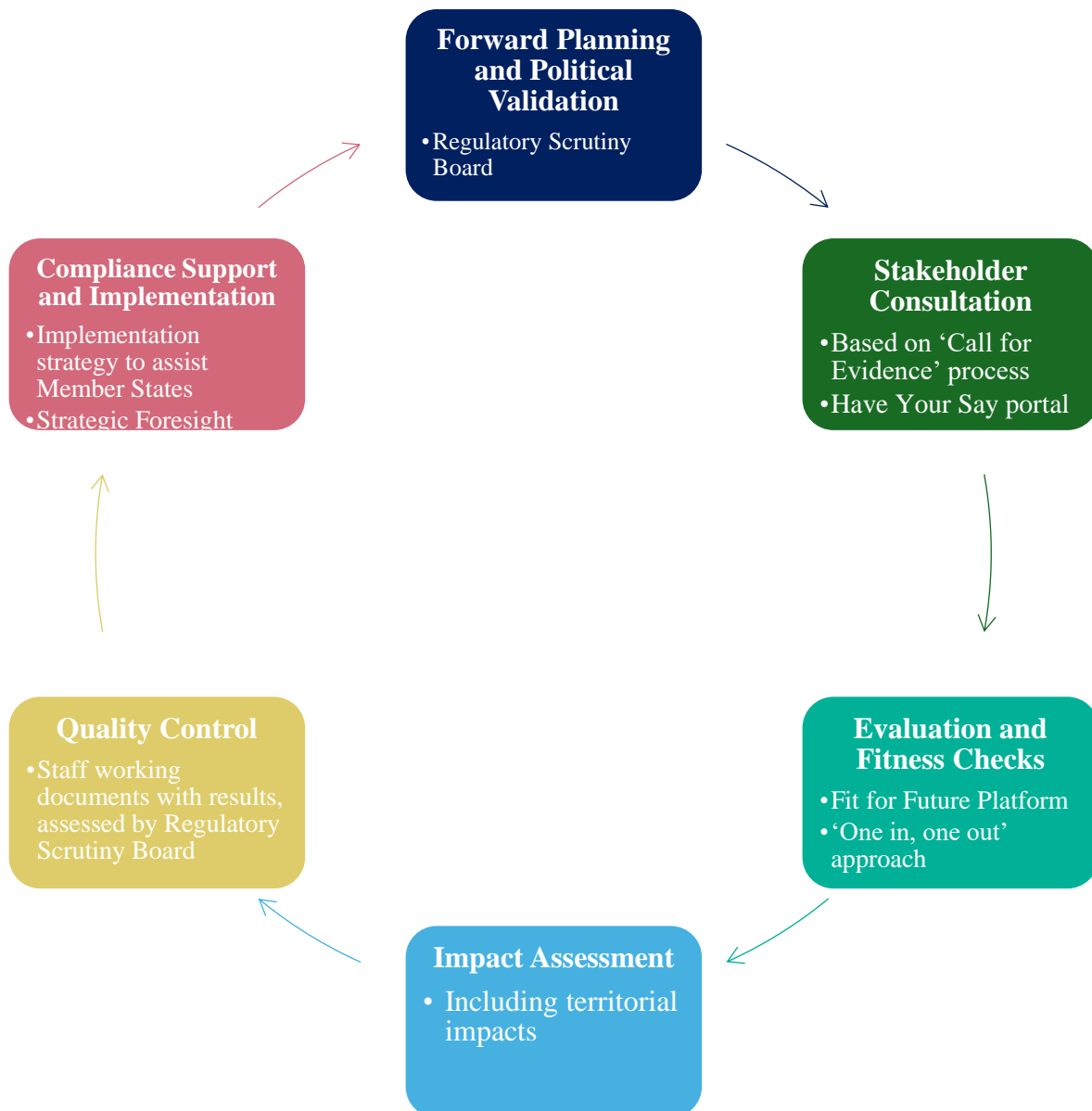


Figure 4: Overview of EC Better Regulation tools throughout the policy cycle

## a) Forward Planning and Political Validation

Sound policy-making necessitates good planning, which can be understood as the initial considerations of an initiative and the organisation of supporting processes, including the evaluation of existing policies, the assessment of problems and alternative solutions, active engagement with stakeholders, and the preparation of initiatives.<sup>15</sup> Good planning further includes time for reflection on initiatives and meeting relevant procedural requirements, including political validation to launch an interservice consultation, conduct the interservice consultation and prepare translations. Political validation refers to the ‘green light’ which is needed to start substantive preparatory work, which, depending on the initiative, includes the

<sup>15</sup> Better Regulation Guidelines, p.8.

validation by the Director-General, who is the head of a department of the Commission.<sup>16</sup> Starting policy initiatives in accordance with forward planning and political validation ensures that the EC is applying a comprehensive and inclusive approach to policy-making. Planning is also required to allow for scrutiny by the [Regulatory Scrutiny Board](#) (RSB), which issues positive or negative opinions on the quality of all impact assessments, all fitness checks, and selected major evaluations.<sup>17</sup>

## **b) Stakeholder Consultation**

Once the substantive work on initiatives has started, stakeholder consultations can take place to support evaluations, impact assessments, and the preparation of initiatives and political decisions.<sup>18</sup> The consultation system is based on the ‘call for evidence’ process, which is a streamlined, inclusive, and simple system combining the elements of feedback to the call for evidence documents, translated into all the EU’s official languages, and of public consultation, when required.<sup>19</sup> This call for evidence is published on the [Have Your Say](#) portal, where citizens, businesses, public authorities including local and regional authorities, and other stakeholders can share their views and ideas on initiatives across all policy areas. By conducting the call for evidence via the Have Your Say portal, the EC seeks to ensure a participative approach to policy-making, which enables all interested parties to contribute.

## **c) Evaluation and Fitness Checks**

Evaluation and fitness checks ensure that evidence is gathered to assess how a specific intervention is working or has performed, and that a comprehensive evaluation of policy areas is conducted to examine how a set of related legislative acts have contributed to attaining the relevant policy objectives.<sup>20</sup> To do so, the EC established the [Regulatory Fitness and Performance \(REFIT\) programme](#) in 2012, which included revisions of EU legislation and aimed to achieve burden reduction and simplification.<sup>21</sup> Since 2020, the [Fit for Future Platform](#) (F4F) has replaced the REFIT programme as a high-level expert group issuing opinions to the EC with concrete suggestions for the simplification, burden reduction, and modernisation of EU law.<sup>22</sup> To further reduce burdens stemming from EU

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<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid, p.9.

<sup>19</sup> Ibid. Please note that a public consultation is needed when an initiative is accompanied by an impact assessment.

<sup>20</sup> Ibid, pp.9, 10.

<sup>21</sup> European Commission, ‘Better Regulation: Why and How’ (n 1).

<sup>22</sup> Ibid.

legislation, the EC introduced a ‘one in, one out’ approach in 2021.<sup>23</sup> This approach ‘involves offsetting new burdens resulting from the Commission’s legislative proposals by equivalently reducing existing burdens in the same policy area’.<sup>24</sup> Before the introduction of the ‘one in, one out’ approach at the EU level, ten EU Member States had such an approach in place for their law-making processes.<sup>25</sup> Other authorities have adopted similar approaches after the introduction at EU level, such as the Autonomous Province of Bolzano/Bozen (Italy), which developed the ‘Overview of the expected impact of legal acts: Analysis for “Better Regulation”’.<sup>26</sup> According to this approach, the relevant department is obliged to complete and enclose a document when submitting a new proposal for a legal act, which includes details of the impact as well as whether new burdens are expected (in) and how the department is planning on offsetting those new burdens (out).

## **d) Impact Assessment**

An impact assessment is conducted to assess whether future legislative or non-legislative EU action is justified, and if so, how it can best be designed to achieve relevant policy objectives.<sup>27</sup> It is required for any EC initiatives that are ‘likely to have significant economic, environmental or social impacts or which entail significant spending, and where the Commission has a choice of policy options’.<sup>28</sup> If an impact assessment is required but it is not possible to conduct one and a derogation is granted, a staff working document entailing the evidence behind the proposal and estimated costs is prepared within three months of the initiative’s adoption.<sup>29</sup> Similarly, the EC does not conduct an impact assessment if the proposal builds on other proposals with an impact assessment, or if the proposal would be implemented through existing programmes which have been subject to an impact assessment.<sup>30</sup>

If the requirements for an impact assessment are fulfilled, the assessment must establish the necessity for EU action which considers EU relevance and whether

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<sup>23</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Better Regulation: Joining Forces to Make Better Laws (29 April 2021) COM(2021) 219 final (Communication on Better Regulation: Joining Forces to Make Better Laws).

<sup>24</sup> Ibid.

<sup>25</sup> Andrea Renda and others, ‘Feasibility Study: Introducing “One-In-One-Out” in the European Commission’ (5 December 2019).

<sup>26</sup> Written submission to ‘Stakeholder Consultation: Opinion on Active Subsidiarity: A Fundamental Principle in the EU Better Regulation Agenda’ (n 11) from the Autonomous Province of Bolzano/Bozen.

<sup>27</sup> Better Regulation Guidelines, p.10.

<sup>28</sup> Ibid, p.30.

<sup>29</sup> Ibid.

<sup>30</sup> See, for example, the Strategic Technologies for Europe Platform (STEP), and the briefing published by the EP: European Parliament, ‘Briefing EU Legislation in Process: Strategic Technologies for Europe Platform (STEP)’ (February 2024).

Member State action would be sufficient, among formulating policy options, assessing their potential impacts, and (where appropriate) identifying a preferred option, and setting out how the expected results will be monitored and evaluated.<sup>31</sup> The assessment of necessity for EU action is linked with the principles of subsidiarity and proportionality, which are enshrined in the Treaty of the European Union (TEU), namely Article 5(3) and (4).<sup>32</sup> Under the principle of subsidiarity, the EU ‘shall act [in areas which do not fall within its exclusive competence] only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level’.<sup>33</sup> The principle of proportionality states that ‘the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties’.<sup>34</sup> Against these two principles, the EC conducts the impact assessment, which is often aided by using a subsidiarity assessment grid.<sup>35</sup>

In addition, the EC seeks to assess how the problem varies across the national, regional, and local levels of the EU, and how the views or preferred courses of action of national, regional, and local authorities differ across the EU.<sup>36</sup> As the CoR is the guardian of subsidiarity, and has been vested with more responsibilities since the Lisbon Treaty,<sup>37</sup> this is an integral aspect of the EC impact assessment. It is of particular importance not only for this study, but for the role of the CoR more generally, to ensure representation of the voices of regions and cities in the EU. How the CoR could be more involved in the EC impact assessment process, especially regarding territorial impacts, is further discussed in **Part II** of this report. Overall, the EC has developed an integrated approach which analyses the environmental, economic, and social impacts of policy options, thereby taking into consideration sustainability and the UN Sustainable Development Goals (UN SDGs), territorial impacts, and impacts on fundamental rights, including data protection, among others.<sup>38</sup>

## e) Quality Control

Quality control starts in the Directorates-General (DGs), the EC’s departments, which have the responsibility of carrying out the above-mentioned evaluations,

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<sup>31</sup> Better Regulation Toolbox, tool #5 point 2; Better Regulation Guidelines, p.10: The following provides answers to research question 1.

<sup>32</sup> Consolidated Version of the Treaty on European Union [2008] OJ C115/13 (TEU).

<sup>33</sup> Ibid, art 5(3).

<sup>34</sup> Ibid, art 5(4).

<sup>35</sup> See, for the subsidiarity assessment grid, Better Regulation Toolbox, tool #5.

<sup>36</sup> Ibid, tool #11 section 3.

<sup>37</sup> European Committee of the Regions, ‘A New Treaty: A New Role for Regions and Local Authorities’, available at <https://cor.europa.eu/en/our-work/Documents/Our-work/lisbon-treaty.pdf>.

<sup>38</sup> Better Regulation Guidelines, p.10.

stakeholder consultations, and impact assessments.<sup>39</sup> The DGs must present the results of all these processes in staff working documents (SWDs). For impact assessments and fitness checks, as well as selected evaluations, drafts of the SWDs are then assessed by the above-mentioned RSB to ensure that they have the best possible quality to support policy decisions. The RSB's opinions are published in the [Register of Commission Documents](#) once the EC adopts the respective legislative proposal. For impact assessment, the RSB has three types of opinions: positive (DG can proceed with initiative but has to take into account the RSB's recommendations); positive with reservations (DG can proceed with the initiative but must revise the impact assessment report); and negative (DG must submit an amended impact assessment to the Board).<sup>40</sup> In its 2022 annual report, the RSB observed that not all impacts were assessed to the same extent in impact assessments, especially '[w]hen comparing the coverage of impact types in draft impact assessments with those in the Board's opinions, territorial impacts and the impacts on EU budget were the most 'missing' type of impacts'.<sup>41</sup> For fitness checks and evaluations, the RSB only issues positive or negative opinions.<sup>42</sup> The application of quality control processes aims to ensure that policy-making in the EU follows a coherent approach.

## **f) Compliance Support and Implementation**

Compliance support and implementation elements acknowledge that the full benefits of EU interventions are only achieved if policies are implemented and applied appropriately.<sup>43</sup> For this reason, the Better Regulation Guidelines note that it is essential to take into consideration implementation and enforcement issues throughout the whole policy cycle, including during stakeholder consultations and impact assessment processes.<sup>44</sup> Moreover, the preparation of an implementation strategy to identify ways to assist Member States in transposing directives is another important aspect of Better Regulation.<sup>45</sup>

In addition to these principles and instruments, in 2021 the EC integrated [strategic foresight](#) into policy-making in its call for evidence-informed policy-making.<sup>46</sup> Strategic and science-based foresight can be understood as anticipating 'trends, risks, emerging issues, and their potential implications and opportunities in order to draw useful insights for strategic planning, policy-making and preparedness', as well as informing 'the design of new Commission initiatives and the review of

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<sup>39</sup> Ibid.

<sup>40</sup> Ibid, p.11.

<sup>41</sup> Regulatory Scrutiny Board, Annual Report 2022.

<sup>42</sup> Better Regulation Guidelines, p.11.

<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Communication on Better Regulation: Joining Forces to Make Better Laws (n 23).

existing policies in line with the revamped Commission Better Regulation Toolbox'.<sup>47</sup>

The EC has adopted several Better Regulation tools over the years, covering the whole EU policy cycle. These include *inter alia* the RSB, which scrutinises the EC's Better Regulation processes, the Have Your Say Portal, the F4F, the 'one in, one out' approach, impact assessments, implementation strategies, and strategic foresight.

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<sup>47</sup> European Commission, 'Strategic Foresight', available at [https://commission.europa.eu/strategy-and-policy/strategic-planning/strategic-foresight\\_en](https://commission.europa.eu/strategy-and-policy/strategic-planning/strategic-foresight_en).

## **2.The European Parliament’s Better Regulation Tools**

The EP has also a) made commitments to better law-making principles and b) put administrative structures in place to implement them.<sup>48</sup>

### **a) European Parliament Commitments to Better Regulation**

The EP has made several commitments regarding Better Regulation, for example, that it will carry out impact assessments in relation to its substantial amendments to the EC’s proposal, when it considers this to be necessary and appropriate for the legislative process.<sup>49</sup> As a general rule, the ‘definition of a ‘substantial’ amendment should be for the respective Institution to determine’,<sup>50</sup> and the EC’s impact assessment is the starting point for the EP’s further impact assessment.

In addition to such commitments in the Interinstitutional Agreement, the EP has adopted several resolutions in which it affirmed its commitment to better law-making, including highlighting the role of the CoR in this process.<sup>51</sup> For example, in its resolution of November 2023 on better law-making covering 2020, 2021, and 2022, the EP called on the EC to ‘take greater account of the opinions expressed by the European Committee of the Regions through the Subsidiarity Monitoring Network created to facilitate the exchange of information between regional and local authorities and the Union on the various legislative proposals which, following their adoption, will have a direct impact on these bodies and on the policies for which they are responsible’.<sup>52</sup>

### **b) Administrative Structures**

To implement the aforementioned commitments, the EP set up a dedicated Directorate for Impact Assessment and European Added Value in 2012, which is part of the European Parliamentary Research Service (EPRS), the EP’s in-house research service and think tank, and is now named the Directorate for Impact

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<sup>48</sup> Written submission to ‘Stakeholder Consultation: Opinion on Active Subsidiarity: A Fundamental Principle in the EU Better Regulation Agenda’ (n 11) from the European Parliamentary Research Service (EPRS).

<sup>49</sup> Interinstitutional Agreement, para 15.

<sup>50</sup> Ibid.

<sup>51</sup> Written submission to the stakeholder consultation from the EPRS (n 48).

<sup>52</sup> Ibid; European Parliament, Resolution of 23 November 2023 on European Union Regulatory Fitness and Subsidiarity and Proportionality – Report on Better Law-Making Covering 2020, 2021, and 2022 (2023/2079(INI)).

Assessment and Foresight.<sup>53</sup> The Directorate conducts impact assessment and evaluation work at the request of parliamentary committees. In addition, the Directorate provides a series of products and services to support the EP's scrutiny and oversight work, which is one of the EP's powers attributed by the Treaties.<sup>54</sup> The Scrutiny Toolbox includes *inter alia* a range of analytical tools, most notably in the form of 'rolling check-lists'.<sup>55</sup> These check-lists cover '[Review and Monitoring Clauses in EU Legislation: A Rolling Check-List](#)', '[International Agreements - Review and Monitoring Clauses: A Rolling Check-List](#)', '[Evaluation in the European Commission: Rolling Check-List and State of Play](#)', '[Special Reports of the European Court of Auditors: A Rolling Check-List of recent findings](#)', '[European Council Conclusions: A Rolling Check-List of Commitments to Date](#)', and '[European Commission follow-up to European Parliament requests](#)'. Against the background of Better Regulation, the Scrutiny Toolbox not only provides specialist support to parliamentary committees and to the EP as a whole, it also aims to guarantee that scrutiny and oversight are as effective as possible throughout the whole policy cycle.

Moreover, two EPRS units, namely the [Ex-Ante Impact Assessment Unit](#) and the [Ex-Post Evaluation Unit](#), focus on policy issues both *ex-ante* and *ex-post*.<sup>56</sup> The Ex-Ante Impact Assessment Unit analyses the quality of the EC's impact assessments in the form of initial appraisals of these documents, which are supplied to parliamentary committees in advance of their consideration of new legislative proposals.<sup>57</sup> It then offers the committees various follow-up services, for example, more detailed appraisals of impact assessments, substitute or complementary impact assessments, and impact assessments on parliamentary amendments.<sup>58</sup> The Ex-Post Evaluation Unit assists committees in their ex-post evaluation work, for example, by providing short implementation appraisals, longer and more detailed European implementation assessments, and any other studies on implementation issues.<sup>59</sup>

Since 2022, the EPRS has organised an annual conference on better law-making.<sup>60</sup> Moreover, within EPRS, the Linking the Levels Unit was created in 2018, to bring together governmental organisations from all levels of governance and build

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<sup>53</sup> Written submission to the stakeholder consultation from the EPRS (n 48).

<sup>54</sup> EPRS, 'Scrutiny Toolbox', available at <https://epthinktank.eu/scrutiny-toolbox/>.

<sup>55</sup> Ibid.

<sup>56</sup> Ibid; EPRS, 'About', available at <https://epthinktank.eu/about/>.

<sup>57</sup> EPRS, 'Impact Assessment and European Added Value' (July 2022).

<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Written submission to the stakeholder consultation from the EPRS (n 48); Think Tank European Parliament, 'EPRS Online Annual Conference on Better Law-making' available at <https://www.europarl.europa.eu/thinktank/en/events/details/eprs-online-annual-conference-on-better-/20220712EOT06721>.



lasting partnerships.<sup>61</sup> Regional and local actors, including the CoR, regional executives and parliaments, and local authorities, have established and developed relations within this unit, which has, in some instances, been formalised through a memorandum of understanding on administrative cooperation.<sup>62</sup>

The EP's Better Regulation activities include the commitments in the Interinstitutional Agreement on Better Law-Making such as conducting impact assessments in relation to its substantial amendments to the EC's proposals. The Directorate for Impact Assessment and Foresight and two EPRS units provide the administrative structures to implement the EP's Better Regulation commitments.

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<sup>61</sup> Written submission to the stakeholder consultation from the EPRS (n 48).

<sup>62</sup> Ibid. Note that this has so far been done with the Conference of European Legislative Assemblies (CALRE) and the Council of European Municipalities and Regions (CEMR).

### 3. The Council's Better Regulation Tools

The Council is supported by more than 150 highly specialised working parties and committees, also known as the 'Council preparatory bodies'.<sup>63</sup> The Working Party on Competitiveness and Growth has a Better Regulation subgroup, which is responsible for 'issues related to the development of a more open, transparent, and evidence-based policy-making for EU citizens, stakeholders and businesses, especially small and medium-sized enterprises (SMEs). In particular, it provides advice on better law-making, and promotes the application of better regulation principles to create a less burdensome, high quality, and future-proof regulatory environment'.<sup>64</sup> During the last meeting of the Better Regulation subgroup in 2023, various topics were discussed, such as regulatory sandboxes, and science for policy-making and data processing in support of policy-making.<sup>65</sup>

In addition, the Council has developed Indicative Guidance, the Handbook, which provides practical advice for working party chairs and the General Secretariat of the Council on handling impact assessments of legislative proposals.<sup>66</sup> This Handbook is accompanied by an Indicative Checklist for Working Party Chairs, which enables the examination of impact assessments conducted by the EC in the Council.<sup>67</sup>

While this subgroup specialises in Better Regulation, and the Handbook and Checklist exist, the Council has deployed Better Regulation tools less intensively in comparison to the EC and the EP.<sup>68</sup> In fact, as set out by the Organisation for Economic Co-operation and Development (OECD) with the application of the Indicators of Regulatory Policy and Governance, 'in particular the Council seems to be lagging behind in terms of the implementation of the 2016 Interinstitutional Agreement'.<sup>69</sup> Some authors argue that the Interinstitutional Agreement 'was never operational on the ground (...) showing that the commitment to impact assessment and evidence-based policy was not entirely shared by the EP and the Council'.<sup>70</sup> Rather, for the Council, Better Regulation 'was a strategy to make the

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<sup>63</sup> Council of the European Union, 'Council Preparatory Bodies', available at <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/>.

<sup>64</sup> Council of the European Union, 'Working Party on Competitiveness and Growth', available at <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-on-competitiveness-and-growth/>.

<sup>65</sup> Council of the European Union, Communication (16 November 2023) CM 5312/23.

<sup>66</sup> Council of the European Union, 'Impact assessment – Indicative Guidance for Working Party Chairs' (9 June 2016) 9790/16.

<sup>67</sup> Council of the European Union, 'Impact assessment – Guidance for Working Party Chairs – Indicative Checklist' (12 March 2018) 6270/18.

<sup>68</sup> Dunlop and Radaelli (n 2).

<sup>69</sup> OECD, 'Better Regulation Practices across the European Union' (28 June 2022), available at <https://www.oecd.org/publications/better-regulation-practices-across-the-european-union-2022-6e4b095d-en.htm>.

<sup>70</sup> Dunlop and Radaelli (n 2).

Commission more accountable to the Member States and the business community through enhanced transparency, consultation and oversight of the treaty-defined right of the Commission to initiate legislation'.<sup>71</sup> However, to tackle current and future challenges, European institutions, namely the EC, the EP, and the Council, 'all need to work together and with Member States'.<sup>72</sup>

The Better Regulation subgroup within the Council's Working Party on Competitiveness and Growth provides advice on Better Regulation as well as promoting the application of its principles. The Council has also developed a handbook which provides practical advice on impact assessments of legislative proposals, as well as an indicative checklist which enables the examination of impact assessments conducted by the EC. Still, in comparison to the EC and the EP, the Council seems to be lagging behind in its Better Regulation efforts, as found by the OECD.

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<sup>71</sup> Ibid.

<sup>72</sup> OECD, 'Better Regulation Practices across the European Union' (n 69).

## 4. Other Actors' Better Regulation Tools

Before addressing b) Better Regulation activities at the Member State level, it is important to note that a) the European Economic and Social Committee (EESC), acting in an advisory capacity to the EC, the EP, and the Council, has issued various opinions regarding Better Regulation.

### a) European Economic and Social Committee

The EESC issues opinions either on request from the EC, the EP, and the Council, or on own initiative.<sup>73</sup> For example, the EC consulted the EESC on the 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Better regulation for better results – An EU agenda' in 2015.<sup>74</sup> In its opinion, the EESC noted that Better Regulation is 'a process under constant development' with 'room for improvement'.<sup>75</sup> At the same time, it underlined that 'Better regulation does not, however, replace political decisions'.<sup>76</sup> Regarding specific Better Regulation tools such as consultations, the EESC stressed that 'selecting the right target groups and taking account of the representativeness of stakeholders are key elements of better regulation which should be improved'.<sup>77</sup> Regarding its own role in the Better Regulation Agenda, the EESC called for 'the EU's consultative bodies to be included in the Interinstitutional Agreement on Better Regulation'.<sup>78</sup>

Another, more recent example of an opinion which was issued on the EESC's own initiative relates to 'A competitiveness check to build a stronger and more resilient EU economy', which also includes a follow-up on CoFE recommendations.<sup>79</sup> Regarding the Better Regulation Agenda, the EESC pointed out that 'there is an evident need for improvements, especially with respect to the

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<sup>73</sup> European Economic and Social Committee, 'About', available at <https://www.eesc.europa.eu/en/about>. See the database on opinions relating to Better Regulation, available at <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions?populate=Better+Regulation>.

<sup>74</sup> See Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Better Regulation for Better Results – An EU Agenda' (19 May 2015) COM(2015) 215 final.

<sup>75</sup> Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Better Regulation for Better Results – An EU Agenda' (16 September 2015) SC/41 Better Regulation.

<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

<sup>78</sup> Ibid.

<sup>79</sup> Opinion of the European Economic and Social Committee, 'A Competitiveness Check to Build a Stronger and more Resilient EU Economy (Explanatory Opinion)' (14 December 2022) INT/1000. See, for other examples, European Economic and Social Committee, 'Better Regulation', available at <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/better-regulation>.

implementation of the tools'.<sup>80</sup> For this reason, the EESC, for example, highlighted how impact assessments could be strengthened, in particular by focusing more on competitiveness to ensure that they are properly balanced.<sup>81</sup> The EESC's opinion aligns with the CoFE recommendation No. 12.21 that new EU policies 'should undergo a "competitiveness check" to analyse their impact on companies and their business environment (...) Such check shall be in accordance with the Paris Agreement, the Sustainable Development Goals, including gender equality, and shall not undermine the protection of human, social and workers' rights nor environmental and consumer protection standards'.<sup>82</sup>

The EESC has issued two opinions regarding the Better Regulation Agenda over the last years. In these opinions, the EESC not only welcomed the efforts of the EC, the EP, and the Council, but also highlighted areas which require further improvement, for example, consultations. At the same time, the EESC has called for its stronger involvement in the Better Regulation Agenda by being included in the Interinstitutional Agreement on Better Law-Making. As explored below in this report, the CoR has also called for inclusion in this Agreement. The EESC and the CoR could, therefore, negotiate together with the EC, the EP, and the Council, strengthening each other's arguments.

## **b) Member States**

Member States are uniquely placed to identify how EU policies affect their citizens, and therefore play a crucial role in ensuring that EU policies deliver for them.<sup>83</sup> In the past, Member States adopted initiatives relating to Better Regulation, or developed their own Better Regulation tools. For example, Germany and France adopted the 'French-German Paper on Better Regulation and Modern Administration in Europe', which calls on the EC 'to develop an ambitious Bureaucracy Reduction Action Plan, with measures i) in the short term, to reduce unnecessary administrative and legislative bureaucratic burdens, ii) in the long term, to improve the way EU public policies are produced, to truly turn regulation into an element of Europe's competitiveness, and iii) to make the transformation of our economies a success'.<sup>84</sup> In the context of Better Regulation, the Paper explicitly calls for the consistent application of impact assessments as

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<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> CoFE report, proposal #12.21.

<sup>83</sup> OECD, 'Better Regulation Practices across the European Union' (n 69).

<sup>84</sup> 'Reducing Bureaucracy in these Unprecedented Times – French-German Paper on Better Regulation and Modern Administration in Europe' (9 October 2023).

well as stating that ‘national and European rules need to complement each other in a spirit of subsidiarity’.<sup>85</sup> In addition, it suggests a ‘holistic and implementation-oriented examination’ when it comes to *ex-post* evaluation of EU regulations, for example, by introducing ‘reality checks’.<sup>86</sup> Such checks are used in Germany to identify unnecessary bureaucratic obstacles and involve practitioners to identify the origins of red tape, from investment-decision to operation.<sup>87</sup>

The OECD has examined the EU institutions’ Better Regulation practices, as well as those of Member States.<sup>88</sup> For example, in 2013, Austria made regulatory impact assessments mandatory for all primary laws and subordinate regulations.<sup>89</sup> For a full impact assessment, the applied methodology requires the assessment of a variety of impacts, including social aspects, gender equality, and impacts on the environment.<sup>90</sup> *Ex-post* evaluations include the assessment of whether policy goals have been achieved, a comparison of predicted and actual impacts, and the identification of benefits as well as costs and unintended consequences.<sup>91</sup> Denmark, Bulgaria, and Slovenia have continued to improve their national Better Regulation agendas, whereas other Member States, such as Belgium, Malta, and Cyprus, have made no or only small changes over the last years.<sup>92</sup> Overall, the OECD identifies a number of areas of Better Regulation as areas with room to improve, including:

- Domestic stakeholders are alerted of consultations organised by the EC in approximately 70% of Member States. Only one-third of Member States, however, use the EC’s analysis systematically as input to their negotiating position. In addition, only a few Member States use regulatory management tools on proposed EU regulations to complement the EC’s analysis. Member States would benefit from additional evidence during the negotiation phase, which represents the final opportunity to modify the EC’s proposals.
- While all Member States are required to use some regulatory management tools when transposing EU Directives, only one-fifth require the systematic assessment of additional impacts of domestic provisions beyond those in the Directive. According to the OECD, ‘[i]f rules are to improve community well-being, the complete set of their potential impacts should be understood before they are implemented’.

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<sup>85</sup> Ibid.

<sup>86</sup> Ibid.

<sup>87</sup> Ibid.

<sup>88</sup> OECD, ‘Better Regulation Practices across the European Union’ (n 69).

<sup>89</sup> Ibid.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

- When it comes to the assessment of costs and benefits, in more than 90% of Member States the focus lies on government and business, meaning that costs to individuals and non-governmental organisations (NGOs) are not assessed to the same extent. To better account for community impacts, it is important to equally consider costs and benefits to individuals and NGOs, to ensure that regulation can deliver the anticipated gains to citizens.
- The application of the proportionality principle varies widely across Member States with some determining the depth of analysis and subsequent decision without scrutiny from regulatory oversight.
- The evaluation of whether existing rules deliver benefits to the community can be increased in most Member States, including by making use of technological advancements to monitor outcomes.

In addition to Better Regulation tools at the national level, the above-mentioned tool developed by the Autonomous Province of Bolzano/Bozen is an example of Better Regulation initiatives at the regional and local level. In federal Member States, Better Regulation tools may vary between local regions, such as in Germany where use of such tools varies between Länder.<sup>93</sup> For example, while 15 Länder adopted laws or guidelines to reduce the burden for SMEs, Berlin has no such regulations in place.<sup>94</sup> At the same time, only four Länder (Baden-Württemberg, Brandenburg, Hessen, and Thüringen) conduct a cost assessment like the Federal State.<sup>95</sup> A similar trend is observed in Spain, where the approach varies from region to region. In 2022, the Spanish government and regional governments launched an ‘Observatory of Good Regulatory Practices’, which could contribute to overcoming some of those differences by gathering and sharing positive regulatory practices and initiatives for Better Regulation that can be applied in different regional contexts.<sup>96</sup>

Overall, considering the OECD’s recommendations for the Member State level, and the various levels of Better Regulation tools at the local and regional level, the CoR could increase its role by working more closely with local and regional authorities. For example, the CoR could work with local and regional authorities to provide Member States with more evidence during the negotiation phase of EU proposals.<sup>97</sup> Similarly, the CoR could support local and regional levels to conduct comprehensive impact assessments which would inform Member States’

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<sup>93</sup> Klaus-Heiner Röhl, ‘Bürokratieabbau und Bessere Rechtsetzung: Wer Macht was in EU, Bund und Ländern?’ (IW-Policy Paper 1/20).

<sup>94</sup> Ibid.

<sup>95</sup> Ibid.

<sup>96</sup> La Administración al Día, ‘El Gobierno y las CCAA Lanzan un Observatorio de Buenas Prácticas Regulatorias para Agilizar Trámites Administrativos’ (14 December 2022), available at <https://laadministracionaldia.inap.es/noticia.asp?id=1228544>.

<sup>97</sup> The following provides answers to research question 5.

transposition processes about the additional impacts of local and regional provisions beyond those in the respective Directive. Last, the CoR could develop an approach together with local and regional authorities which focuses on an assessment of costs and benefits for authorities, businesses, individuals, and NGOs, and which could be shared with Member States to ensure that regulation delivers the anticipated gains to all citizens, including at local and regional levels. These closer collaboration suggestions between the CoR and local and regional authorities would lead to an increased role of the CoR at the EU level in an indirect way. Together with suggestions set out below, which propose an increased role for the CoR at the EU level in a direct way, the CoR could contribute to a more holistic Better Regulation approach, ranging from Better Regulation in rural areas up to Better Regulation during the EU policymaking process.

Member States have adopted several initiatives relating to Better Regulation, or have developed their own Better Regulation tools. Examples can be found at the national level, for example, the ‘French-German Paper on Better Regulation and Modern Administration in Europe’, or at the regional and local level, for example, the ‘Overview of the expected impact of legal acts: Analysis for “Better Regulation”’ developed by the Autonomous Province of Bolzano/Bozen. The CoR could increase its role at the EU level by working more closely with local and regional authorities and using their existing Better Regulation tools to, for example, provide evidence during the negotiation phase of new proposals.



## 5. The Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” and its Follow-Up<sup>98</sup>

The aforementioned instruments and processes on Better Regulation have been further shaped by the recommendations made by the [Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”](#). This Task Force was established in 2017 by then EC President Jean-Claude Juncker and met from January to July 2018 to make recommendations to improve the application of the proportionality and subsidiarity principles by the EU institutions.<sup>99</sup> The Task Force was brought to life against the background of the debate on the future of Europe, and comprised three members of the CoR, including the then CoR President, as well as three members from national parliaments (Austria, Bulgaria, and Estonia).<sup>100</sup> The EP was also invited to nominate members, but did not do so because it ‘considered that participation in the task force set up by the Commission would disregard Parliament’s institutional role and standing as the only directly elected Institution of the European Union, representing the citizens at Union level and exercising functions of political scrutiny over the Commission, and (...) decided to decline the invitation to participate in the task force’.<sup>101</sup> The Task Force met seven times to discuss their mandated tasks, held a public hearing, and received inputs from a number of stakeholders.<sup>102</sup> It handed over its final report on 10 July 2018.<sup>103</sup>

The Task Force conducted work with the aim to ‘make recommendations on how to better apply the principles of subsidiarity and proportionality, identify policy areas where work could be re-delegated or definitely returned to EU countries, [and] find ways to better involve regional and local authorities in EU policy-making and delivery’.<sup>104</sup> In total, the Task Force made nine recommendations:

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<sup>98</sup> This section provides answers to research question 3.

<sup>99</sup> European Commission, ‘Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”’, available at [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en).

<sup>100</sup> European Commission, ‘Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” Factsheet’, available at [https://commission.europa.eu/document/download/739a21b7-fe1c-42b7-aa24-83ad344c790e\\_en?filename=task-force-factsheet-subsidiarity-proportionality.pdf](https://commission.europa.eu/document/download/739a21b7-fe1c-42b7-aa24-83ad344c790e_en?filename=task-force-factsheet-subsidiarity-proportionality.pdf).

<sup>101</sup> See, for example, European Parliament, Resolution of 18 April 2018 on the Annual Reports 2015-2016 on Subsidiarity and Proportionality (2017/2010(INI)).

<sup>102</sup> European Commission, ‘Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” Factsheet’ (n 100).

<sup>103</sup> European Commission, ‘Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”’ (n 99).

<sup>104</sup> Ibid.

- the application of an assessment grid by the institutions and national and regional parliaments to assess subsidiarity, proportionality, and legal basis of new and existing legislations;
- the application of a flexible 8-week deadline for national parliaments to submit reasoned opinions to the EC;
- the revision of Protocol No. 2 to the Treaties to allow 12 weeks for reasoned opinions;
- the raising of awareness of national, local, and regional authorities of the opportunities to contribute to EU policy-making at an early stage by the EC together with national parliaments and the CoR;
- the inclusion of territorial impacts in impact assessments and evaluations, and accordingly the revision of the Better Regulation Guidelines and Toolbox;
- the use of the subsidiarity grid by the EP and the Council;
- the exploration by regional and national parliaments to link more effectively their respective platforms for sharing information;
- the development of a mechanism to identify and evaluate legislation from the perspective of subsidiarity and proportionality, among others; and
- the reflection on re-balancing work in some policy areas towards delivering more effective implementation rather than initiating new legislation.<sup>105</sup>

Following these recommendations, the EC announced intended changes in a Communication in 2018.<sup>106</sup> These changes focused on the application of the subsidiarity grid, the deadline for national parliaments to submit reasoned opinions, the amendment of Better Regulation guidance and public consultation questionnaires to better include views of local and regional authorities, as well as in impact assessments and evaluations, and the reshape of the REFIT platform.<sup>107</sup> In 2019, the EC took stock of its Better Regulation activities, which showed that it was on the right path to implement the Task Force’s recommendations.<sup>108</sup> For example, the EC considered ways of encouraging more participation in consultations through the aforementioned Have Your Say portal (see under *Stakeholder Consultation*) to raise general awareness about the opportunities to contribute to the EC’s policy-making, including for national, local, and regional authorities. In particular, the EC stated its intention to ‘step up its collaboration with the Committee of the Regions, the European Economic and Social

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<sup>105</sup> Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>106</sup> Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘The Principle of Subsidiarity and Proportionality: Strengthening their Role in the EU’s Policymaking’ (23 October 2018) COM(2018) 703 final.

<sup>107</sup> Ibid.

<sup>108</sup> European Commission, ‘Better Regulation: Taking Stock and Sustaining our Commitment’ (15 April 2019), available at [https://commission.europa.eu/document/download/d1728974-433d-463b-8cd2-cc56b96d78bc\\_en?filename=better-regulation-taking-stock\\_en.pdf](https://commission.europa.eu/document/download/d1728974-433d-463b-8cd2-cc56b96d78bc_en?filename=better-regulation-taking-stock_en.pdf).

Committee, the Commission’s representations in Member States, national authorities and other representative associations’.<sup>109</sup>

The latest Communication from the EC relating to Better Regulation shows that further steps have been taken to implement the Task Force’s recommendations.<sup>110</sup> For example, territorial impacts as well as a subsidiarity grid have been included in the EC’s Better Regulation Toolbox,<sup>111</sup> and the Better Regulation Guidelines and Toolbox have been updated accordingly.<sup>112</sup> Moreover, the aforementioned F4F and ‘one in, one out’ approach (see under *Evaluation and Fitness Checks*) have since been introduced.<sup>113</sup> While all these steps have contributed to a partial implementation of the Task Force’s recommendations, there is still a need for full implementation of the outstanding recommendations. How these could be implemented is addressed in **Part II** of the report.

The Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” concluded its mandate in 2018 with nine recommendations. Based on these recommendations, the EC has already implemented changes to the Better Regulation Agenda, for example, it included territorial impacts and a subsidiarity grid in its Better Regulation Toolbox. While important progress has been made, there exists still room to fully implement the Task Force’s recommendations.

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<sup>109</sup> Ibid.

<sup>110</sup> Communication on Better Regulation: Joining Forces to Make Better Laws (n 23).

<sup>111</sup> Better Regulation Toolbox, tools #5, #34.

<sup>112</sup> The Better Regulation Toolbox version dated 20 July 2023, and the Better Regulation Guidelines version dated 3 November 2021.

<sup>113</sup> Communication on Better Regulation: Joining Forces to Make Better Laws (n 23).

## 6. The European Committee of the Regions' Better Regulation Tools

As mentioned under the *Executive Summary*, the CoR has developed several Better Regulation tools, which include:

- a) the Subsidiarity Monitoring Network,
- b) the Network of Regional Hubs and their participation in F4F,
- c) the territorial impact assessment,
- d) rural proofing, and
- e) strategic foresight.

In addition, f) BRASS-G, introduced above, coordinates the CoR's Better Regulation tools and strategy.

### a) Subsidiarity Monitoring Network

The [Subsidiarity Monitoring Network](#) (SMN) was launched in 2007. It includes 150 members of parliaments and governments of regions with legislative powers, local and regional authorities without legislative powers, local government associations in the EU and is also open to CoR national delegations and chambers of national parliaments.<sup>114</sup> The SMN was set up to facilitate the exchange of information between local and regional authorities in the EU regarding legislative and political proposals.<sup>115</sup> This is important as EC initiatives will have a direct impact on these authorities and the policies they are responsible for once adopted. The SMN aims to enable local and regional authorities to be active in monitoring the implementation of the subsidiarity and proportionality principles. Thus, as the guardian of these principles, the SMN facilitates the CoR to represent the interests of local and regional authorities in the legislative process of the EU when it comes to the application of the subsidiarity and proportionality principles.

The SMN operates through its website, which allows network members to submit their assessments of all political or legislative documents which are the subject of a CoR opinion (through open consultations).<sup>116</sup> They can also be invited by a CoR rapporteur drafting an opinion on an EU initiative to give their views (through

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<sup>114</sup> European Committee of the Regions, 'The Subsidiarity Monitoring Network', available at <https://portal.cor.europa.eu/subsidiarity/thesmn/Pages/default.aspx>; European Committee of the Regions, 'List of Partners: The CoR Subsidiarity Monitoring Network' (December 2020), available at [https://portal.cor.europa.eu/subsidiarity/Documents/SMN%20-%20List%20of%20Network%20Partners/SMN\\_List\\_of\\_Network\\_Partners.pdf](https://portal.cor.europa.eu/subsidiarity/Documents/SMN%20-%20List%20of%20Network%20Partners/SMN_List_of_Network_Partners.pdf).

<sup>115</sup> European Committee of the Regions, 'The Subsidiarity Monitoring Network' (n 114).

<sup>116</sup> Ibid.

targeted consultations).<sup>117</sup> Network members can also make contributions to subsidiarity and proportionality checks of documents submitted to them by using a standard assessment grid or tailored questionnaires.<sup>118</sup> Input of network members can also be sought in impact assessment consultations conducted by the EC.<sup>119</sup>

Based on available data from the EC's latest annual report on the application of the principles of subsidiarity and proportionality and relations with national parliaments, members of the SMN transmitted 20 contributions to CoR opinions in 2022.<sup>120</sup> The annual report of 2021 states that the network was consulted on two proposals, the New Pact on Migration and Asylum and the proposal for a Directive on adequate minimum wages in the EU.<sup>121</sup> For the New Pact on Migration and Asylum, the SMN transmitted three contributions, and for the proposal for a Directive on adequate minimum wages in the EU, the SMN transmitted one contribution, which can be seen in the CoR's own annual report.<sup>122</sup> The EC's annual report of 2020 does not include any data for the SMN in general, but rather only for one of its sub-networks, the REGPEX.<sup>123</sup>

Considering these data and that the SMN comprises 150 members, the effectiveness of the functioning of the SMN is questionable given the very limited number of contributions from the SMN to the CoR's opinions. While there is an indication that the number of contributions is growing when comparing 2021 and 2022, it is not possible to establish a trend on the basis of the available data.

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<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

<sup>120</sup> European Commission, 'Annual Report 2022 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments' (12 October 2023) COM(2023) 640 final.

<sup>121</sup> European Commission, 'Annual Report 2021 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments' (1 August 2022) COM(2022) 366 final.

<sup>122</sup> European Committee of the Regions, 'Subsidiarity Annual Report 2020' (10 March 2021) COR-2021-00231-14-01-NB-TRA (EN) 1/16.

<sup>123</sup> European Commission, 'Annual Report 2020 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments' (27 July 2021) COM(2021) 417 final.

The SMN's aim is to enable local and regional authorities to be active in monitoring the implementation of subsidiarity and proportionality principles. To do so, SMN members can contribute to CoR opinions through open consultations, targeted consultations, and impact assessment consultations. Latest available data shows that the uptake of these contribution possibilities is relatively small in comparison to the network's membership size, however. To ensure the effective functioning of this Better Regulation tool, it is recommended to consider active communication strategies with SMN members to increase the number of contributions. Moreover, an updated website containing latest contribution possibilities as well as past contributions might increase willingness to get involved.

## **b) Network of Regional Hubs and Participation in the Fit for Future Platform**

The [Network of Regional Hubs](#) (RegHub) includes 46 members, 10 observers, and one associated body, which all monitor the implementation of EU policies at the regional and local level and ensure that these voices are taken into consideration when these policies are evaluated at the EU level.<sup>124</sup> Thus, the RegHub contributes to Better Regulation by providing a local and regional perspective on the evaluation of EU legislation, increasing the involvement of local and regional authorities in the design and implementation of EU legislation, strengthening the links between the various levels by creating opportunities for dialogue and promoting the sub-national perspective, and presenting and disseminating good practice examples of the implementation of EU laws in cities, municipalities, and regions.<sup>125</sup>

It most notably – while not exclusively – does so by being a separate sub-group of the F4F, the aforementioned high-level expert group supporting the EC with simplifying EU laws and reducing unnecessary costs (see *Evaluation and Fitness Checks*). The F4F is divided into the government group and the stakeholder group.<sup>126</sup> The CoR has three members representing the CoR in the government group, which is otherwise composed of representatives from national, regional,

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<sup>124</sup> European Committee of the Regions, 'Network of Regional Hubs: Assessing EU Law from the Ground', available at <https://cor.europa.eu/en/our-work/Pages/network-of-regional-hubs.aspx>.

<sup>125</sup> Ibid.

<sup>126</sup> European Commission, 'Composition', available at [https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/composition\\_en](https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/composition_en).

and local authorities from all EU countries.<sup>127</sup> In addition, the RegHub as a separate sub-group supports the work of the F4F and the EC with EU policy implementation reports.<sup>128</sup> To do so, RegHub organises its work in three steps: 1) providing contributions to the annual F4F work programme by consulting the hubs on relevant legislative texts to be reviewed by the EC, 2) conducting targeted stakeholder consultations through its network and sharing the results with the platform's rapporteurs, and 3) promoting the platform's opinions within EU institutions.<sup>129</sup> For example, in 2023, RegHub conducted two targeted consultations, relating to [public procurement](#) and the [Digital Europe Programme](#).<sup>130</sup> The results of these consultations enlarged the evidence base of the corresponding F4F opinions that were adopted at the plenary meeting of the F4F.<sup>131</sup> Similarly, RegHub conducted two targeted consultations in 2022, one relating to the [End-of-Life Vehicles Directive](#), and one relating to a [Governments Interoperability Strategy](#).<sup>132</sup> These consultations also fed into the corresponding F4F opinions adopted in the F4F's plenary.<sup>133</sup>

The CoR's participation in the F4F is an example of the collaboration between different EU institutions and their Better Regulation tools, which is important as regional and local authorities' experiences with EU legislation on the ground can find direct application in the EU policy-making cycle. In comparison to previous evaluations of RegHub, in particular of its pilot phase, it can be seen that RegHub has grown its membership (from 36 to 46), and therefore fulfilled a recommendation of the evaluation report.<sup>134</sup> In addition, the involvement of RegHub in F4F with conducting two targeted stakeholder consultations each year (in 2022 and 2023) shows that RegHub establishes itself as a constant contributor to the EC's Better Regulation process. If time and resources allow, RegHub could increase the amount of targeted stakeholder consultation to widen its contribution potential.

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<sup>127</sup> The stakeholder group consists of experts on Better Regulation representing businesses and NGOs, and the European Economic and Social Committee.

<sup>128</sup> See, for the establishment of sub-groups, Commission Decision of 11 May 2020 establishing the Fit for Future Platform (2020/C 163/03), article 9.

<sup>129</sup> European Committee of the Regions, 'Network of Regional Hubs: Assessing EU Law from the Ground' (n 124).

<sup>130</sup> Ibid.

<sup>131</sup> Ibid; Fit for Future Platform Opinion, Public Procurement (28 November 2023) AWP 2023; Fit for Future Platform Opinion, The Digital Europe Programme (28 November 2023) AWP 2023.

<sup>132</sup> European Committee of the Regions, 'Network of Regional Hubs: Assessing EU Law from the Ground' (n 124).

<sup>133</sup> Fit for Future Platform Opinion, Revision of the End-of-life Vehicles Directive and the Directive on the Type-approval of Motor Vehicles (5 December 2022) AWP 2022; Fit for Future Platform Opinion, Governments Interoperability Strategy (5 December 2022) AWP 2022.

<sup>134</sup> RegHub Secretariat, 'Evaluation Report – Network of Regional Hubs for EU Policy Implementation Review' (September 2020).

RegHub monitors the implementation of EU policies at the regional and local level and ensures that these voices are taken into consideration when policies are evaluated. By supporting the F4F as a separate sub-group, RegHub provides crucial information for the F4F's work. It is, therefore, an important Better Regulation tool for the CoR, as its members' expertise can effectively contribute to EU policy-making. While available data from the last two years show that RegHub makes constant contributions to the F4F by conducting targeted stakeholder consultations, a higher number of these consultations could be envisaged if time and resources allow.

### c) Territorial Impact Assessment

To analyse the asymmetric territorial impacts of EU proposals, the CoR has been using [territorial impact assessment](#) (TIA) since 2013.<sup>135</sup> In particular, the CoR conducts *ex-ante* TIA in the legislative phase once the EC has published the initiative, based on the [European Observation Network for Territorial Development and Cohesion \(ESPON\) TIA Quick Check method and tool](#), targeted consultations, and analytical notes.<sup>136</sup> As set out in its Opinion on 'Do no harm to cohesion – A cross-cutting principle contributing towards cohesion as an overall objective and value of the EU', the CoR considers TIA to be the best tool to implement the 'do no harm to cohesion principle', which can be understood as 'no action should hamper the convergence process or contribute to regional disparities'.<sup>137</sup> In addition, if there was a significant growth in budget, the TIA could be one of the main services the CoR could provide to its members, as well as to other EU institutions.<sup>138</sup>

While there is great potential for the CoR to increase its role with TIA, the used methodology has certain disadvantages. For example, the ESPON TIA Quick Check method and tool does not provide an in-depth assessment, but rather a

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<sup>135</sup> European Committee of the Regions, 'Territorial Impact Assessment', available at <https://cor.europa.eu/en/our-work/Pages/Territorial-Impact-Assessment.aspx>.

<sup>136</sup> European Committee of the Regions, 'Audit Report on the Adequacy of Territorial Impact Assessment System' (27 April 2021).

<sup>137</sup> OJ (2023/C 257/01).

<sup>138</sup> European Committee of the Regions, 'Audit Report on the Adequacy of Territorial Impact Assessment System' (n 136).



‘quick “glance” at territorial impacts’.<sup>139</sup> In addition, most TIA approaches rely on quantitative data; for an evidence-based impact assessment, the availability of regionally disaggregated data is crucial. While the Joint Research Centre (JRC), ESPON, Eurostat, and the OECD produce various datasets, they often correspond to general information such as employment per sector or population age groups, or highly specialised information for specific projects.<sup>140</sup> This leads to a ‘mismatch between data availability and the broad range of topics to be assessed in the EU policy and legislation context by TIA’.<sup>141</sup> Despite these disadvantages, there exists potential to further develop TIA by integrating different approaches, for example, by using elements from the various methodologies to overcome specific limitations and challenges.<sup>142</sup> New data to develop individual TIA methodologies and increasing awareness and alignment with policy processes are additional opportunities to further develop TIA.<sup>143</sup>

Addressing the political dimension of TIA development, the renewed CoR TIA strategy of 2023 focuses on two objectives, namely ‘[t]o provide CoR rapporteurs with relevant analysis and information that can be used to improve the territorial perspective of CoR opinions’ and ‘[t]o promote TIA among the European institutions as an important element of Better Regulation’.<sup>144</sup> Examples of TIAs in 2023 are the assessments on Drone Strategy 2.0, on the legislative framework for sustainable food systems, and on the Strategic Technologies for Europe Platform (STEP).<sup>145</sup>

How the promotion of TIA among other institutions, especially the EC, could be achieved, is discussed in **Part II** of the report.

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<sup>139</sup> European Committee of the Regions, ‘State of the Art and Challenges Ahead for Territorial Impact Assessments’ (2020).

<sup>140</sup> Ibid.

<sup>141</sup> Ibid.

<sup>142</sup> Ibid.

<sup>143</sup> Ibid.

<sup>144</sup> European Committee of the Regions, ‘Territorial Impact Assessment’ (n 135).

<sup>145</sup> European Committee of the Regions, ‘Territorial Impact Assessment: A Drone Strategy 2.0’ (8 May 2023), available at <https://cor.europa.eu/en/our-work/Documents/Territorial-impact-assessment/tia-drone-strategy-2.0.pdf>; European Committee of the Regions, ‘Territorial Impact Assessment/Rural Proofing: Legislative Framework for Sustainable Food Systems’ (22 June 2023), available at <https://cor.europa.eu/en/our-work/Documents/TIA%20Sustainable%20food%20systems.pdf>; European Committee of the Regions, ‘Territorial Impact Assessment: Strategic Technologies for Europe Platform’ (2 October 2023), available at <https://cor.europa.eu/en/our-work/Documents/5039-TIA-report.pdf>.

The CoR TIA enables *ex-ante* assessments once the EC has published the initiative. To do so, the CoR uses the ESPON TIA Quick Check method and tool, targeted consultations, and analytical notes. While TIA provides important insights for the EU policy-making process by focusing on territorial impacts, the applied methodology faces certain disadvantages. However, there exist possibilities to further develop TIA to overcome these hurdles. A significant growth in budget would not only allow the CoR to develop its TIA methodology, but also make TIA one of the main services which the CoR can provide to its members and other EU institutions.

## d) Rural Proofing

Rural proofing can be understood as ‘a systematic process to review the likely impacts of policies, programmes and initiatives on rural areas because of their particular circumstances or needs (e.g. dispersed populations and poorer infrastructure networks). In short, it requires policymakers to ‘think rural’ when designing policy interventions in order to prevent negative outcomes for rural areas and communities’.<sup>146</sup> In 2020, the CoR commissioned a study on a foresight framework for resilient rural communities, which also includes guidance for better rural proofing at the EU level, including the enhancement of the EU legislative process to include rural proofing.<sup>147</sup> Further to that study, the CoR included rural proofing in its active subsidiarity framework in the same year and subsequently, in March 2023, the CoR Commission for Natural Resources (NAT) and BRASS-G endorsed the rural proofing methodology for use by all CoR commissions. The methodology suggests several tools for rural proofing in a two-year pilot phase, including TIA and the RegHub network.<sup>148</sup> The methodology will be reviewed by the CoR in due time.

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<sup>146</sup> Jane Atterton, ‘ENRD Thematic Group Rural Proofing – Background Document: Analytical Overview of Rural Proofing Approaches and Lessons Learned’ (2022), available at [https://ec.europa.eu/enrd/sites/default/files/tg-rp\\_background\\_paper-rural\\_proofing-jane\\_atterton\\_220127.pdf.pdf](https://ec.europa.eu/enrd/sites/default/files/tg-rp_background_paper-rural_proofing-jane_atterton_220127.pdf.pdf).

<sup>147</sup> Roland Gaugitsch and others, ‘Rural Proofing – A Foresight Framework for Resilient Rural Communities’ (2020), available at [https://cor.europa.eu/en/engage/studies/Documents/Rural%20proofing%20-%20a%20foresight%20framework%20for%20resilient%20rural%20communities/coter\\_nat\\_rural.pdf](https://cor.europa.eu/en/engage/studies/Documents/Rural%20proofing%20-%20a%20foresight%20framework%20for%20resilient%20rural%20communities/coter_nat_rural.pdf).

<sup>148</sup> The synergy between rural proofing and TIA has been included in the Renewed Territorial Impact Assessment Strategy, see European Committee of the Regions, 216<sup>th</sup> Meeting of the Bureau of the European Committee of the Regions, Item 7 Renewed Territorial Impact Assessment Strategy (7 February 2023) COR-2022-05326-08-1-NB-TRA.

Rural proofing is one of the CoR's newest Better Regulation tools and ensures that policymakers consider rural impacts when designing new policies to prevent negative outcomes on rural areas and communities and maximise their potential to contribute to the success of the new policy. As the CoR has only been using the tool for a few years, and first review assessments are not planned until 2025, it is not possible for this report to determine whether rural proofing is functioning well.

## e) Strategic Foresight

Strategic foresight in the CoR Better Regulation strategy can be understood in a similar way to strategic foresight as set out above in the context of the EC's tools, as the CoR considers strategic foresight as a tool to provide long-term strategic perspectives, 'building resilience and anticipatory as well as participatory governance across the EU and globally'.<sup>149</sup> Against this background, the CoR adopted its first Opinion on strategic foresight as an instrument of EU governance and Better Regulation in 2023.<sup>150</sup> Moreover, the CoR co-organised an event (participatory lab) during the 2023 European Week of Regions and Cities with city and regional representatives on strategic foresight and intends to hold a similar workshop in October 2024.<sup>151</sup> One of the practical results of the 2023 event was bringing together a group of foresight-oriented regions which then started to consider a joint application for an Interreg project on strategic foresight. The CoR is also currently making a considerable effort to integrate foresight analysis into all its opinions and studies. Information sessions and foresight exercises for CoR members are held in the context of CoR commission meetings, events, and relevant working groups related to thematic areas.<sup>152</sup> The CoR contributes to foresight events organised by regions, for example, the 'Strategic Foresight for Regions' event held on 29 May 2024 in Vilvoorde and organised by the Flanders Chancellery and Foreign Office.<sup>153</sup>

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<sup>149</sup> European Committee of the Regions, Opinion on Strategic Foresight as an Instrument of EU Governance and Better Regulation (157<sup>th</sup> plenary session, 9-11 October) CIVEX-VII/022.

<sup>150</sup> Ibid.

<sup>151</sup> European Committee of the Regions, 'Cities and Regions Building Strategic Foresight Capacity to Better Prepare for the Future', available at <https://cor.europa.eu/fr/news/Pages/strategic-foresight-capacity-better-prepare-future.aspx>.

<sup>152</sup> European Committee of the Regions, 'Embracing Uncertainty: Harnessing Strategic Foresight for Regional and Local Progress: Strategic Foresight in Regions and Cities' (December 2023), available at [https://cor.europa.eu/en/our-work/Documents/5056%20Brochure%20Strategic%20Foresight\\_EN\\_7.pdf](https://cor.europa.eu/en/our-work/Documents/5056%20Brochure%20Strategic%20Foresight_EN_7.pdf).

<sup>153</sup> See Flanders Chancellery and Foreign Office's post on LinkedIn regarding the event, available at [https://www.linkedin.com/posts/flanders-chancellery-and-foreign-office\\_flanders-collaboration-sf4regions-activity-7204032561256263682-e2e](https://www.linkedin.com/posts/flanders-chancellery-and-foreign-office_flanders-collaboration-sf4regions-activity-7204032561256263682-e2e).

Strategic foresight is another new Better Regulation tool at the CoR and aligns with strategic foresight at the EC. In 2023, the CoR has taken several steps to integrate strategic foresight in its work. Because of the recent development of this tool, it is not possible for this report to determine whether it is functioning effectively.

#### **f) Better Regulation and Active Subsidiarity Steering Group (BRASS-G)**

Having been converted from the Subsidiarity Steering Group, which has carried out coordination and political follow-up for ten years, the BRASS-G keeps up with the latest Better Regulation Agenda developments since 2022.<sup>154</sup> With a maximum of 13 members and meetings twice a year, the BRASS-G ensures coherence and synergies between the different strands of CoR Better Regulation activity as well as promotes the contribution of local and regional authorities to Better Regulation throughout the EU regulation cycle.<sup>155</sup> By providing political governance and strategic orientation of the CoR tools, the BRASS-G plays a crucial role in the CoR's Better Regulation activities.

Together with the currently developed CoR multiannual Better Regulation programme, the BRASS-G has the possibility to further increase its leading role. For example, the BRASS-G can continue acting as a designated point for Better Regulation within the CoR, overseeing the different tools and the progress on collaboration with other EU institutions. Moreover, it could establish close connections with responsible Better Regulation units in the EP, as laid out above, and with the Council's Better Regulation subgroup, leading to a fruitful exchange by attending the other institutions' meetings while also inviting representatives to BRASS-G meetings. By doing so, the BRASS-G would reach its aims of 'further strengthening the CoR Better Regulation instruments and enhancing their effectiveness and impact by improving coordination, coherence, synergies and complementarity between the individual Better Regulation instruments', as well as forge 'stronger links with the Commission's Better Regulation system and with the system of the European Parliament and of the Council'.<sup>156</sup>

The BRASS-G ensures coherence and synergies between the various CoR Better Regulation tools and promotes the contribution of local and regional authorities throughout the EU policy cycle. To further increase its leading role, the BRASS-G could establish connections with responsible Better Regulation units in the EP and with the Council's Better Regulation subgroup. The continued work of the BRASS-G would also allow an evaluation of its effective functioning in the future.

## II. Interaction between Better Regulation Tools and Identified Gaps from a Local or Regional Point of View

As the previous section shows, there exists a wide range of Better Regulation tools across the EU. The question therefore arises of the extent to which these various tools interact with each other. This section briefly considers the 1) interplay between the EP, the EC, and the Council because of the existing Interinstitutional Agreement. It then 2) focuses on the interaction between the tools of the CoR with the tools of the EC, the EP, and other actors. By applying this focus, the report highlights existing gaps from a local or regional perspective, which could be addressed as set out in **Part II** of the report.

### 1. Interplay between the European Parliament, European Commission, and the Council

Given the Interinstitutional Agreement on Better Law-Making, there exists an interplay between the EP's, the EC's, and the Council's Better Regulation activities. Starting with the EP, because of its function of scrutinising the EC's legislative proposals, the EP can monitor, complement, and check how the EC implements Better Regulation principles and tools in policy-making and legislative proposals, such as in the EC's impact assessments, legislative reviews, or consultations. For example, the EP's checks on the EC's Better Regulation activities include complementary impact assessments drawn up by the EPRS, as happened in the case of the Commission's proposal on combating online child sexual abuse.<sup>157</sup> In this particular case, the impact assessment conducted by the EPRS came to different conclusions, questioning the Commission's results regarding the problem definition, the impact on fundamental rights, among others.<sup>158</sup>

The EP also monitors the EC's Better Regulation activities in reports, briefings, studies, and other publications. For example, in 2021, the EP adopted a report in response to the EC's Communication on Better Regulation: Joining forces to make better laws.<sup>159</sup> In this report, the EP *inter alia* commented on the EC's

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<sup>157</sup> EPRS, 'Proposal for a Regulation Laying Down the Rules to Prevent and Combat Child Sexual Abuse – Complementary Impact Assessment' (April 2023) Ex-Ante Impact Assessment Unit PE 740.248.

<sup>158</sup> Ibid.

<sup>159</sup> European Parliament, 'Report on Better Regulation: Joining Forces to Make Better Laws' (2021/2166(INI)).

approach regarding the European Climate Law, one of the EU's main responses to the climate crisis.<sup>160</sup> In particular, the EP set out that while the EC's Communication and Better Regulation Guidelines and Toolbox include the approach for checking compliance with the European Climate Law in impact assessments and evaluations, the Commission 'should apply these checks systematically and do so at the beginning of the process of preparing a new draft measure or fitness check of existing legislation so that it can genuinely guide policy choices'.<sup>161</sup> The EPRS also published a briefing providing an overview of the Communication while also evaluating the EC's progress and announced plans.<sup>162</sup>

Studies and briefings carried out by EP services on the EC's Better Regulation tools include a study on the 'one in, one out' principle, which found that this tool is 'for less, not better, regulation and legislation, and, as such, is not a suitable instrument for better law-making'.<sup>163</sup> The EPRS also published a plenary update in February 2020 zooming in on SMEs and Better Regulation, reiterating the EP's call for more thorough impact assessments of impacts on SMEs and competitiveness.<sup>164</sup> A more general 'check' made by the EP can be found in the Conference of Committee Chairs Summary Report 2023, in which the Committee on Legal Affairs reminded the EC of its Better Regulation commitments made in its Communication on Better Regulation: Joining forces to make better laws.<sup>165</sup> These documents, including studies, plenary updates, and briefings, have an analytical goal and do not reflect the position of the institution.

However, not only does the EP monitor the EC, but also the EC the EP. In particular, the EC 'has called on the European Parliament to fulfil its responsibilities outlined in the [Interinstitutional Agreement], and notably to step up assessing the impact of substantial amendments tabled by Parliament during the deliberations of EU proposals'.<sup>166</sup> Carrying out impact assessments of substantial amendments has not become a frequent activity in the EP; the EPRS has conducted eight impact assessments of substantial amendments between 2012 and the end of 2023, covering a total of 42 amendments.<sup>167</sup> Internal procedural

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<sup>160</sup> Ibid.

<sup>161</sup> Ibid, para D.

<sup>162</sup> European Parliament, 'New European Commission Communication on Better Regulation: Joining Forces to Make Better Laws' (Briefing May 2021).

<sup>163</sup> European Parliament, 'The 'One in, One out' Principle – A Real Better Lawmaking Tool?', study requested by the JURI Committee (October 2023).

<sup>164</sup> European Parliament, 'SMEs and Better Regulation – At a Glance' (Plenary February 2020).

<sup>165</sup> Conference of Committee Chairs, Summary Report (13 June 2023) DV\1280622EN PE 700.007; Communication on Better Regulation: Joining Forces to Make Better Laws (n 23).

<sup>166</sup> Meenakshi Fernandes, Katharina Eisele and Irmgard Anglmayer, 'How Evaluation is Understood and Practised in the European Parliament' (2024) 30 Evaluation 253.

<sup>167</sup> Ibid.

rules, including broad political support for requesting an impact assessment of substantial amendments, hinder the conduct of more assessments.<sup>168</sup>

Not only are the EC and the EP monitoring the Better Regulation activities of other institutions, but the Council is also checking how the EC implements Better Regulation principles and tools in policy-making and legislative proposals. For example, in its 2023 annual report on impact assessments within the Council, one section is dedicated to the follow-up on impact assessments conducted by the EC.<sup>169</sup> As the Interinstitutional Agreement states that ‘[t]he Commission may, on its own initiative or upon invitation by the European Parliament or the Council, complement its own impact assessment or undertake other analytical work it considers necessary’, the Council adopted a decision requesting the EC to prepare a study complementing the existing impact assessment of the proposal on Sustainable Use of Pesticides.<sup>170</sup> The EC confirmed its intention to provide additional information as requested by the Council.<sup>171</sup> In addition, the Council used its Checklist to examine the Commission’s impact assessment in 21 cases in 2023.<sup>172</sup> Moreover, as part of the Council’s proceedings on the future of cohesion policy, the Council called for ‘general awareness of doing no harm to cohesion in all Union policies and initiatives’ and invited the EC ‘to make wide use of Territorial Impact Assessments while preparing legislative proposals in order to capture the territorial impacts for territories and regions concerned’.<sup>173</sup>

Overall, there exists an interplay between EU institutions in the context of Better Regulation. In particular, both the EP and Council make use of checking the EC’s application of Better Regulation tools. This starts when the EC presents a legislative proposal. Carrying out complementary impact assessments or requesting the EC to prepare a study complementing the existing impact assessment are only a few of the above discussed examples of the EP’s and Council’s monitoring activities. These Better Regulation activities and interplays are important to ensure evidence-based and transparent EU law-making, as the EP and the Council propose amendments as co-legislators, which are then discussed in trilogues, a series of informal negotiations aimed at finding compromises on the EP’s and Council’s positions, before they become part of the legislative act.

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<sup>168</sup> Ibid.

<sup>169</sup> Council of the European Union, ‘Impact Assessment within the Council – 2023 Annual Report – Endorsement’ (16 June 2023) 10082/23 (Council 2023 Annual Report).

<sup>170</sup> Interinstitutional Agreement, para 16; Council 2023 Annual Report (n 169); Council of the European Union, ‘Decision requesting the Commission to submit a study complementing the impact assessment of the proposal for a Regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115, and to propose follow-up actions, if appropriate in view of the outcomes of the study’ (9 December 2022) 15652/22.

<sup>171</sup> Council 2023 Annual Report (n 169).

<sup>172</sup> Ibid.

<sup>173</sup> Council of the European Union, Outcome of Proceedings (30 November 2023) 16230/23.

The EP and Council monitor the EC's implementation of Better Regulation tools and principles in policy-making and legislative proposals based on their competencies, as well as based on the Interinstitutional Agreement. For example, both institutions have acted regarding the EC's impact assessments, either by requesting a complementing study or by carrying out complementary impact assessments. However, based on available data, this is not a common practice for the EP and the Council. In addition, both institutions are lacking in conducting their own impact assessments of substantial amendments. To ensure that EU law-making is evidence-based and transparent, including amendments which are accepted during trilogues and become part of the legislative act, it is important that the institutions step up their game when it comes to carrying out impact assessments.



## **2. Interaction between the European Committee of the Regions and the EU Institutions**

The following interactions between the CoR and the EC and the Council are identified: a) the SMN's interaction with EU legislative processes, b) the RegHubs' interaction with the F4F platform, c) the TIA (CoR) and impact assessment (EC), d) the TIA (CoR) and the Working Party on Competitiveness and Growth (Council), e) rural proofing (CoR) and rural proofing (EC), and f) strategic foresight (CoR) and strategic foresight (EC).<sup>174</sup>

### **a) The Subsidiarity Monitoring Network's Interaction with EU Legislative Processes**

Starting with the SMN, the above-introduced input possibilities create a direct link for the SMN to contribute to the legislative process.<sup>175</sup> However, there exist two gaps: first, CoR opinions are issued after the publication of the EC proposal, meaning that the SMN's contribution currently cannot be taken into account in the pre-legislative phase; second, the CoR's opinions are non-binding, meaning that EU institutions are not obliged to follow the recommendations in a binding manner and, therefore, the influence of these opinions including the views of regional and local perspectives is dependent on whether the EP, the Council, and the EC consider them in the legislative process.<sup>176</sup>

There exist currently no options to fully close the first gap, as the involvement of the CoR before the publication of a new proposal would require Treaty changes. However, the revised Cooperation Agreement between the EC and the CoR envisages the inclusion of the CoR and local and regional authorities in the EC's consultations, as well as including the possibility for the CoR to draft outlook opinions in the pre-legislative phase.<sup>177</sup> In addition, the revised Cooperation Agreement with the EP includes the CoR at a later stage of the policy cycle, by stating that the 'CoR will support the EP in adopting and reviewing European legislation by drawing on the experience and sharing the expertise of local and

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<sup>174</sup> This section provides answers to research questions 3, 4, and 5.

<sup>175</sup> See under *Subsidiarity Monitoring Network*.

<sup>176</sup> Neslihan Altun and Elena Schulz-Ruhtenberg, 'How to Make the Voice of Regions Heard in EU Legislation: Strengthening the Role of the Committee of the Regions' (6 July 2022) Hertie School Jacques Delors Centre Student Policy Brief. See also Salvatore Fabio Nicolosi and Lisette Mustert, 'The European Committee of the Regions as a Watchdog of the Principle of Subsidiarity' (11 May 2020) 27 *Maastricht Journal of European and Comparative Law* 284.

<sup>177</sup> Protocol on Cooperation between the European Commission and the European Committee of the Regions (20 March 2024), paras 14-18 (EC-CoR Cooperation Agreement).

regional authorities and territorial evidence base, and ensuring that this legislation is fit for purpose'.<sup>178</sup> While this is a significant development for the CoR's greater role in the EU legislation making process, it does not close the identified gap.

To close the second gap, the CoR called for the provision of substantiated reasons by the EP, the EC, and the Council if the CoR's opinions are not taken into account in areas of mandatory consultation.<sup>179</sup> Moreover, on a parallel note, the importance of giving more attention to the opinions expressed by the CoR through the SMN has also been highlighted by the EP in the framework of its latest report on regulatory fitness.<sup>180</sup> Alternatively, there is the option to go a step further by giving binding value to CoR opinions, which would require a change to the existing Treaties. This option is examined further in **Part II** of the report.

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<sup>178</sup> Protocol on Cooperation between the European Parliament and the European Committee of the Regions (approved by CoR Bureau on 16 April 2024), para 4.2 (EP-CoR Cooperation Agreement).

<sup>179</sup> European Committee of the Regions, Resolution on the Outcome and Follow-up of the Conference on the Future of Europe (150<sup>th</sup> plenary sessions, 29-30 June 2022) RESOL-VII/023.

<sup>180</sup> European Parliament, Resolution of 23 November 2023 on European Union Regulatory Fitness and Subsidiarity and Proportionality (n 32).

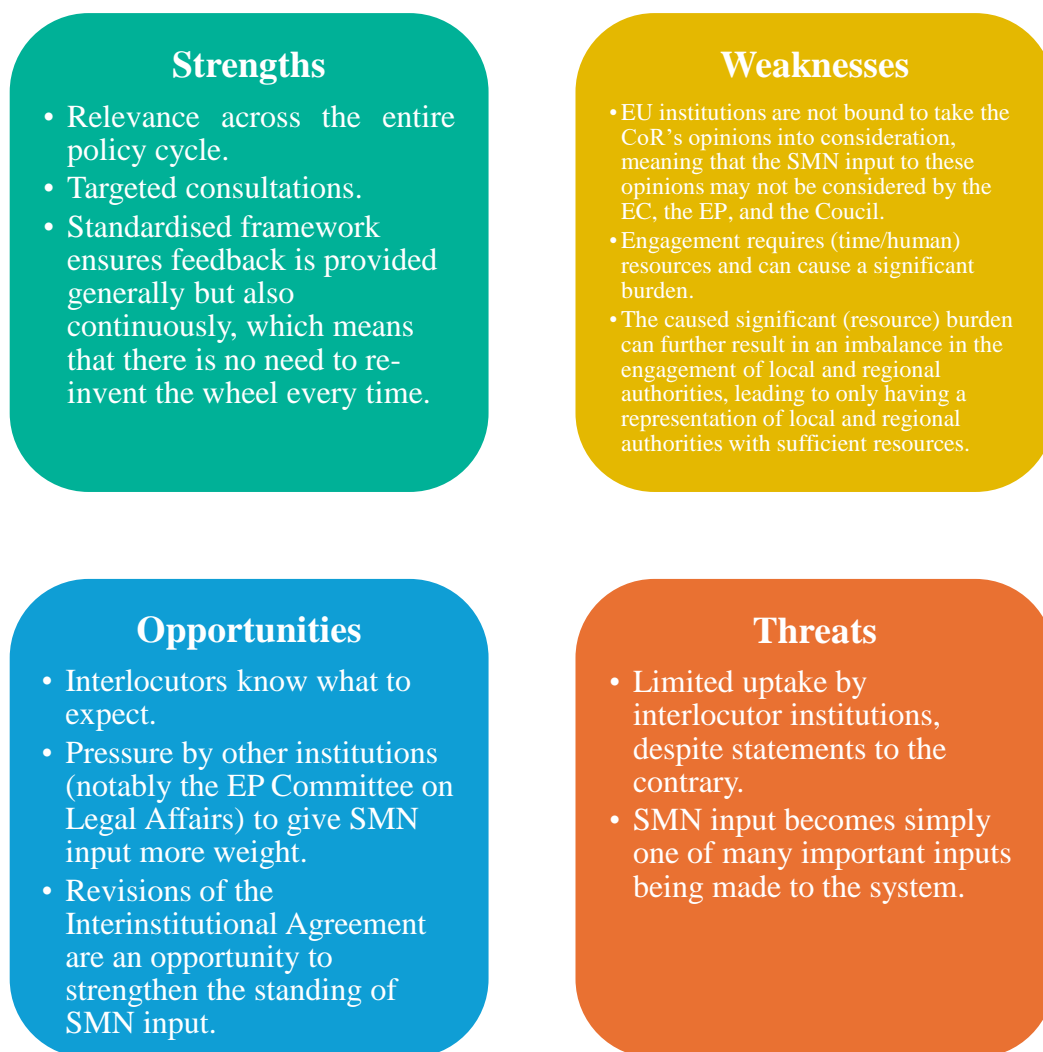


Figure 5: SWOT analysis of the SMN

## **b) The Network of Regional Hubs' Interaction with the Fit for Future Platform**

The RegHub network and its participation in F4F are a strong example of collaboration and integration between the EC and the CoR in the context of Better Regulation. Michael Wimmer, Director of 'Strategy, Better Regulation & Corporate Governance' of the EC, emphasised during the 21<sup>st</sup> CIVEX Commission meeting on 6 February 2024 that RegHub is providing a huge added value due to the experience with the implementation of laws at the national level, among others.<sup>181</sup>

<sup>181</sup> European Committee of the Regions, '21<sup>st</sup> CIVEX Commission meeting', recording available at <https://cor.europa.eu/en/events/Pages/21st-civex-commission-meeting-2024.aspx>.

However, the implementation of these processes presents practical challenges, particularly given the limitations to resources that the CoR can effectively allocate to them, both financial and human, and the administrative burden that implementation entails. There exists a threat if the expectation of ongoing engagement is not supported by funding and other resource allocation. In addition, as the EC is nearing a new mandate, a reflection about the future of the F4F will take place.<sup>182</sup> A new EC mandate could result in a diminished focus on F4F generally, but also regarding RegHub within F4F. While there are currently no gaps, it is necessary to ensure that when the new EC revises its Better Regulation Agenda, no gaps will be created and the integration between the RegHub and the F4F work will be safeguarded and enhanced further. This is important not only on the EC's side, but also on the CoR's side, given the growing Euro-scepticism at the regional and local levels due to regional inequalities stemming from different socio-economic conditions, employment, and productivity, among others.<sup>183</sup>

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<sup>182</sup> Ibid.

<sup>183</sup> Sofia Vasilopoulou and Liisa Talving, 'Euro-scepticism as a Syndrome of Stagnation? Regional Inequality and Trust in the EU' (2023) *Journal of European Public Policy* 1.



Figure 6: SWOT analysis of the RegHub

### **c) Territorial Impact Assessment (CoR) and Impact Assessments (EC)**

Both the CoR and the EC conduct TIA. However, there are certain differences. Starting with the EC, the TIA is conducted in the design phase of the legislative proposal. According to the EC Better Regulation Toolbox, ‘when a preliminary screening of impacts shows that territorial impacts are relevant, the TIA necessity check will help assess the need of a more in-depth analysis of such impacts’.<sup>184</sup> This online tool will help ‘decide whether a TIA is useful for a legislative proposal/initiative’.<sup>185</sup> If a TIA is deemed useful, the EC can make use of other

<sup>184</sup> Better Regulation Toolbox, tool #34.

<sup>185</sup> Ibid.

models, such as the RHOMOLO model for an analysis at the regional level, or the LUISA Territorial Modelling Platform for the production of projection and what-if scenarios.<sup>186</sup>

As of now, the CoR is only able to conduct a TIA once the proposal has been adopted by the EC, meaning at a later point than the TIA from the EC. In addition, the CoR bases its TIA on the ESPON TIA tool and not on other models. It also specialises on territorial impacts only, whereas the EC assesses territorial impacts among other impacts in its general impact assessment, as well as in evaluations and fitness checks. The CoR circulates its specialised final report within the EC, the EP, and the Council, however, this report is not considered during the design phase of the legislative proposal due to the timeline.<sup>187</sup>

While there have been improvements in recent years to strengthen the EC's impact assessment insofar as the identification of territorial, or asymmetric, impacts is concerned,<sup>188</sup> the CoR's TIA and the EC's impact assessments continue to be two separate procedures. In addition, while the CoR offers this specific impact assessment focusing on territorial impacts, the EC's assessment is broader and, therefore, can overlook differentiated territorial impacts. Thus, a closer collaboration between the EC and the CoR already at design stage of proposals could be envisaged to strengthen the already existing TIA principles in the EC's impact assessment. A first step in this correction is the revised EC-CoR Cooperation Agreement, which sets out that:

[t]he Commission and the Committee shall enhance cooperation on territorial impact assessments, rural proofing, the assessment of how legislation is implemented at local and regional level and strategic foresight and for that purpose may conclude action plans, as appropriate. They will continue cooperation, within the European Strategy and Policy Analysis System (ESPAS) framework.

As regards territorial impact assessments of EU legislation in particular, the Committee will screen future EU initiatives in the "calls for evidence" and suggest a number of initiatives with potential asymmetric territorial impacts that the Commission should analyse, in its impact assessments, according to its Better Regulation guidelines and toolbox. In this respect the Commission may draw on support from the Committee in preparing its impact assessments. For Territorial Impact Assessment workshops

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<sup>186</sup> Ibid.

<sup>187</sup> European Committee of the Regions, 'Territorial Impact Assessment' (n 135).

<sup>188</sup> See, for example, intervention from Michael Wimmer during the 21<sup>st</sup> CIVEX Commission meeting (n 181).

organised by the Committee, the Commission will facilitate the participation of its relevant services.<sup>189</sup>

Thus, the implementation of the new Cooperation Agreement opens the door for a step-up of TIA activities in the EC with the help of the CoR. How this interaction will evolve in practice remains to be seen. In particular, practical challenges, including in relation to time and resources, are likely to arise.



Figure 7: SWOT analysis of TIA

<sup>189</sup> EC-CoR Cooperation Agreement, para 27.

## d) Territorial Impact Assessment (CoR) and the Working Party on Competitiveness and Growth (Council)

During one of the Council's Working Party on Competitiveness and Growth (Better Regulation) meetings in 2023, the CoR presented on the regional differentiation of the impact of EU policies and its territorial consequences including the TIA.<sup>190</sup> Besides the presentation, there was also a possibility to exchange views on this topic.<sup>191</sup> The assessment of territorial impacts is relevant for the Council in two aspects. First, Member States representatives may be very interested in getting assessments of territorial impacts of EC's proposals within a Member State. Secondly, the Council could include territorial aspects in its impact assessments, given that the Council can carry out an impact assessment in relation to its substantial amendments to the Commission's proposal, when it considers this 'to be appropriate and necessary for the legislative process'.<sup>192</sup> For the period covered in the Council 2023 annual report, no cases of a Council impact assessment on substantial amendments made by the Council were reported.<sup>193</sup> However, a close collaboration could be envisaged between the CoR and Council for future impact assessments, as well as the participation of the CoR in the meetings of the Better Regulation subgroup, as set out in **Part II** of the report.

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<sup>190</sup> Council of the European Union, Communication (30 August 2023) CM 4118/23.

<sup>191</sup> Ibid.

<sup>192</sup> Interinstitutional Agreement, para 15.

<sup>193</sup> Council 2023 Annual Report (n 169).



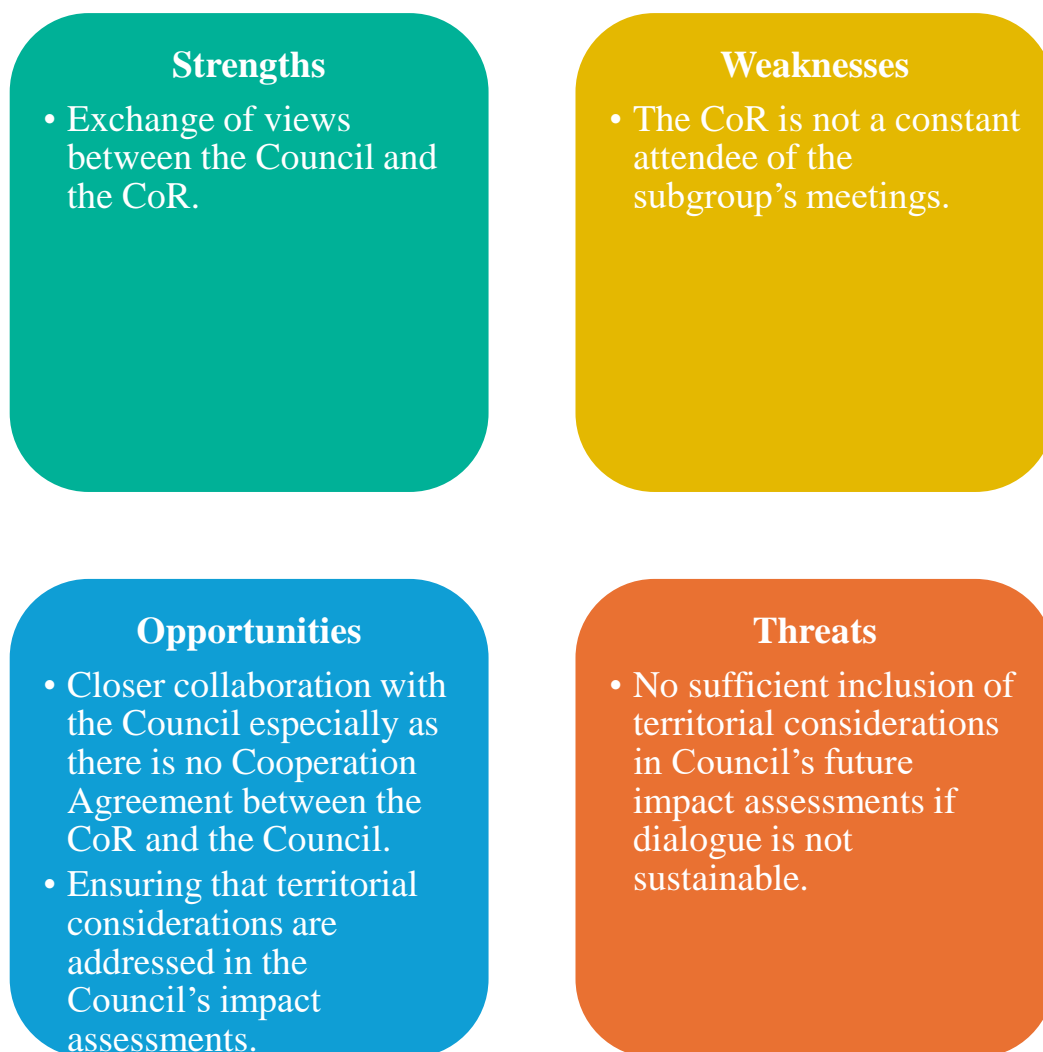


Figure 8: SWOT analysis of TIA and Working Party on Competitiveness and Growth

While this and the previous section consider the already existing interactions between the TIA tools used by the CoR and those used by the EC and the Council, there also exists the possibility to establish a closer collaboration with the EP regarding TIA based on the recently revised EP-CoR Cooperation Agreement.<sup>194</sup> The details of this opportunity are discussed in detail in **Part II** of this report.<sup>195</sup>

<sup>194</sup> See EP-CoR Cooperation Agreement, para 4.3.a.

<sup>195</sup> See below *Collaboration on Territorial Dimensions of the European Parliament's and the Council's*

## **Impact Assessments.**

## **e) Rural Proofing at the European Committee of the Regions and the European Commission**

Similar to the TIA and the EC's impact assessment, both the CoR and the EC employ rural proofing techniques. For example, the CoR has commissioned a study on a foresight framework for resilient rural communities, and the EC's Better Regulation Guidelines and Toolbox contain explicit references to rural proofing. While both Better Regulation tools are important to make rural proofing a process for better policy-making and not 'simply an assessment and the application of a methodology providing concrete results', there is still a need to give rural proofing a greater presence in the policy cycle, as well as there is room for closer collaboration between the CoR and EC.<sup>196</sup> The revised Cooperation Agreement as set out under *Territorial Impact Assessment (CoR) and Impact Assessments (EC)* is a first step in this direction, as the institutions agreed on enhancing cooperation on rural proofing.

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<sup>196</sup> Gaugitsch and others (n 147).

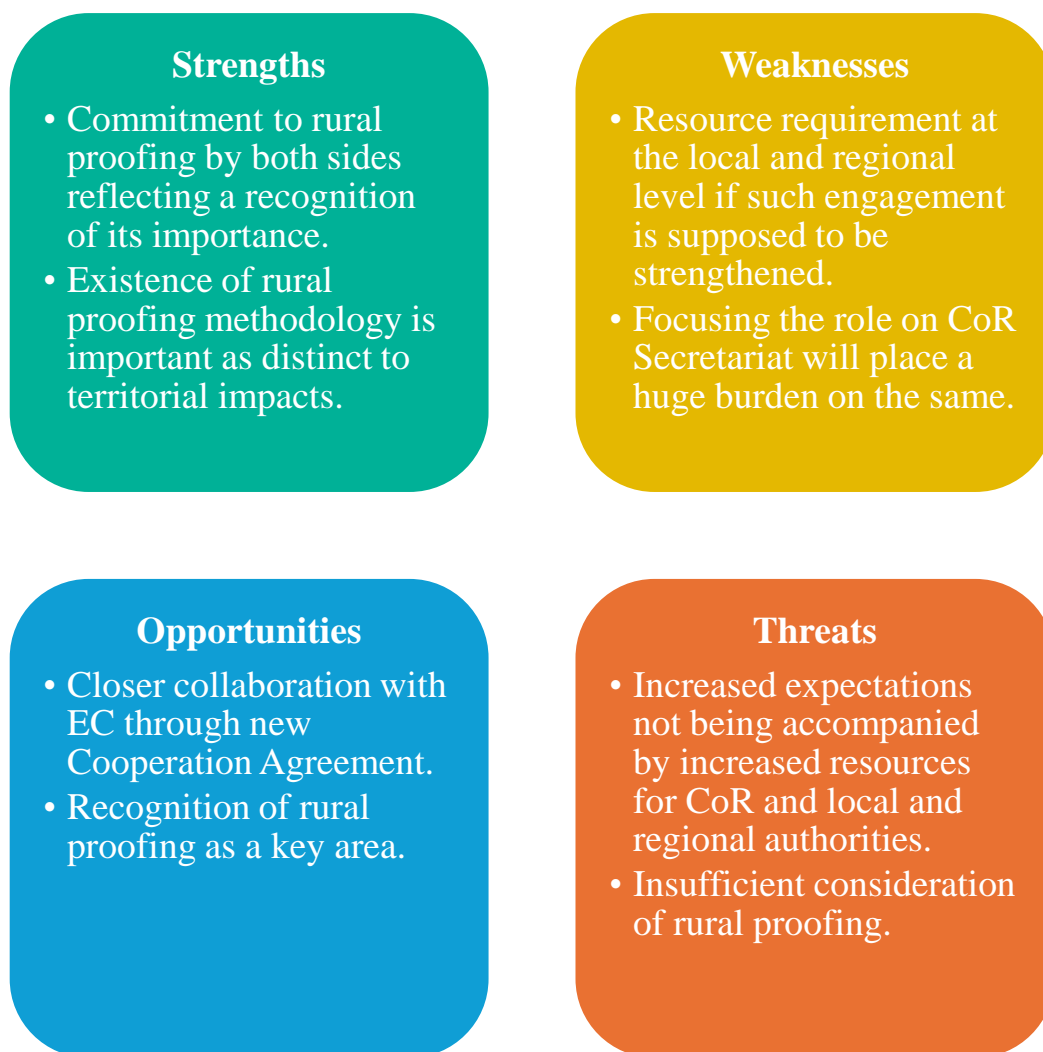


Figure 9: SWOT analysis of rural proofing

## **f) Strategic Foresight at the European Committee of the Regions and the European Commission**

As already set out above, the CoR and the EC share the same objective when it comes to strategic foresight. The CoR and EC have not only co-organised events on strategic foresight as set out above, but have also conducted foresight exercises in which the CoR's Green Deal Going Local Working Group participated.<sup>197</sup> Applying an innovative approach developed by the EC's JRC, members of the exercise used the Scenario Exploration System to respond to two contrasting future scenarios, representing EU or national policy makers, civil society

<sup>197</sup> European Committee of the Regions, 'Embracing Uncertainty: Harnessing Strategic Foresight for Regional and Local Progress: Strategic Foresight in Regions & Cities' (n 106).

representatives, or businesses.<sup>198</sup> The analysis of the exercise's results were communicated to the EC and similar events are likely to be organised in the near future.

At the EC, strategic foresight has been applied by using several different techniques, such as horizon scanning (systematic scan and collections of events and trends), megatrends analysis (analysis and discussion of pattern shifts and interacting trends), scenario planning (interactive and iterative process by including interviews, analysis, and modelling), and visioning (identification of a preferred direction).<sup>199</sup> From a regional and local perspective, it is crucial that strategic foresight includes policy-relevant data broken down to subnational levels, especially to inform scenario planning and visioning with a view to considering regional and local concerns.

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<sup>198</sup> Ibid.

<sup>199</sup> European Commission, 'Strategic Foresight' (n 47).



Figure 10: SWOT analysis of strategic foresight

How the CoR could contribute in this regard is further discussed in **Part II** of this report. In addition, the potential collaboration between the CoR and the EP on strategic foresight based on the recently revised Cooperation Agreement<sup>200</sup> is also discussed below under *Strengthening Collaboration in the Context of Strategic Foresight*.

<sup>200</sup> See EP-CoR Cooperation Agreement, para 4.5.

Several CoR Better Regulation tools interact with Better Regulation tools from the EC. There is also an interaction between the CoR and the Council's subgroup on Better Regulation. In contrast, there is only marginal interaction with the EP's activities regarding Better Regulation, however, the recently revised Cooperation Agreement opens up possibilities to strengthen the collaboration regarding TIA and strategic foresight, among others. In general, there is room to either create or intensify interaction between Better Regulation tools, which would contribute to strengthening the CoR's role in the EU legislative process and ensure a greater representation of regional and local views at the EU level. These possibilities are considered next.

## Part II

The following part considers short- to medium-term options to improve the CoR's role in the EU law-making process by amplifying the use and interaction of existing and potential new Better Regulation tools (I). It also covers long-term solutions which contain a view to potential Treaty amendments (II). Both the short- to medium-term and long-term options were identified based on own findings and already published recommendations, as well as the CoR-conducted stakeholder consultation, as set out under *Executive Summary*.<sup>201</sup>

### I. Reforms within the Current Treaty Framework

Reforms within the current treaty framework can be manifold, as they include 1) existing Better Regulation tools, and 2) potential new Better Regulation tools. Regardless of existing or potential new tools, most suggested reforms necessitate 3) secured human and financial resources to make the dialogue between the CoR and other institutions operational and sustainable.

#### 1. Existing Better Regulation Tools

Considering the CoR's existing Better Regulation tools (as set out under *The European Committee of the Regions' Better Regulation Tools* in Part I), this report has already established how these tools interact with other existing Better Regulation tools at the EU level, and which gaps exist from a local and regional perspective. Based on these identified gaps, as well as on the interventions during the CoR stakeholder consultation,<sup>202</sup> the research, taking into consideration own findings and already published recommendations, established that the following options would allow the CoR to strengthen its role and the use and interaction of Better Regulation tools within the current Treaty framework:

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<sup>201</sup> This part of the report provides answers to all research questions mentioned in the *Executive Summary*. Each section includes a further reference to specific research questions being addressed.

<sup>202</sup> See 'Stakeholder Consultation: Opinion on Active Subsidiarity: A Fundamental Principle in the EU Better Regulation Agenda' (n 11).

- a) Task Force on Subsidiarity, Proportionality, and “Doing Less More Efficiently” – revival and implementation of outstanding recommendations.
- b) Negotiations for continued RegHub participation in the F4F platform.
- c) Strengthening of TIA and rural proofing.
- d) Cooperation on territorial dimensions of the EP’s and Council’s impact assessments.
- e) Permanent seat on the RSB.
- f) Collaboration to produce data and information informing the evidence-based policy-making process.
- g) Strengthening the collaboration in the context of strategic foresight.
- h) Involvement of the CoR in parliamentary committee meetings.
- i) Contribution to the EP’s implementation reports.
- j) Systematic and ongoing participation of the CoR in the Council’s Working Party on Competitiveness and Growth (Better Regulation) meetings.

Figure 11: Overview of reforms

**a) Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” – Revival and Implementation of Outstanding Recommendations<sup>203</sup>**

**One option for the CoR would be to negotiate with the EC that the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” should be brought back to life, which is a feasible reform for the CoR given it is based mainly on negotiations.** As the Task Force only operated for a limited amount of time, given its temporary mandate instead of having a continuous appointment, a revival and institutionalisation of the Task Force would enable the

<sup>203</sup> This section provides answers to research questions 3, 4, and 5.



CoR to have a direct communication channel for results of the SMN.<sup>204</sup> Moreover, it would provide the CoR with the possibility to further negotiate for implementation of the Task Force’s recommendations made in 2018. While the implementation steps as set out in **Part I** have been important to bring the Task Force’s recommendations to life, there is still room for improvement regarding the deadline adjustment for national parliaments’ reasoned opinions, raising of awareness of opportunities to contribute to the EU’s policy-making cycle for national, local, and regional authorities, greater inclusion of territorial impacts, and, more generally, closer collaboration between the EC and the CoR. Possible steps to improve these areas are set out under the following headings.

In addition, **implementation is needed regarding the Task Force’s recommendation relating to the use of the subsidiarity grid by the EP and the Council.** The Task Force especially set out that ‘the European Parliament and the Council should systematically review the subsidiarity and proportionality of draft legislation and the amendments they make using the common method’.<sup>205</sup> Such application of a subsidiarity grid by the EP and Council seems to be missing, although the EP’s Directorate for Impact Assessment and European Added Value can review impact assessments attached to draft legislation and conduct in-depth analysis and impact assessments of amendments, if requested by parliamentary committees. In addition, the Council ‘has developed its capacity to assess impacts of their substantial amendments, but it has not used it so far’.<sup>206</sup> However, in 2021, the EP called on the EC to ‘integrate the ‘model grid’, in order to assess the application of both principles throughout the decision-making process’ and noted that ‘this will require a strong commitment, including from the EU co-legislators’.<sup>207</sup> **Such a commitment could be included in the Interinstitutional Agreement.** In its current form, the Agreement does not include the application of a subsidiarity grid by any of the institutions. This could be changed **by making the following amendments** (suggestions in italics):

25. (...) The Commission shall also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality and how they are compatible with fundamental rights. *The Commission shall do so by including a subsidiarity sheet added to each proposal, which entails the results from the application of the subsidiarity grid.* (...)

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<sup>204</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>205</sup> Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>206</sup> OECD, ‘Better Regulation Practices across the European Union’ (n 69).

<sup>207</sup> European Parliament, Resolution of 24 June 2021 on European Union Regulatory Fitness and Subsidiarity and Proportionality – Report on Better Law-Making Covering the Years 2017, 2018, and 2019 (2020/2262(INI)).

*37. The European Parliament and the Council as co-legislators will, in the interests of subsidiarity and proportionality, add to their amendments a subsidiarity sheet, which entails the results from the application of the subsidiarity grid regarding these amendments.*

Including the application of the subsidiarity grid in the Interinstitutional Agreement would not only align with the Task Force’s recommendation, but also with the institutions’ commitment regarding upholding the principles of subsidiarity and proportionality.<sup>208</sup> It needs to be noted, however, that the amendments to the Interinstitutional Agreement are more difficult to achieve for the CoR than the negotiations of a revival of the Task Force, given that the Agreement exists between the EC, the EP, and the Council. In general, the provision for an Interinstitutional Agreement can be found in Article 295 of the Treaty on the Functioning of the European Union (TFEU).<sup>209</sup> It has the purpose of increasing efficiency and clarifying procedures to prevent or limit conflicts amongst the Council, the EP, and the EC.<sup>210</sup> It is, therefore, up to the Council, the EP, and the EC to decide whether to commit to using the subsidiarity grid in the Interinstitutional Agreement.

The CoR could negotiate with the EC to revive the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”. This would allow the CoR to negotiate the further implementation of the outstanding recommendations from the Task Force’s mandate. One of these recommendations is the use of the subsidiarity grid by the EC, the EP, and the Council. This recommendation could be implemented by including the use of the grid in the wording of the Interinstitutional Agreement for Better Law-Making, establishing it as a common procedure in the policy cycle. While the negotiations with the EC regarding the revival of the Task Force are a feasible and realistic option for the CoR, the amendment of the Interinstitutional Agreement for the use of the subsidiarity grid is up to the three parties of the Agreement, namely the EC, the EP, and the Council. Because of the Agreement’s nature as set out in Article 295 of the TFEU, the CoR has no decision-making competence in this regard.

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<sup>208</sup> For example, Interinstitutional Agreement, paras 3 and 4.

<sup>209</sup> Consolidated Version of the Treaty of the Functioning of the European Union [2016] OJ C202/150, art 295 (TFEU).

<sup>210</sup> EU Monitor, ‘Interinstitutional Agreement (IIA)’, available at <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vh7dppj508rg>.

## **b) Negotiations for Continued Participation of the Network of Regional Hubs in the Fit for Future Platform<sup>211</sup>**

Regarding the new upcoming EC mandate, it is important that the **CoR continues to keep the dialogue open regarding the continued RegHub participation in F4F**. As set out above, local and regional views are currently well represented due to the RegHub involvement in the F4F. Thus, it is crucial that this participation continues during the next EC mandate, and when the EC potentially revises the future of F4F, and the Better Regulation Agenda more generally. This also aligns with the recommendation made by the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” in the context of ‘acting more efficiently’. In particular, the Task Force recommended that the CoR launches ‘a pilot project for a new network of regional hubs to collect and channel systematically the views and hard information about the implementation of legislation’, and it added: ‘[o]nce the pilot phase is complete, the Task Force believes that the European Parliament, the Council and the Commission should consider supporting the network together with the Committee of the Regions if the results of the pilot are positive’.<sup>212</sup>

Moreover, the continued participation of RegHub in F4F follows up on the CoFE proposal that ‘a better involvement of the subnational level and of the Committee of the Regions helps to take better into account the experiences gained with the implementation of EU law’.<sup>213</sup> In fact, as can be seen in the EC’s Annual Report of 2022 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments,<sup>214</sup> the RegHub’s contributions regarding its experience with the implementation of EU policy on the ground in 2022 informed the platform’s opinions. In addition, RegHub provided input for the platform’s annual work programme with making suggestions for topics of interest at the local and regional levels.<sup>215</sup>

Keeping the dialogue open to continue the participation of RegHub in the F4F is a realistic and feasible option for the CoR. It also contributes to operationalising the collaboration between the EC and the CoR, and to making it sustainable. **The revised Cooperation Agreement between the EC and the CoR represents a starting point for such collaboration**, given that the two bodies agreed to ‘work together in the entirety of the EU policy-making cycle, in full respect of their

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<sup>211</sup> This section provides answers to research questions 3 and 5.

<sup>212</sup> Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>213</sup> CoFE report, proposal #39.2.

<sup>214</sup> (12 October 2023) COM(2023) 640 final.

<sup>215</sup> Ibid.

respective competencies and the principle of sincere cooperation'.<sup>216</sup> This has also been confirmed by the Commission during the 22<sup>nd</sup> CIVEX Commission meeting held on 10 April 2024, by stating that the revised Agreement provides not only new collaboration avenues, but also allows to strengthen and enlarge existing collaboration mechanisms, such as RegHub in F4F.<sup>217</sup>

The continued participation of RegHub in F4F not only aligns with the recommendations made by the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, but also follows up on CoFE proposals. Keeping the dialogue open to continue the participation when the EC potentially revises the future of F4F is, therefore, important for the CoR. The revised Cooperation Agreement serves as a basis for a continued and sustainable collaboration, and, therefore, the proposed dialogue is a realistic and feasible option for the CoR.

### **c) Strengthening of the Territorial Impact Assessment and Rural Proofing<sup>218</sup>**

**Including the TIA as an integrated, mandatory component of the EC’s impact assessment would contribute to aligning and maximising the assessment of territorial impacts of proposed EU initiatives.**<sup>219</sup> Such a strengthening could include cooperation between the CoR and the EC at the preparation stage of new initiatives, ensuring that the newly integrated TIA is not only a ‘tick box exercise’, but properly considered. This also aligns with the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” recommendation that the EC ‘should ensure that its impact assessments and evaluations systematically consider territorial impacts and assess them where they are significant for local and regional authorities’.<sup>220</sup> Moreover, as local and regional authorities ‘should help to identify such potential impacts in their consultation responses and feedback on roadmaps’,<sup>221</sup> cooperation with the CoR on territorial impacts in the design phase of initiatives would further the implementation of the Task Force’s recommendations. At the same time, this

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<sup>216</sup> EC-CoR Cooperation Agreement, para 28.

<sup>217</sup> See the intervention from Carsten Schierenbeck, Member of the Cabinet of Maroš Šefčovič, Executive Vice-President of the European Commission for Interinstitutional Relations and Foresight in European Committee of the Regions, ‘22<sup>nd</sup> CIVEX Commission meeting’, recording available at <https://cor.europa.eu/en/events/Pages/22nd-civex-commission-meeting-1.aspx>.

<sup>218</sup> This section provides answers to research questions 2-6.

<sup>219</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>220</sup> Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>221</sup> Ibid.

would follow-up on the CoFE recommendation of ensuring an adequate channel of dialogue ‘for regions as well as cities and municipalities, giving [the CoR] an enhanced role in the institutional architecture, if matters with a territorial impact are concerned’.<sup>222</sup>

**The new Agreement between the CoR and EC already envisages closer collaboration between the two actors.<sup>223</sup> The implementation of the new Cooperation Agreement, in particular the development of action plans and the organisation of, and participation in, territorial impact assessment workshops, would contribute to implementing this suggested reform. In particular action plans could be agreed to as an Annex to the Cooperation Agreement.**

Moreover, closer collaboration between the CoR and the EC could be included in the Interinstitutional Agreement between the EP, the Council, and the EC. Regarding the latter, the following amendments could be made (suggestions in italics):

13. (...) In its own impact assessment process, the Commission will consult as widely as possible. *Regarding the assessment of territorial impacts, the Commission collaborates with the European Committee of the Regions to identify potential asymmetric impacts and assess them.*(...)

As for the previous suggestion, this amendment is less feasible than the change in the EC-CoR Cooperation Agreement or the implementation of the new Agreement. While there is room to argue that the CoR should be included, to some extent, in the Interinstitutional Agreement because of its role as the guardian of subsidiarity and the shared vision on Better Regulation, the legal basis of the Interinstitutional Agreement in the Treaty clearly states that the Agreement is for cooperation processes between the EP, the Council, and the EC. It is, therefore, up to these institutions to include the suggested amendments in a revised Agreement.

However, considering that the CoR is the guardian of subsidiarity, representing local and regional voices, and that the EC’s impact assessment must establish the necessity for EU action as well as assess potential impacts, including territorial ones, the proposed closer collaboration between the CoR and the EC based on their Cooperation Agreement is only natural.

Within the context of assessing territorial impacts, the bodies could also join efforts regarding rural proofing, working towards a mandatory screening of rural

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<sup>222</sup> CoFE report, proposal #40.3.

<sup>223</sup> See under *Territorial Impact Assessment (CoR) and Impact Assessments (EC)*.

impacts in addition to territorial impacts in the policy-making process.<sup>224</sup> A closer collaboration is already envisaged in the revised Cooperation Agreement between the CoR and the EC (see under *Rural Proofing at the European Committee of the Regions and the European Commission*) and, therefore, needs no Treaty amendment. The implementation of the Cooperation Agreement would contribute to combining rural proofing efforts and working towards a mandatory screening of rural impacts. Similarly to the suggested TIA reform, the development of action plans as envisaged by the Cooperation Agreement could visualise this combined effort and work.

A stronger collaboration between the EC and the CoR could envision the inclusion of the TIA as an integrated, mandatory component of the EC's impact assessment. This would contribute to aligning and maximising the assessment of territorial impacts of proposed EU initiatives. The revised Cooperation Agreement already includes the development of action plans and TIA workshops, which contribute to the implementation of this suggested reform. Amending the Interinstitutional Agreement to include such a strong collaboration in the policy cycle would further contribute to the implementation process of this reform. As for previous reforms, this amendment is less realistic and feasible than the closer collaboration based on the EC-CoR Cooperation Agreement. Based on this revised Agreement, the CoR and the EC could also work towards a mandatory screening of rural impacts in addition to territorial impacts. The development of action plans as envisaged by the Agreement could visualise this combined effort and work.

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<sup>224</sup> Gaugitsch and others (n 147).

## d) Collaboration on Territorial Dimensions of the European Parliament's and the Council's Impact Assessments<sup>225</sup>

As aforementioned, the Interinstitutional Agreement gives both the Council and the EP the possibility to carry out an impact assessment in relation to their substantial amendments to the EC's proposal, when it considers this 'to be appropriate and necessary for the legislative process'.<sup>226</sup>

Regarding the role of the CoR in the EP's and Council's impact assessments, **there is the potential for close collaboration between the CoR and the two institutions regarding the territorial impacts of the substantial amendments.** Because of the CoR's developed TIA methodology and its unique role in representing local and regional authorities, the CoR could support both the EP and Council in conducting impact assessments. Such a collaboration would ensure that amendments to proposals take into consideration the impact on regions and cities and consider the implementation stages at national levels. It would also follow up on the CoFE proposal as set out in the latter section.<sup>227</sup>

The revised Cooperation Agreement between the EP and the CoR can serve as a starting point for this suggested reform. In particular, the Agreement states that:

The Parliament and the CoR may, at the beginning of the Parliament's term and thereafter on an annual basis where appropriate, agree on a list of EU legislation, planned or in force, and EU spending programmes on which the Committee will carry out **ex-ante territorial impact assessment** (...) within its available resources. Such agreement on the lists may be made between the CCC and the CoR or alternatively between individual EP committees and CoR commissions (...)

In absence of any such agreements on the lists, the CoR can **on its own initiative** put forward a list of EU legislation and EU programmes on which it proposes to carry out ex-ante territorial impact assessments (...) It will forward this list to the CCC.

The Parliament and the CoR will endeavour to ensure CoR ex-ante (...) territorial assessment reports are provided **in time** for consideration in the EP's legislative processes.

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<sup>225</sup> This section provides answers to research question 5.

<sup>226</sup> See under *Territorial Impact Assessment (CoR) and the Working Party on Competitiveness and Growth (Council)* and under *European Parliament Commitments to Better Regulation*; Interinstitutional Agreement, para 15.

<sup>227</sup> CoFE report, proposal #40.3.

The results of ex-ante territorial impact assessments (...) will be **forwarded to the CCC and/or the relevant EP committee (...)**.<sup>228</sup>

As can be seen, the revised Cooperation Agreement entails an even wider application of territorial impact assessments conducted by the CoR, broadening their scope beyond substantial amendments. Thus, the implementation of the revised Cooperation Agreement allows the CoR to closely collaborate with the EP on territorial impacts throughout the policy-making cycle, which has also been recognised by the Director for Impact Assessment and Added Value of the EPRS during the 4<sup>th</sup> BRASS-G meeting held on 30 April 2024.<sup>229</sup> This reform is, therefore, realistic and feasible.

A similar system could be developed for impact assessments conducted with the Council, however, the CoR and the Council first need to agree on a cooperation mechanism.

There is potential for close collaboration between the CoR and the EP and the Council regarding TIAs of substantial amendments to proposals. In particular, because of the CoR's TIA methodology and its unique role in representing local and regional authorities, the CoR could support the two institutions in conducting impact assessments. The revised Cooperation Agreement between the EP and the CoR can serve as a starting point for this suggested reform, as it already includes a collaboration system for TIAs. The implementation of this Agreement is, therefore, important for the CoR to increase its role in the EU legislative cycle. The implementation of the Agreement is realistic and feasible for the CoR and should be a priority for its Better Regulation activities. A similar system could be developed in collaboration with the Council, however, the CoR and the Council first need to agree on a cooperation mechanism.

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<sup>228</sup> EP-CoR Cooperation Agreement, para 4.3.

<sup>229</sup> See Wolfgang Hiller's intervention in European Committee of the Regions, 'Meeting of the Better Regulation and Active Subsidiarity Steering Group', recording available at <https://cor.europa.eu/en/events/Pages/active-subsidiarity-Steering-Group.aspx>.



## e) Collaboration to Produce Data and Information Informing the Evidence-Based Policy-Making Process<sup>230</sup>

In addition to the strengthening of the TIA, the EC's impact assessment could be expanded and given an even higher priority in the legislative process.<sup>231</sup> This strengthened version of the EC's impact assessment could focus on producing data and information concerning regional and local impacts, informing the evidence-based policy-making process.<sup>232</sup> As stressed by the CoR, there is 'general need for data and statistical tools at local and regional level to support the ex-ante assessment and ex-post evaluation of the impact of EU policies/instruments'.<sup>233</sup> Sartor came to a similar conclusion, elaborating that a better and larger use of data for *ex-ante* regulatory assessments and *ex-post* evaluations should support the EU policy cycle, leading to Better Regulation.<sup>234</sup> The CoR can be an invaluable source of (access to) such data and information. This has also been recognised by the Task Force on Subsidiarity, Proportionality and "Doing Less More Efficiently" by recommending that the EC together with national parliaments and the CoR 'should raise the awareness of national, local and regional authorities of the opportunities they have to contribute to policymaking at an early stage' (see above).<sup>235</sup> Information provided by local and regional authorities regarding implementation and impacts, among others, is essential for informing evidence-based policy-making. Thus, increasing the awareness of existing consultation and feedback opportunities can lead to the production of more data and information. At the same time, by providing better visibility and feedback on how the EC uses this data and information, there exists greater encouragement for local and regional authorities to participate, leading to a higher response rate.

The collaboration to produce data and information informing the evidence-based policy-making process could be achieved by taking the revised Cooperation

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<sup>230</sup> This section provides answers to research questions 3, 4, and 5.

<sup>231</sup> Johannes Lindner and Sebastian Mack, 'Europe Must Improve the Quality of its Regulation' (20 December 2023) Hertie School Jacques Delors Centre Policy Position.

<sup>232</sup> See, in relation to the need for this data and collaboration between the CoR and the EC, Michael Wimmer's intervention during the 21<sup>st</sup> CIVEX Commission meeting (n 181).

<sup>233</sup> European Committee of the Regions, Opinion on 'Do No Harm to Cohesion – A Cross-cutting Principle Contributing Towards Cohesion as an Overall Objective and Value of the EU' (n 137).

<sup>234</sup> Giovanni Sartor, 'The Way Forward for Better Regulation in the EU – Better Focus, Synergies, Data and Technology' (August 2022) European Parliament in-depth analysis requested by the JURI Committee. Not as data based but also arguing that '[s]cience-based and strategic foresight promises a more forward-looking approach to Better Regulation, making new and existing legislation fit for the future', see Felice Simonelli and Nadine Jacob, 'Can We Better the European Union Better Regulation Agenda?' (2021) 12 European Journal of Risk Regulation 849. See also Giulia Listorti, Egle Basyte-Ferrari, Svetlana Acs, and Paul Smits, 'Towards an Evidence-Based and Integrated Policy Cycle in the EU: A Review of the Debate on the Better Regulation Agenda' (2020) 58 Journal of Common Market Studies 1158.

<sup>235</sup> Report of the Task Force on Subsidiarity, Proportionality and "Doing Less More Efficiently" (n 5).

Agreement between the CoR and the EC as a starting point, by amending the Interinstitutional Agreement between EP, Council, and EC, and by combining data and information gathering efforts for the TIA and the EC's impact assessment. The revised Cooperation Agreement states that:

17. The Commission and the Committee shall work together to involve local and regional authorities in the Commission's public consultations. The Commission will facilitate the participation of local and regional authorities and regional parliaments with legislative powers by appropriate design of its questionnaires and other tools it uses for its consultations. It will also do so by providing sufficiently detailed feedback and visibility to the views of the Committee, local and regional authorities and regional parliaments in its impact assessments accompanying Commission proposals.

To encourage a higher response rate from local and regional authorities, the Committee will raise awareness among local and regional authorities about exploiting the existing consultation and feedback opportunities to contribute to policymaking and implementation.<sup>236</sup>

The implementation of the new Cooperation Agreement would, therefore, contribute to realising this suggested reform, and is a feasible option for the CoR.

**An amendment to the Interinstitutional Agreement could add a reference to local and regional authorities** (suggestions in italics):

19. Public and stakeholder consultation is integral to well-informed decision-making and to improving the quality of law-making. Without prejudice to the specific arrangements applying to the Commission's proposals under Article 155(2) of the Treaty on the Functioning of the European Union, the Commission will, before adopting a proposal, conduct public consultations in an open and transparent way, ensuring that the modalities and time-limits of those public consultations allow for the widest possible participation. The Commission will in particular encourage the direct participation of SMEs and other end-users in the consultations, *as well as of local and regional authorities (directly or through the European Committee of the Regions)*. This will include public internet-based consultations. The results of public and stakeholder consultations shall be communicated without delay to both co-legislators and made public.

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<sup>236</sup> EC-CoR Cooperation Agreement.

The direct participation of local and regional authorities could be supported by the CoR, as set out in **Part I** of the report.<sup>237</sup> However, as substantiated in previous sections, achieving this amendment is less feasible because of the Agreement’s existence between the EC, the EP, and the Council.

The CoR could collaborate with the EC on producing hard data informing evidence-based policy-making, benefitting the greater recognition of territorial dimensions in the EU policy cycle. The implementation of the revised EC-CoR Cooperation Agreement would contribute to realising such a collaboration, and is, therefore, a feasible option for the CoR. In addition, the Interinstitutional Agreement could be amended with a reference to local and regional authorities, however, such an amendment is less feasible for the CoR given it is not a party to the Agreement.

#### **f) Permanent Seat on the Regulatory Scrutiny Board<sup>238</sup>**

**One suggestion made by experts is giving the CoR a permanent seat on the RSB, given that it is overseeing *inter alia* the EC’s impact assessment.**<sup>239</sup> Currently, the RSB is composed of a Commission Director-General, four high-level Commission officials, and four experts recruited from outside the EC based on an open, merit-based selection procedure.<sup>240</sup> The RSB is an independent body and, therefore, ‘acts independently from the policy-making departments and from any European institution, body, office or agency’.<sup>241</sup> As a consequence, this means that a permanent seat on the RSB for the CoR would not represent regional and local voices *per se*, but would be neutral regarding its representation – the seat must uphold the RSB’s independence and has no other policy responsibilities besides working full-time on the Board. In addition, it depends on the negotiations

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<sup>237</sup> See under

<sup>238</sup> This section provides answers to research question 4 and 5.

<sup>239</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>240</sup> European Commission, ‘Regulatory Scrutiny Board’, available at [https://commission.europa.eu/law/law-making-process/regulatory-scrutiny-board\\_en#composition](https://commission.europa.eu/law/law-making-process/regulatory-scrutiny-board_en#composition); Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>241</sup> Ibid.

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between the EC and the CoR whether such a permanent seat could be realised by guaranteeing that one of the four experts is from the CoR, or adding a fifth expert to the recruitment process, always coming from the CoR. In either case, this reform could be achieved by amending the Cooperation Agreement between the CoR and the EC, as well as the Interinstitutional Agreement.<sup>242</sup> The revised Cooperation Agreement signed in March 2024 does not include such an amendment, and, therefore, missed the opportunity to establish a permanent seat on the RSB. The Interinstitutional Agreement could still be amended, in particular the current reference to the RSB (suggestions in italics):

13. (...) The Commission's Regulatory Scrutiny Board, *which is comprised of 9 members, one of them a permanent member coming from the European Committee of the Regions*, will carry out an objective quality check of its impact assessments. The final results of the impact assessments will be made available to the European Parliament, the Council and national Parliaments, and will be made public along with the opinion(s) of the Regulatory Scrutiny Board at the time of adoption of the Commission initiative.

It is debatable, however, whether this reform is beneficial for increasing the role of the CoR in the EU policy-making process, and whether it is realistic and feasible. The negotiation phase with the EC to amend the Cooperation Agreement has already passed and a change in the Interinstitutional Agreement is quite unlikely. In any case, the outcome for both would be the same: the permanent seat on the RSB is independent and would not represent the views from regions and cities – the independence of the RSB was underlined by the Commission during the 22<sup>nd</sup> CIVEX meeting held on 10 April 2024.<sup>243</sup> Thus, while this reform is discussed in academic writing by Altun and Schulz-Ruhtenberg, for the purpose of strengthening the CoR's role especially against the background of Better Regulation and the greater consideration of regional and local impacts, **this report does not recommend pursuing this option.**

A permanent seat for the CoR on the RSB is suggested by experts given that the RSB is overseeing the EC's impact assessment. However, it is questionable whether this reform is beneficial for increasing the role of the CoR in the EU policy-making process, given that a permanent seat on the RSB is independent and would not represent the views from regions and cities. Although this reform is discussed in academic writing, for the purpose of strengthening the CoR's role in the Better Regulation Agenda, it is not a recommended reform in this report.

## **g) Strengthening Collaboration in the Context of Strategic Foresight<sup>244</sup>**

While there has not yet been as great an interaction between the strategic foresight tools from the CoR and the EC compared to, for example, the RegHub participation in F4F, the two institutions have agreed to conclude action plans, as well as to continue cooperation within the European Strategy and Policy Analysis System (ESPAS) in the new Cooperation Agreement.<sup>245</sup> ESPAS is set up by the EC to build close foresight cooperation and alliances with eight other EU institutions, including the CoR. Its flagship publication is the Global Trends Report (GTR), the fourth edition of which was published in April 2024. The CoR actively contributed to identifying key global trends and the preparation of the GTR. Moving forward, **the implementation of the revised Cooperation Agreements with the EC and the EP gives the CoR the possibility to continue to actively engage in ESPAS, as well as in concluding action plans with the EC to further develop strategic foresight and represent regional and local voices within this process.** By doing so, the CoR can ensure that input from local and regional authorities can continue to be fed into the EU governance process at the pre-policy development stage.

**Moreover, the CoR could consider developing a strategic foresight toolbox which supports scenario-building regarding local and regional critical concerns.**<sup>246</sup> Such a toolbox could include the collection of policy-relevant data broken down to the national, regional, and local levels, to ensure that the scenario development is properly considering these voices. By developing this toolbox, the CoR could further strengthen the already existing understanding between the CoR and the EC regarding strategic foresight. This suggestion is realistic and feasible with sufficient budget, as discussed under 3. *Human and Financial Resources.*

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<sup>244</sup> This section provides answers to research questions 5 and 6.

<sup>245</sup> EC-CoR Cooperation Agreement.

<sup>246</sup> This toolbox could be similar to the EC's JRC Megatrends Hub, available at <https://visitors-centre.jrc.ec.europa.eu/en/media/publications/megatrends-hub>.

The collaboration between the CoR and the EC on strategic foresight is envisaged in the revised Cooperation Agreement by concluding action plans and continuing to cooperate within ESPAS, which aims to build close foresight cooperation and alliances with other EU bodies. The implementation of the revised Cooperation Agreement is, therefore, a possibility for the CoR to actively engage in ESPAS as well as to conclude action plans representing regional and local voices. Additionally, the CoR could consider developing a strategic foresight toolbox, which supports scenario-building regarding local and regional critical concerns. With sufficient budget, the development of such a toolbox is realistic and feasible for the CoR.

## **h) Involvement of the European Committee of the Regions in Parliamentary Committee Meetings<sup>247</sup>**

Turning to reforms regarding the cooperation between the CoR and the EP within the existing Treaty framework, **there exists the possibility to formalise the CoR's participation in parliamentary committee meetings, to begin with the Committee on Budgets (BUDG) or the Committee on Regional Development (REGI).**<sup>248</sup> These committees have a direct relevance for the CoR, as the BUDG discusses, amends, and prepares the adoption of the annual and multiannual EU budgets, and the REGI is responsible for the EU's regional development and cohesion policy. Thus, by granting representatives of the CoR the right to participate in these committees on a more systematic basis, the CoR would be able to engage in an exchange of views in areas of its responsibilities (for example starting with cohesion policy).

Regarding other committees which might address topics of relevance to the CoR, for example, the Committee on Constitutional Affairs (AFCO), an agreed right to participate in the debate and provide institutional input could be granted to CoR rapporteurs. The inclusion of rapporteurs of the CoR 'to participate in considering draft reports in the parliamentary Committee and Committee debriefing meetings in interinstitutional negotiations, where applicable' has already been suggested by the EP in a resolution in September 2023.<sup>249</sup> The EP has further suggested to 'strengthen the informal exchanges both at Committee level and at political group level between the relevant actors of the three institutions', and called for the EP,

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<sup>247</sup> This section provides answers to research questions 3 and 5.

<sup>248</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>249</sup> European Parliament, Resolution of 14 September 2023 on Parliamentarism, European Citizenship and Democracy (2023/2017(INI)).

the Council, and the EC to ‘continue [to] improve cooperation modalities with the CoR (...), including at the pre-legislative stage, in order to ensure that their opinions and assessments can be taken into account throughout the legislative process’.<sup>250</sup> This reform would, therefore, not only lead to the CoR’s greater involvement in parliamentary committee meetings, but also to a greater possibility of the CoR being heard.

This involvement of the CoR in parliamentary meetings aligns with the suggestions made by the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, that the EP and the Council as co-legislators ‘should invite representatives of local and regional authorities to present their views to Committee meetings and working party meetings (...) when this is relevant and appropriate for the proposal in question’.<sup>251</sup> Moreover, the Task Force recommended that the co-legislators ‘should host hearings and expert meetings with the participation of local and regional authorities when this is relevant and appropriate for a specific legislative procedure’.<sup>252</sup>

The revised Cooperation Agreement between the EP and the CoR includes provisions setting out the involvement of the CoR in parliamentary committee meetings. For example, the Agreement states:

Both Parties shall endeavour to continue existing good practice of reciprocally inviting their rapporteurs to each other’s respective meetings and hearings, notably at the phase of consideration of draft reports in the EP and of draft opinions in the CoR. The EP may also invite CoR rapporteur to participate in considering draft reports in the EP committee debriefing meetings on interinstitutional negotiations, where applicable. At EP committee meetings, a seat will continue to be reserved for one CoR representative.

A CoR representative may be invited to meetings of relevant EP committee meetings in connection with the consideration of the **annual EP report on better regulation** to present the CoR’s position and contributions to the implementation of the better regulation agenda. Reciprocally, an EP representative may be invited to present the views of the EP in this area at relevant CoR commission meetings and at the CoR biennial Subsidiarity Conference.<sup>253</sup>

Thus, the implementation of the Cooperation Agreement leads to the implementation of this suggested reform. It is, therefore, realistic and feasible.

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<sup>250</sup> Ibid.

<sup>251</sup> Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>252</sup> Ibid.

<sup>253</sup> EP-CoR Cooperation Agreement, paras 4.2.d and 4.3.c.

Granting CoR representatives the right to participate in the EP's BUDG and REGI on a systematic basis would allow the CoR to engage in an exchange of views in areas of its responsibilities, for example, cohesion policy. Other Committees, which might address topics of relevance to the CoR, could grant the CoR a right to attend the Committees' meetings. This suggested reform aligns with suggestions made by the EP, and the revised Cooperation Agreement between the EP and the CoR already includes a basis for such a closer involvement of the CoR. The implementation of the Agreement would, therefore, allow the CoR to pursue a stronger collaboration with the EP.

### **i) Contribution to the European Parliament's Implementation Reports<sup>254</sup>**

The aforementioned Directorate for Impact Assessment and Foresight of the EP provides, as part of the Scrutiny Toolbox, 'support for Committees in undertaking detailed 'Implementation Reports', notably by providing 'European Implementation Assessments' on how specific legislation or policy is currently operating on the ground'.<sup>255</sup> For example, the Committee on Constitutional Affairs published a report on the implementation of the Regulations on the European citizens' initiative.<sup>256</sup> This report includes not only a summary of facts and findings, but also a motion for an EP resolution and information on adoption in the responsible committee.<sup>257</sup> It takes stock of the *status quo* by acknowledging improvements while also highlighting areas which require more action to enable a full implementation of the Regulations.<sup>258</sup>

Representing the voices of regional and local authorities, which implement 70% of EU legislation, and therefore have first-hand experience of implementation processes and progresses, **the involvement of the CoR in the activities carried out in the framework of the EP's Scrutiny Toolbox could be beneficial to inform implementation reports.** For example, the CoR's existing SMN could be further developed to also be able to provide first-hand information regarding the implementation status of EU law at the national, regional, and local levels. A current recommendation from BRASS-G envisions building a stronger synergy

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<sup>254</sup> This section provides answers to research question 5.

<sup>255</sup> EPRS, 'Scrutiny Toolbox' (n 54).

<sup>256</sup> European Parliament, Report on the Implementation of the Regulations on the European Citizens' Initiative (2022/2206(INI)).

<sup>257</sup> Ibid.

<sup>258</sup> Ibid.



between the SMN and RegHub, including pooling the respective experts groups. The EP's Directorate or respective committee could involve this new enhanced network by sending out timely questionnaires, whose answers can inform the implementation report. This inclusion would not only ensure the collection of hard data more generally, but also the collection of specific data including the voices from regions and cities and their potential difficulties in the implementation process.

Such an inclusion of the CoR in the process of implementation reports is envisaged in the revised Cooperation Agreement between the EP and the CoR. In addition to the *ex-ante* territorial impact assessment as set out under *Collaboration on Territorial Dimensions of the European Parliament's and the Council's Impact Assessments*, the Agreement envisages that the CoR also conducts *ex-post* territorial implementation assessments.<sup>259</sup> A relevant CoR representative will then be invited to the EP committee meeting or meetings in order to present their findings, should 'the EP committee organise a hearing or exchange of views in the framework of preparing an implementation report'. Lastly, references to the CoR's *ex-post* territorial implementation assessment shall be made in the implementation reports. Thus, the implementation of the Cooperation Agreement allows the CoR to contribute to the implementation reports.

As the CoR represents the voices of regional and local authorities, which implement 70% of EU legislation, the CoR could provide valuable contributions to the implementation assessments conducted by the EP, which take stock of the *status quo* while also highlighting areas which require more action to enable a full implementation of the regulations. The SMN could be further developed by building stronger synergies with RegHub including pooling the experts groups to build a network which the EP's Directorate or respective committee could involve. The revised Cooperation Agreement between the EP and the CoR foresees that the CoR will carry out *ex-post* territorial implementation assessments, which will inform the implementation reports. A CoR representative will also have the possibility to present their findings in a hearing or exchange of views in the framework of preparing an implementation report. Thus, the implementation of the Cooperation Agreement leads to the implementation of this suggested reform. It is, therefore, a realistic and feasible option for the CoR to increase its role in the EU policy cycle.

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<sup>259</sup> EP-CoR Cooperation Agreement, para 4.3.

## j) Systematic and Ongoing Participation of the European Committee of the Regions in the Council’s Working Party on Competitiveness and Growth (Better Regulation) Meetings<sup>260</sup>

As set out above, the CoR has participated in one of the Council’s Working Party on Competitiveness and Growth (Better Regulation) meetings, in which it presented on the TIA and exchanged views with the Better Regulation subgroup.<sup>261</sup> **To collaborate more closely with the Council on Better Regulation, especially to highlight the views of regions and cities, the CoR should pursue its systematic participation.** For example, a CoR representative could be invited to attend the meetings of the Better Regulation subgroup to follow the developments at the Council, and if there are consultation results and activities the CoR could share with the Council, the CoR representative could be asked to present them. This would enable a regular exchange between the Council and the CoR. To implement this reform, however, a cooperation with the Council needs to be first established. A starting point was made during the 4<sup>th</sup> BRASS-G meeting held on 30 April 2024, which was attended by the Chair of the Working Party on Competitiveness and Growth, and who invited the CoR to join the next Working Party meeting.<sup>262</sup>

The CoR could pursue its systematic participation in the meetings of the Council’s Working Party on Competitiveness and Growth (Better Regulation) to collaborate more closely with the Council on Better Regulation. To do so, a cooperation with the Council needs to be first established, which the CoR could take up with an open dialogue.

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<sup>260</sup> This section provides answers to research question 5.

<sup>261</sup> See under *Territorial Impact Assessment (CoR) and the Working Party on Competitiveness and Growth (Council)*.

<sup>262</sup> See the intervention from Eric Van den Abeele, Permanent Representation of Belgium to the EU, Chair of the Working Party on Competitiveness and Growth, Public Procurement and Better Regulation, in European Committee of the Regions, ‘Meeting of the Better Regulation and Active Subsidiarity Steering Group’ (n 229).

## 2. Potential New Better Regulation Tools

In addition to existing CoR Better Regulation tools, there exists the possibility to include new tools in the planned CoR multiannual Better Regulation programme, or to contribute to new tools from other EU institutions. These potential tools were identified based on own and already published research, as well as the conducted CoR stakeholder consultation, and include a) youth checks, b) citizens' panels, c) subsidiarity boards, and d) regional, local, and rural test.<sup>263</sup>

### a) Youth Checks

At the EU level, a number of initiatives have been put in place to ensure that the voices of the youth are heard and their participation in public affairs affecting them is effective. These include the work of the EESC, proposals of youth organisations, such as the European Youth Forum, and the European Year of Youth.<sup>264</sup> As part of the legacy of the European Year of Youth 2022, the EC has announced to apply a youth check, which aims at ensuring that EU policies consider the impacts on young people during the policy design phase.<sup>265</sup> As the exact steps for implementation of this new test have yet to be defined, **there exists the possibility for the CoR to call for a consideration of youth impacts in the context of strategic foresight, as well as during the EC's impact assessment.** Given that youth in rural areas might be impacted to a different extent than youth in big cities, the CoR could work towards ensuring that the youth check must consider such asymmetric impacts, in addition to the general, not relating to youth, territorial impacts of proposed policies.

The CoR already has the [Young Elected Politicians Programme](#), which is a network of politicians no older than 35 that hold a mandate at regional or local level in the EU and candidate countries for EU accession. This programme could be further developed to scan for youth impacts in the context of strategic foresight as well as during the impact assessment. Alternatively, the CoR could, together with the Young Elected Politicians Programme, develop a methodology for the identification of asymmetric youth impacts, which the EC then could include in its youth check. Based on the CoR's and the EC's closer cooperation regarding strategic foresight and territorial and rural impacts as agreed in the new Cooperation Agreement, this possibility for the CoR to contribute to the new EC tool on youth checks can serve as a first implementation step of the Agreement.

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<sup>263</sup> This section provides answers to research questions 1, 2, and 5.

<sup>264</sup> See, for example, for the European Youth Forum: <https://www.youthforum.org/>.

<sup>265</sup> Anna Blackwell, 'European Commission Commits to a "Youth Check"', available at <https://www.youthforum.org/news/european-commission-commits-to-a-youth-check>.

With secured funding as discussed under 3. *Human and Financial Resources*, this would be a feasible reform for the CoR.

In the context of the EC's aim to apply a youth check during the policy design phase, there exists the possibility for the CoR to call for a consideration of youth impacts in the context of strategic foresight, as well as during the EC's impact assessment. For example, the CoR could further develop the Young Elected Politicians Programme to scan for youth impacts. Alternatively, the CoR and the Young Elected Politicians Programme could develop a methodology for the identification of asymmetric youth impacts, which the EC could then include in its youth check. The implementation of the revised Cooperation Agreement between the CoR and the EC can serve as a first step towards the CoR's contribution to youth checks.

## b) Citizens' Panels

As part of CoFE, the EC organised four European citizens' panels, which included 150 randomly selected citizens from each of the 27 EU Member States, who formulated together with experts concrete recommendations for initiatives.<sup>266</sup> In the wake of CoFE, three citizens' panels have taken place from mid-December 2022 to the end of April 2023, and two other citizens' panels are being organised in the first semester of 2024 to make recommendations for one of the key initiatives of the 2024 Commission work programme.<sup>267</sup> Citizens' panels have already discussed topics such as energy efficiency, food waste, virtual worlds, and learning mobility, among others.<sup>268</sup>

The citizens' participation in European democracy could further be increased by 'institutionalising new forms of citizen participation at the level of the European Union through citizens' dialogues with randomly selected citizens on specific topics'.<sup>269</sup> **The CoR could collaborate with the EC to set up citizens' panels as a 'permanent and place-based mechanism for dialogue with citizens, supported by local and regional authorities that would ensure a two-way communication between the citizens and EU institutions, thus leading to a**

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<sup>266</sup> Hywel Jones and others, 'Study on the Citizens' Panels as part of the Conference on the Future of Europe' (November 2022).

<sup>267</sup> European Commission, 'Citizens' Engagement Platform', available at [https://citizens.ec.europa.eu/panels/european-citizens-panels\\_en](https://citizens.ec.europa.eu/panels/european-citizens-panels_en).

<sup>268</sup> *ibid.*

<sup>269</sup> European Committee of the Regions Resolution the Outcome and Follow Up of the Conference on the Future of Europe (n 179).

**better understanding of the local and regional impact of EU policies across the EU’.**<sup>270</sup> Conducting citizens’ panels on a permanent basis would provide an additional avenue for the CoR to channel the voices of citizens in their participation in the EU decision-making cycle, also contributing to the CoR’s policy priority of bringing Europe closer to its people, as citizens would have the possibility to contribute to several EU participatory democratic processes. This is also in alignment with Article 10(3) TEU, which states that ‘[e]very citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen’.<sup>271</sup> Given that EU Member States have different competencies when it comes to decision-making at the local government and regional level, not every citizen in the EU is able to be actively engaged in decision-making processes in their country through participatory mechanisms.<sup>272</sup> Thus, organising citizens’ panels at the EU level would bridge this gap, while also ensuring that citizens’ voices are heard. As the CoR has already stated that it ‘commits to continuing to organise local dialogues with citizens and structured initiatives of participatory democracy that could feed into the permanent mechanism’,<sup>273</sup> the basis for such a collaboration between the CoR and the EC already exists.

The CoR’s ‘New Chapter for EU Democracy’ campaign could contribute to this envisaged collaboration.<sup>274</sup> As part of this campaign, the CoR, for example, ensures that citizen dialogue outputs are fed into the right channels for policy-making. The CoR also works with external organisations to support the development of new methods of citizen engagement and participation. An initial project launched with the Bertelsmann Foundation which ran from April 2021 to Spring 2022 supported locally initiated dialogues that contributed with their recommendations to CoFE.<sup>275</sup> A follow-up project launched in March 2023 supported regional and local authorities to implement civic participation projects.<sup>276</sup> It was, therefore, focused on ‘capacity building to enable local and regional authorities, in particular Young Elected Politicians (YEP) and interested parties to engage with citizens through participatory democracy in their constituencies’.<sup>277</sup> The experiences which the CoR gained with these projects and the already established network with regional and local authorities could feed into the establishment of citizens’ panels as a permanent participatory mechanism at

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<sup>270</sup> *ibid.*

<sup>271</sup> TEU, art 10(3).

<sup>272</sup> See the intervention from Boyle (Ireland) during the 21st CIVEX Commission meeting (n 181).

<sup>273</sup> European Committee of the Regions Resolution the Outcome and Follow Up of the Conference on the Future of Europe (n 179).

<sup>274</sup> European Committee of the Regions, ‘A new chapter for EU democracy’, available at <https://cor.europa.eu/en/engage/Pages/new-chapter-4eudemocracy.aspx?origin=spotlight>.

<sup>275</sup> European Committee of the Regions, ‘A New Chapter for Participatory Democracy’, available at <https://cor.europa.eu/en/engage/Pages/a-new-chapter-for-participatory-democracy.aspx>.

<sup>276</sup> *Ibid.*

<sup>277</sup> *Ibid.*

the EU level. Additionally, once such a permanent mechanism exists, citizens could be involved in Better Regulation processes, such as providing qualitative data for the policy-making cycle.

With secured funding as discussed under 3. *Human and Financial*

**Resources**, the collaboration between the CoR and the EC to permanently establish citizens' panels as well as the capitalisation on existing participatory democracy activities at the CoR would be feasible.

The CoR could consider collaborating with the EC on making citizens' panels a permanent mechanism in the EU. As the CoR has a wealth of experience through campaigns and projects focusing on participatory democracy, it can greatly contribute to this process. Secured funding would make this suggested new tool feasible.

### c) **Subsidiarity Boards**

Another potential tool, which was suggested in the stakeholder consultation process as part of this research, is the **establishment of subsidiarity boards in the EC, the Council, and the EP in close cooperation with the CoR as the guardian of subsidiarity**.<sup>278</sup> By establishing these subsidiarity boards, a subsidiarity network would be built among the institutions, 'which could integrate the positions of both the national parliaments according to Protocol No 1 as well as the Committee of Regions being the "guardians of subsidiarity"'.<sup>279</sup> Such subsidiarity boards could draw from already established board mechanisms such as the RSB regarding their composition or mission statements, for example. They could be a further step 'to bridge the gap between the ideal and the reality' when it comes to subsidiarity as one of the most political principles in the EU.<sup>280</sup>

The establishment of these boards would be possible by integrating them in a re-negotiated Interinstitutional Agreement. The amendments of the Agreement depend on the structure of these boards, which needs to be agreed by the respective institutions. As for other reforms containing amendments to the Interinstitutional Agreement, the implementation of this reform might be less feasible for the CoR. In addition, human and financial resources for the

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<sup>278</sup> Written submission to 'Stakeholder Consultation: Opinion on Active Subsidiarity: A Fundamental Principle in the EU Better Regulation Agenda' (n 11) from Christian Calliess.

<sup>279</sup> Ibid.

<sup>280</sup> Robert Gawłowski, Saulius Nefas and Krzysztof Makowski, 'Subsidiarity Principle – Its Realization in Self-Government in Lithuania and Poland' (9 March 2020) 10 *Administrative Science* 1.

subsidiarity boards would need to be secured in the three institutions, as well as in the CoR to provide for close cooperation.

An alternative path would be the autonomous establishment of the subsidiarity boards, outside the Interinstitutional Agreement. While their inclusion in the Agreement could boost their effectiveness, an autonomous establishment has the advantage that the CoR could take a greater role in the negotiation process than in the case of amendments to the Interinstitutional Agreement. In either case, the establishment of subsidiarity boards aligns with the suggestion made by the CoR in the draft ‘Opinion on active subsidiarity: a fundamental principle in the EU better regulation agenda’, which suggests to bring together ‘the subsidiarity and better regulation focal points/bodies already established in the institutions in a single interinstitutional ‘subsidiarity platform’, which would serve as an advisory board of experts to further develop the subsidiarity grid, support subsidiarity and proportionality assessments and identify the system’s strengths and weaknesses’.<sup>281</sup>

A potential new tool could be subsidiarity boards in the EC, the Council, and the EP in close collaboration with the CoR as the guardian of subsidiarity. By establishing such boards, a subsidiarity network would be built among the institutions. The legal basis for the establishment of these boards could either be included in the Interinstitutional Agreement or the boards could be established autonomously, allowing the CoR to take a greater role in the negotiation process. A potential hurdle for the establishment of these boards is the required human and financial resources in the EC, the EP, the Council, and the CoR.

#### **d) Regional, Local, and Rural Test**

Another **potential new tool could be the establishment of a regional, local, and rural test, mirroring the approach of the EC’s impact assessment test on SMEs**, known as the SME test, which helps to assess the impacts on SMEs with the goal of minimising the burden imposed by proposed initiatives.<sup>282</sup> This test requires EC impact assessments to first consider whether SMEs are disproportionately affected compared to large companies, and if so, which alternative mechanisms in the approach could help SMEs to comply.<sup>283</sup> It includes four steps that are applied in a modular way: the identification of affected

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<sup>281</sup> Please note that the CoR Opinion was adopted by CIVEX on 10 April 2024 and is scheduled to be adopted in plenary for 19-20 June 2024.

<sup>282</sup> Better Regulation Toolbox, tool #23.

<sup>283</sup> Ibid.

businesses (step 1), the consultation of SME stakeholders (step 2), the assessment of the impact on SMEs (step 3), and the minimisation of negative impacts on SMEs (step 4).<sup>284</sup> In the impact assessment report, the EC must include a reference to the result of the SME test, even if such impacts have not been identified as relevant.<sup>285</sup>

The ‘regional, local, and rural’ test could be applied in a similar way, examining the identification of affected regional, local, and rural authorities (step 1), the consultation of regional, local, and rural authorities (step 2), the assessment of the impact on regional, local, and rural authorities (step 3), and the minimisation of negative impacts on regional, local, and rural authorities (step 4). Depending on available resources, this test could either be applied separately or as part of the TIA and rural proofing (also taking into consideration potential integration with the EC’s impact assessment). The results of this test could be included in the CoR opinions on the EU legislative proposals. Alternatively, the CoR could negotiate with the EC to include such a test in the EC’s impact assessment procedure, including close collaboration with the CoR in its implementation.

A regional, local, and rural test mirroring the approach of the EC’s impact assessment test on SMEs could examine the identification of affected regional, local, and rural authorities (step 1), the consultation of regional, local, and rural authorities (step 2), the assessment of the impact on regional, local, and rural authorities (step 3), and the minimisation of negative impacts on regional, local, and rural authorities (step 4). Such a test could be applied separately or as part of the TIA and rural proofing. The introduction of such a tool is realistic and feasible if human and financial resources are secured.

Overall, the operation of the proposed new tools requires more human and financial resources for the CoR, as discussed in the following section. In addition, it needs to be taken into consideration that there exists a danger that the development of new tools leads to the opposite of Better Regulation. As the goal of Better Regulation is to, for example, make laws simpler and better, the creation of new tools could lead to overlaps with existing tools. It is for this reason that closer collaboration between the CoR and the EP, the EC, and the Council based on existing tools is recommended before new tools are developed, under careful consideration. This recommendation aligns with the CoR stakeholder consultation and with findings which emerged in the debate held during the 21<sup>st</sup> CIVEX Committee meeting on 6 February 2024, which highlighted that a focus should be

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<sup>284</sup> Ibid.

<sup>285</sup> Ibid.



put on already existing tools, especially in communicating them to regional and local authorities to spread the awareness of existing mechanisms. While it is important to represent regional and local voices, they need to be represented evenly, which means that a greater engagement from all regional and local areas is important when it comes to Better Regulation tools such as consultations.

To avoid the danger of developing new tools leading to the opposite of Better Regulation, for example, by overlapping with existing tools, a fast implemented short term action for the CoR is the communication of existing Better Regulation tools to regional and local areas by the means of visual representations and information on how each authority can contribute at the different stages of the EU law-making process, especially with a focus on the *ex-ante* stage including *ex-post* evaluations where revision is likely. Ensuring engagement at the right time is critical, especially for making the dialogue fluent and sustainable between local and regional authorities, the CoR, the EC, the EP, and the Council.

### 3. Human and Financial Resources

The aforementioned reforms, both based on existing and potential new tools, can only be operationalised with secured human and financial resources. As the previous sections shows, there is great potential for the CoR to expand its role in the EU policy-making process through better application of existing Better Regulation tools and potentially establishing new tools. In particular, the sections set out how a closer cooperation with the EC, the EP, and the Council could be envisaged to make the Better Regulation dialogue more fluid and sustainable. At the same time, the sections underline the importance of closing gaps regarding the inclusion of local and regional authorities given their considerable role in implementing EU legislation.

**To realise this potential, it is important for the CoR to receive long-term support to secure sufficient human and financial resources.** As the EP, the Council, and the EC determine the size of the annual budget and how it is allocated,<sup>286</sup> it is recommended that the CoR negotiate long-term support for Better Regulation with these institutions, which benefits not only the CoR, but the EU in general given that Better Regulation is at the heart of the EU policy-making cycle. As proposed in the draft ‘Opinion on active subsidiarity: a fundamental principle in the EU better regulation agenda’, further funding could be explored via a ‘pilot project or preparatory action that the European Parliament could introduce during the annual EU budgetary procedure’. Alternatively, a dedicated programme could be envisaged, as proposed by BRASS-G.<sup>287</sup> According to this proposal, a “Better Regulation Funding Programme” (BRFP), part of the next EU long-term budget (multiannual financial frameworks (MFF)), could provide financial means for a sustainable involvement of local and regional authorities, by foreseeing elements such as ‘[d]edicated support for [local and regional authorities] to actively engage in better regulation activities’, or ‘[s]upport to the CoR for the systematic assessment of territorial impacts in EU legislation’. However, an inclusion in the next MFF (the current MFF covers the years 2021-2027) requires strong support and ownership particularly by the EC, and, therefore, presents political challenges.

To realise the great potential for the CoR to expand its role in the EU policy-making process through better application of Better Regulation tools and potentially establishing new tools, human and financial resources need to be secured. Possible options for a sustainable funding mechanism are a pilot project, or preparatory action to be proposed by the EP during the annual budgetary procedure, or the establishment of a Better Regulation Funding Programme as part of the next MFF. As the EP, the Council, and the EC determine the size of the annual budget, and the European Council and the Council play a central role in the process of establishing the MFF, all proposed suggestions require strong political support.

## II. Reforms with a View to Potential Treaty Amendments

The following suggestions for Treaty amendments can be considered as long-term possibilities for the CoR to strengthen its role in the EU law-making process, which include 1) changing the legal status of CoR opinions to binding, 2) the extension of the deadline for national parliaments' reasoned opinions, 3) the introduction of a 'Green Card Mechanism', 4) the right to approach the EP with a request for action, and 5) the inclusion of the CoR in the Interinstitutional Agreement. The ways in which EU Treaties can be modified are enshrined in Article 48(1)-(5) of the TEU (ordinary revision procedure), in Article 48(6) and (7) of the TEU (simplified revision procedures), and in Articles 49 and 50 of the TEU (accession to and withdrawal from the EU).<sup>288</sup>

### 1. Changing the Legal Status of the European Committee of the Regions' Opinions to Binding<sup>289</sup>

To address the above-identified second gap regarding the SMN's input (see *The Subsidiarity Monitoring Network's Interaction with EU Legislative Processes*) when it comes to the CoR's opinions, **a potential Treaty amendment could include a change in the nature of CoR opinions to binding in areas of mandatory (such as transport, energy and climate change, economic and social cohesion, health, education, and culture) and voluntary consultation (any other matters concerning local and regional governments), meaning that the EP, the Council, and the EC must take them into consideration at all times in the legislative process.** Such a change goes even further than the CoR's suggestions for the follow-up from CoFE, and would ensure that local and regional authorities' views incorporated in the CoR's opinions are *always* part of the legislative process, and not only at the discretion of the EP, the Council, and the EC. The legal basis for the binding nature of the CoR's opinion could be included in Article 307 of the TFEU,<sup>290</sup> which currently sets out that the EP, the Council, and the EC are required to consult the CoR where provided in the Treaties, or when they consider it appropriate, and that the CoR opinions must be forwarded to all three institutions.

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<sup>288</sup> TEU, art 48-50. See also European Parliament, 'How the EU Treaties are Modified' (Briefing, September 2022).

<sup>289</sup> This section provides answers to research question 5.

<sup>290</sup> TFEU.

While such a reform has been discussed in academic writing,<sup>291</sup> it has not been mentioned as an option by the EU institutions. Negotiations with the EP, the EC, and the Council, would, therefore, be needed to explore the feasibility of this Treaty change.

To address currently existing gaps, a potential Treaty amendment could include the changing of CoR opinions to be binding, meaning that when the EP, the Council, or the EC consult the CoR based on either mandatory or voluntary consultation, the three institutions must consider the opinions in the legislative process. Such a change could be included in Article 307 of the TFEU. However, while this reform has been discussed in academic writing, it has not been explored by the EU institutions. Negotiations with the EP, the EC, and the Council are, therefore, necessary to explore the feasibility of this reform.

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<sup>291</sup> Altun and Schulz-Ruhtenberg (n 176).

## 2. Extension of Deadline for National Parliaments' Reasoned Opinions<sup>292</sup>

As the CoR represents the local and regional voices at the EU level, **a potential treaty amendment of extending the deadline for national parliaments to submit their reasoned opinion** is in the interest of the CoR and of the strengthened role of local and regional authorities in the EU law-making process. Although the extension of the deadline would relate to national parliaments, the extended period simultaneously enables a consultation process of local and regional voices by national parliaments, and, therefore, their contribution of evidence to the reasoned opinion. Already the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” made the recommendation to extend the deadline for national parliaments, arguing in its final report that ‘Protocol No. 2 TEU/TFEU should be revised when the opportunity arises to allow national Parliaments 12 weeks to prepare and submit their reasoned opinions and to express fully their views about subsidiarity, proportionality and the legal basis (conferral) of the proposed legislation’ (see above).<sup>293</sup>

The EP suggested the same amendment in a report on its proposals for amendment of the Treaties, following its 2022 resolution calling for a Convention for the revision of the Treaties.<sup>294</sup> Regarding the topic of subsidiarity, the EP proposed to ‘extend the deadline for “yellow card” procedures to 12 weeks’, which describes the process where the EC must review its proposal and decide whether to maintain, change, or withdraw it, after national parliaments have sent a reasoned opinion to the EC because they consider that the draft legislative acts do not comply with subsidiarity.<sup>295</sup> According to the EP Committee on Constitutional Affairs, the extension of the deadline for reasoned opinions ‘would allow national parliaments to exert proper *ex ante* and *ex post* scrutiny of their governments’ actions in the Council, as parliaments would have the opportunity to more effectively prepare the mandate for all files of major significance and for those relevant to the national budget’.<sup>296</sup>

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<sup>292</sup> This section provides answers to research questions 2, 3, and 5.

<sup>293</sup> Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” (n 5).

<sup>294</sup> Report on the Proposals of the European Parliament for the Amendment of the Treaties 2022/2051(INL); European Parliament, Resolution of 9 June 2022 on the Call for a Convention for the Revision of the Treaties (2022/2705(RSP)). Please note that in its resolution, the EP proposes several amendments to the treaties, including providing the EP with a full co-decision right on the EU budget, among others. While the EP does not propose a treaty change concerning the role and rights of the CoR in this resolution, it includes that CoR representatives ‘should be invited as observers to the Convention’; European Parliament, Resolution of 22 November 2023 on Proposals of the European Parliament for the Amendment of Treaties (2022/2051(INL)).

<sup>295</sup> European Commission, ‘Subsidiarity Control Mechanism’, available at [https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/subsidiarity-control-mechanism\\_en](https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/subsidiarity-control-mechanism_en).

<sup>296</sup> European Parliament Committee on Constitutional Affairs, Working Document on the Principles of Subsidiarity and Proportionality (7 July 2021) PE629.901v01-00.

The extension of the deadline can be included in Protocol No 1 to the Treaties (on the Role of National Parliaments in the European Union) in a revision process. In particular, Article 4 currently states that ‘[a]n eight-week period shall elapse between a draft legislative act being made available to national Parliaments in the official languages of the Union and the date when it is placed on a provisional agenda for the Council for its adoption or for adoption of a position under a legislative procedure’.<sup>297</sup> The eight-week period could be replaced by a twelve-week period. As this Treaty reform is supported by the EP and was also recommended by the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, it seems to be feasible for the CoR to negotiate such a change if a Treaty amendment procedure takes place. In addition, such a Treaty change would follow up with the CoFE proposal that ‘[t]he EU should review the mechanism allowing national Parliaments to assess whether new legislative proposals at the European level do not intrude on their legal competenc[i]es’.<sup>298</sup>

The extension of the deadline from eight to twelve weeks for national parliaments’ reasoned opinions is another potential Treaty amendment. As the CoR represents the local and regional voices at the EU level, this amendment is in the interests of the CoR and of the strengthened role of local and regional authorities in the EU law-making process, as local and regional voices could provide evidence to national parliaments during the extended period of reasoned opinions. Such an amendment can be included in Protocol No 1 to the Treaties. As the EP, as well as the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” have already recommended this deadline extension, there exists political support for such an amendment.

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<sup>297</sup> Protocol No 1 to the Treaties, art 4.

<sup>298</sup> CoFE report, proposal #40.2.

### 3. Introduction of a “Green Card Mechanism”<sup>299</sup>

The EP further proposed to introduce ‘a “green card mechanism” for legislative proposals by national or regional parliaments with legislative powers (...) in order to make Union law more responsive to local needs’.<sup>300</sup> By introducing such a mechanism, national and regional parliaments would be allowed to take the initiative to propose EU legislation. It could politically bind the EC to consider a reasoned opinion or a resolution calling for EU legislation to be proposed if it has reached the threshold of one-third of national or regional parliaments.<sup>301</sup>

The “green card mechanism” could be introduced in Protocols No 1 and 2 (on the Application of the Principles of Subsidiarity and Proportionality) to the Treaties. Alternatively, as the EP is suggesting to include Protocol No 2 in the TFEU,<sup>302</sup> the legal basis for the “green card mechanism” could be directly included in the TFEU if this amendment is adopted, in case of Treaty changes.

When deciding about the “green card mechanism”, suggestions could be made to ensure that the views of local and regional authorities are considered. For example, it might be beneficial to include a mandatory consultation stage of local and regional authorities before national and regional parliaments submit their reasoned opinion or resolution calling for new EU legislation proposals, ensuring that local and regional authorities’ views are part of the pre-policy development stage.

In general, there exists potential to connect the existing Better Regulation tools from the CoR with the proposed “green card mechanism”, as well as with the proposed right of initiative of the EP, which would enable the parliament to ‘introduce, amend, or repeal Union law, and to become a co-legislator for the adoption of the multiannual financial framework’.<sup>303</sup> By setting up a close collaboration between the CoR and regional parliaments and the EP when a new initiative is to be proposed, the CoR’s *ex-ante* Better Regulation tools can contribute to better involve local and regional authorities and their distinct role in implementing EU legislation from the early stages. A similar process can be set up for the case when the EC proposes a new initiative and efforts on territorial

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<sup>299</sup> This section provides answers to research questions 2 and 5.

<sup>300</sup> Report on the Proposals of the European Parliament for the Amendment of the Treaties (n 294).

<sup>301</sup> European Parliament Committee on Constitutional Affairs, Working Document on the Principles of Subsidiarity and Proportionality (n 296).

<sup>302</sup> European Parliament, Resolution of 22 November 2023 on Proposals of the European Parliament for the Amendment of Treaties (n 294) amendment 215.

<sup>303</sup> Report on the Proposals of the European Parliament for the Amendment of the Treaties (n 294).

impacts and rural proofing are combined. However, as mentioned under *Potential New Better Regulation Tools*, such a process is only possible if human and financial resources are secured. This is particularly important given that the suggested reforms are not intended to make the legislative process slower, or more complicated, but rather more comprehensive.

Overall, the introduction of a “green card mechanism” would follow up with the CoFE proposal that parliaments should be ‘granted the possibility to suggest a legislative initiative to the European level. Such mechanism should also be enlarged to all regional parliaments within the EU that have legislative powers’.<sup>304</sup>

The introduction of the “green card mechanism” would allow national and regional parliaments to take the initiative to propose EU legislation. Such a mechanism could be included in Protocols No 1 and 2 to the Treaties, or alternatively directly in the TFEU. Moreover, the “green card mechanism” could be connected with existing Better Regulation tools as well as with the proposed right of initiative of the EP.

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<sup>304</sup> CoFE report, proposal #40.2.



## 4. Right to Approach European Parliament with a Request for Action<sup>305</sup>

Another possible Treaty amendment incorporates giving the CoR a right to proactively approach the EP with a request for action to make the CoR ‘a sparring partner of the EP to jointly set the agenda’.<sup>306</sup> This new right would give the CoR the possibility to secure subsidiarity early in the legislative process by adding a paragraph to Article 225 of the TFEU. In its current form, Article 225 of the TFEU states that ‘[t]he European Parliament may, acting by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons’. If amended appropriately, the CoR could be given the possibility of advising the EP on taking legislative initiatives in areas of CoR mandatory consultation, which would mean that the CoR could draft consultative outlook opinions.<sup>307</sup> Such opinions could target the EP in advance or in view of making a request to the EC. As commissions within the CoR are responsible for opinions, the CoR’s rules of procedure could include such consultative initiative reports as a responsibility for commissions.<sup>308</sup> The revised Cooperation Agreement between the CoR and the EP envisages general legislative cooperation.<sup>309</sup>

If the EP is not acting upon the CoR’s recommendations, the EP should inform the CoR with reasons.<sup>310</sup> According to Altun and Schulz-Ruhtenberg, this decision from the EP should be justiciable before the Court of Justice of the European Union (CJEU), meaning that the CoR may initiate complaints before the Court if it considers the EP’s response to be insufficient.<sup>311</sup> Currently, the CoR has the right to lodge a complaint before the CJEU for an *ex-post* review of legislation, but the new right would expand on this and also give the CoR an *ex-ante* review possibility.

As for the reform on changing the nature of the CoR’s opinions, such a right to approach the EP with a request for action has thus far only been discussed in academic writing.<sup>312</sup> Negotiations primarily with the EP would, therefore, be needed to explore the feasibility of this Treaty change.

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<sup>305</sup> This section provides answers to research questions 2 and 5.

<sup>306</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>307</sup> Ibid.

<sup>308</sup> Rules of Procedure European Committee of the Regions (2021) OJ L 472/1.

<sup>309</sup> EP-CoR Cooperation Agreement, para 4.2.c.

<sup>310</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>311</sup> Ibid.

<sup>312</sup> Ibid.

The right to approach the EP with a request for action is another possible Treaty amendment for the CoR. By adding a paragraph to Article 225 of the TFEU, the CoR would be able to target the EP in advance or in view of making a request to the EC in the form of consultative initiative reports. By granting the CoR such a right, the CoR would have the possibility to secure subsidiarity early in the legislative process. However, this potential Treaty amendment has thus far only been discussed in academic writing. Negotiations primarily with the EP would, therefore, be needed to explore the amendment's feasibility.

## 5. Inclusion of the European Committee of the Regions in the Interinstitutional Agreement on Better Law-Making<sup>313</sup>

As touched upon throughout the report, amendments to the Interinstitutional Agreement on Better Law-Making would support the implementation of the suggested reforms, leading to a strengthening of the CoR's role in the EU policy-making cycle against the background of Better Regulation. However, as explained above,<sup>314</sup> these amendments are more difficult to achieve for the CoR given that the EC, the EP, and the Council are the parties of the Interinstitutional Agreement. **As the legal basis for Interinstitutional Agreements is enshrined in Article 295 of the TFEU, a possible Treaty reform could include an amendment of this Article, specifying that the CoR can, to some extent, be included in the Interinstitutional Agreement on Better Law-Making.** This would not only circumvent the above-mentioned issues, but also lead more generally to a guaranteed dialogue between the EC, the EP, the Council, and the CoR on Better Regulation, the respective tools, and potential new collaborative mechanisms.

Whether such a Treaty reform is feasible is, however, questionable. As the purpose of Interinstitutional Agreements is the facilitation of the cooperation processes between the EP, the Council, and the EC, arguments could be made that the CoR has the respective Cooperation Agreements with the EC and EP, and that there is no need to include the CoR in the Interinstitutional Agreement on Better Law-Making. While the legal nature of Interinstitutional Agreements and Cooperation Agreements differ, the latter establish a cooperation mechanism between the CoR and the EC, and the CoR and the EP, which might render unnecessary further agreements with these two bodies.

In addition, the CoR is not an EU institution like the EP, the EC, and the Council, but an advisory body, which could also be used as a counterargument to such a Treaty reform. For these reasons, negotiations with the EP, the EC, and the Council, would, therefore, be needed to explore the feasibility of this Treaty change.

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<sup>313</sup> This section provides answers to research questions 4 and 5.

<sup>314</sup> See for example under *Task Force on Subsidiarity, Proportionality and "Doing Less More Efficiently" – Revival and Implementation of Outstanding Recommendations*.

If Treaty changes are taking place, the CoR could negotiate an amendment of Article 295 of the TFEU, which includes the legal basis for the Interinstitutional Agreement on Better Law-Making. By doing so, the CoR could be included in the Agreement, which would lead to a guaranteed dialogue between the EC, the EP, the Council, and the CoR on Better Regulation, tools, and potential new collaborative mechanisms. However, the feasibility of such a reform is questionable for two main reasons: first, Interinstitutional Agreements have the purpose of facilitating the cooperation processes between the EP, the Council, and the EC, and second, the CoR is an advisory body and not an EU institution like the EP, the EC, and the Council.

Overall, the suggested Treaty reforms can be considered as long-term options for the CoR, given that potential Treaty amendments are more limited than reforms within the current Treaty framework. First, it must be kept in mind that only those options that take into account the institutional interests from the EC and the EP, as well as from other EU institutions and eventually the Member States, will be successful.<sup>315</sup> Indeed, '[u]ltimately, an expansion of the CoR's competencies is only realistic if it does not initiate a new power rivalry by elevating the CoR disproportionately relative to the EP. Additionally, (...) a reform must not render the EU legislative procedure even more complex and cumbersome'.<sup>316</sup> Second, Treaty revisions can take time, and there has yet to be a decision whether a revision of the Treaties will take place.

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<sup>315</sup> Altun and Schulz-Ruhtenberg (n 176).

<sup>316</sup> Ibid.

# Conclusions and Recommendations

The findings of this report underscore the importance of the role of the CoR in EU policy-making and as a key player in ensuring that the ambitious and vital principles, approaches, methods, and tools enshrined in the Better Regulation Agenda are effectively put into practice. **Part I** and **Part II** of this report have looked in detail at the methodological and political tools and processes available to the CoR to enhance its role in policy-making in line with the Better Regulation Agenda, and provided practical suggestions for maximising their effectiveness, and for the development of new approaches. In doing so, the following sections summarise the main findings of the answers to the research questions, that are developed in relevant sections of the report:

- 1. Which legal arguments can be put forward for a system of improved EU law-making which effectively includes the territorial dimension, in particular of regional parliaments with legislative powers, and which involves the CoR as an advisory body in full respect of its prerogatives under the Treaties as the guardian of subsidiarity?**

Subsidiarity and proportionality as legal principles permeating EU law and fundamental concepts throughout the legislative and implementation cycle argue in favour of a stronger territorial dimension in the EU law making process (see throughout the report, but see especially the section *Impact Assessment*). In particular, EU laws must respect the principle of subsidiarity, but given the magnitude of challenges facing Europe today, from the climate crisis to migration pressures to Euro-scepticism and the alienation of rural areas, it is all too tempting to seek convenient solutions that may fail to take into account the diversity and unique perspective of local and regional entities. Given its position as the EU voice of local and regional authorities and the guardian of subsidiarity, the CoR has a critical role to play in ensuring that the appropriate attention is given to these elements in policy-making as well as employing tools to bring data, information, and innovative ideas to the process.

- 2. What should be the legal follow-up of CoFE recommendations on EU decision-making, active subsidiarity and multi-level governance (No. 39 and No. 40)?**

Legal follow-ups to CoFE recommendations No. 39 and 40 include the continued participation of RegHub in the F4F (see *Negotiations for Continued Participation of the Network of Regional Hubs in the Fit for Future Platform*), the strengthening of territorial impact assessment and rural proofing (see *Strengthening of the Territorial Impact Assessment and*

*Rural Proofing*), the extension of the deadline for national parliaments to submit their reasoned opinions (see

*Extension of Deadline for National Parliaments' Reasoned Opinions*), and the introduction of a “green card mechanism” (see *Introduction of a “Green Card Mechanism”*).

**3. How have the recommendations of the report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” been put into practice and how can the existing Better Regulation tools such as the Commission’s Fit for Future Platform increase their uptake of CoR contributions in that context?**

Based on the nine recommendations from the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, the EC has already implemented changes to the Better Regulation Agenda, for example, it included territorial impacts and a subsidiarity grid in its Better Regulation Toolbox (see *The Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”*). The Commission can increase the uptake of CoR contributions in the context of the F4F by continuing to collaborate with RegHub when reviewing the F4F. This also aligns with the recommendations from the Task Force (see *Negotiations for Continued Participation of the Network of Regional Hubs in the Fit for Future Platform*).

**4. What should change in the Interinstitutional Agreement on Better Law-Making between the EP, the Council, and the EC to include the dynamics of multilevel governance and the local and regional dimension of Better Regulation?**

A number of amendments could be made to the Interinstitutional Agreement on Better Law-Making to implement the reforms suggested in this report. For example, the Agreement could incorporate the application of a subsidiarity grid (see *Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” – Revival and Implementation of Outstanding Recommendations*), a closer collaboration mechanism between the EC and the CoR on territorial impact assessment (see *Strengthening of the Territorial Impact Assessment and Rural Proofing*), a direct reference to local and regional authorities in the context of encouragement for contributing to consultations (see *Collaboration to Produce Data and Information Informing the Evidence-Based Policy-Making Process*), and a permanent seat for the CoR on the RSB (see *Permanent Seat on the Regulatory Scrutiny Board*). An overview of all suggested changes to the Interinstitutional Agreement can be found in the *Annex*. If implemented, these amendments would better include the

dynamics of multilevel governance and the local and regional dimension of Better Regulation in the Agreement. Proposed changes and consideration of their feasibility, especially with a view to the fact that the CoR is not a party to the Agreement, are outlined in the *Annex*.

- 5. How should a process by which the outcomes of the various Better Regulation assessments carried out by the CoR could feed regularly into the preparation of EU legislation be structured, and how can it be linked up with the concept of the right of initiative of the EP and the concept of ‘green card’ for regional parliaments with legislative powers and CoR?**

The CoR could feed regularly into the preparation of EU legislation with the suggested reforms in **Part II** of this report, as their implementation would lead to a strong collaboration with the EC, the EP, and the Council throughout the whole policy cycle – from the design of policies to their implementation. This greater involvement of the CoR could also be linked up with the right of initiative of the EP and the “green card mechanism” for regional parliaments with legislative powers. For example, the EP as well as national and regional parliaments could closely collaborate with the CoR to integrate territorial impact assessment results and rural methodology in the proposed initiative (see *Introduction of a “Green Card Mechanism”* Introduction of a “Green Card Mechanism).

- 6. In the relatively new and so far less structured areas of Better Regulation, i.e., the inclusion of strategic foresight and its methodologies in the preparation of EU regulation, and regarding the new concept of rural proofing, what are the specific challenges/opportunities to bring a local/regional perspective to EU activity and how could the CoR develop its role in this respect?**

Regarding strategic foresight, the existence of policy-relevant data broken down to subnational levels, as well as a lack of capacity to engage with strategic foresight processes are some of the challenges faced in bringing a local and regional perspective (see *Strategic Foresight at the European Committee of the Regions and the European Commission*, in particular the SWOT analysis). At the same time, the anticipation of trends, including for local and regional areas, is crucial for strategic policy-making, and, therefore, there exist opportunities to make strategic foresight a main Better Regulation tool. For example, the CoR’s and EC’s commitment expressed in the Cooperation Agreement to conclude action plans, as well as the



CoR's commitment to contributing to ESPAS increase the CoR's role in strategic foresight activities (see *Strengthening Collaboration in the Context of Strategic Foresight*). In addition, the CoR could consider developing a strategic foresight toolbox (see *ibid*).

In conclusion of this report, the following five over-arching recommendations are presented to support the CoR in taking this challenge forward:

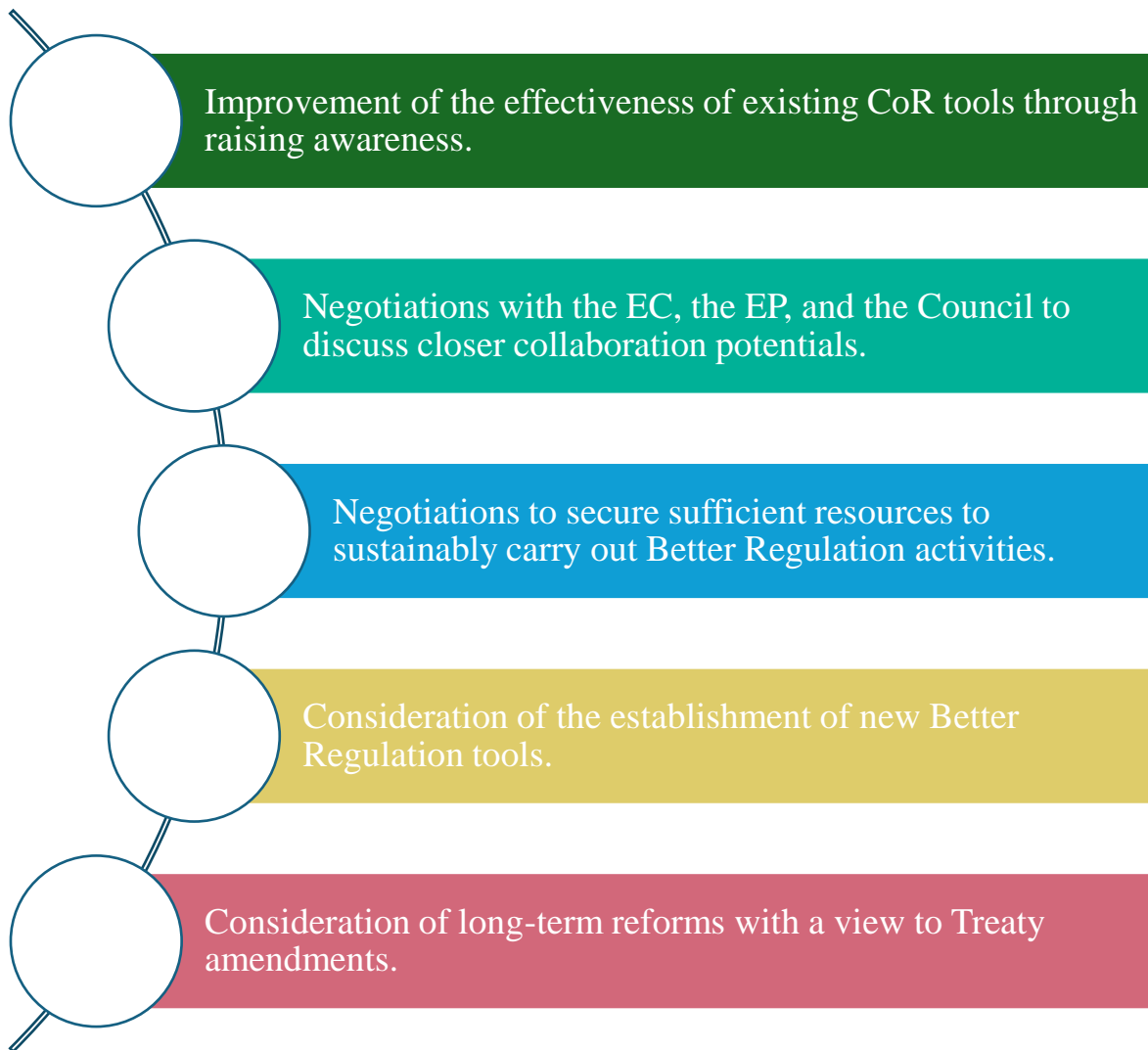


Figure 12: Overview of recommendations

- 1. Improve the effectiveness of existing CoR tools, through raising awareness amongst regions and cities, and EU institutions:** It is clear from the undertaken analysis that there are various opportunities for enhanced engagement of EU institutions, regions, and cities via the existing tools within the existing Treaty framework. This refers not only to the CoR Better Regulation tools, but also to tools such as public consultations conducted by the EC. Thus, to raise the awareness of existing tools, their

application, and the contribution opportunities for regions and cities, it is recommended to share information sheets, for example, digitally in the form of an e-flyer, at the EU level, as well as at the national, regional, and local levels. Part I of the report, which elaborates on existing EU instruments, can serve as an information basis for this awareness campaign. This recommendation also aligns with the consideration that there exists the danger that the development of new tools leads to the opposite of Better Regulation. As the goal of Better Regulation is to make laws simpler and better, among others, the creation of new tools could lead to overlaps with existing tools. Raising awareness of existing tools amongst regions and cities, and EU institutions, is, therefore, a promising avenue for the CoR to improve the effectiveness of current tools.

- 2. Seek negotiations with the EP, the EC, and the Council to discuss closer collaboration potentials to further improve the effectiveness of existing CoR tools and to leverage the CoR's role as the guardian of subsidiarity:** In a second step, based on the outcomes of this report, the CoR should consider mapping situations where its tools and views are not adequately considered and where issues that could have been identified had such tools been considered later emerge as concerns in the implementation of the specific legislation. With this evidence base in place, it could develop practical guidance on how the tools can be better employed as well as present arguments to key institutions to improve their status. This may require further consideration of the CoR's role in the context of the Cooperation Agreements (some of which already foresee a significant role for the CoR). The revised Cooperation Agreements with the EC and the EP provide a renewed impetus for engagement as they develop fresh opportunities for meaningful engagement. Their implementation gives the CoR the possibility to increase its role in the EU policy-making process by collaborating closer on Better Regulation tools with the EC and the EP. Collaboration negotiations with the Council should be strengthened, and as these negotiations evolve, building understanding of the CoR's possible contribution across the various power centres within the interlocutor institutions will go some way to facilitating a more active role. Regarding the Interinstitutional Agreement on Better Law-Making, there is room to pursue a role for the CoR in (some of the) negotiations regarding Better Regulation, keeping in mind that such an Agreement as set out in Article 295 of the TFEU has the purpose of increasing efficiency and clarifying procedures to prevent or limit conflicts among the EC, the EP, and the Council. The Interinstitutional Agreement contains not only provisions relating to Better Regulation, but also regarding subsidiarity and proportionality, providing an opening for a possible observer or similar role

for the CoR allowing it to perform its ‘guardian of subsidiarity role’ across the legislative cycle.

Based on the research conducted in **Part II** of the report, the existing CoR tools could be further enhanced through collaboration with the EC, the EP, and Council in the following ways:

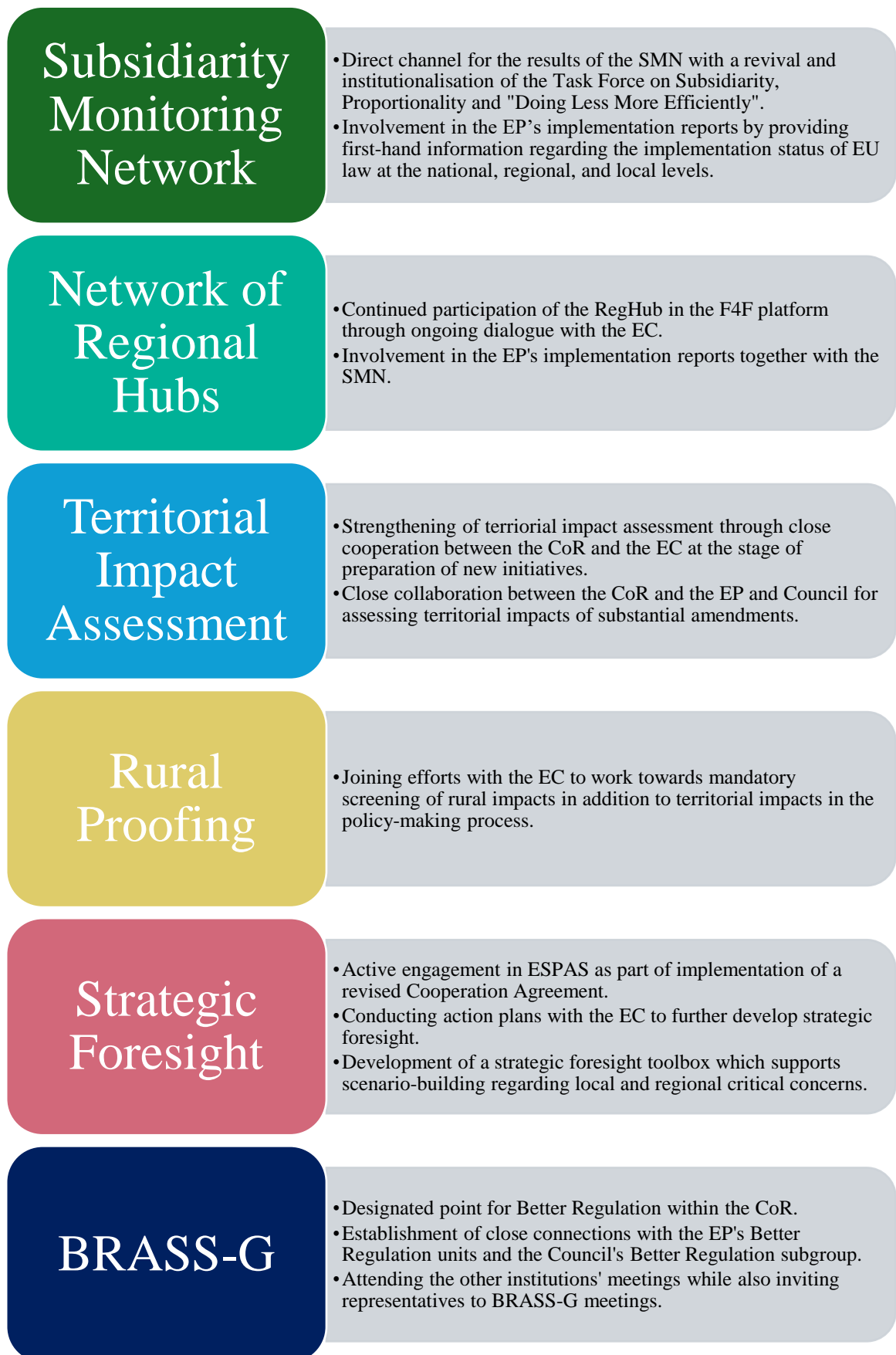


Figure 13: Overview of tools enhancement through closer collaboration

3. **Seek negotiations regarding budget, to ensure that the CoR has sufficient resources to sustainably carry out an enhanced role in EU law-making:** The CoR will need to carefully assess the feasibility and sustainability of wider engagement as set out in recommendations one and two, and ensure that agreement on engagement (in the form of Cooperation Agreements or otherwise) is accompanied by agreement on the resources (budget) that may be required to the CoR as an institution as well as considering the feasibility of additional burdens being placed upon regional and local authorities. This is critically important given the risk of further expanding the gap between larger cities and regions and small and medium sized cities and towns that have limited resources (and who may already feel the distance from EU law-making more acutely). Such feasibility assessments will also ensure that the enhanced engagement can be sustained over time. This can be undertaken through frank consultation with CoR members and regional authorities and through an effective forecasting methodology bearing in mind that members and local and regional authorities are likely to be bound by significant resource limitations but may be more inclined to contribute if they foresee a more influential role being played by the CoR.
  
4. **Consider the establishment of new tools:** If budget allows, the CoR can consider establishing new tools such as:

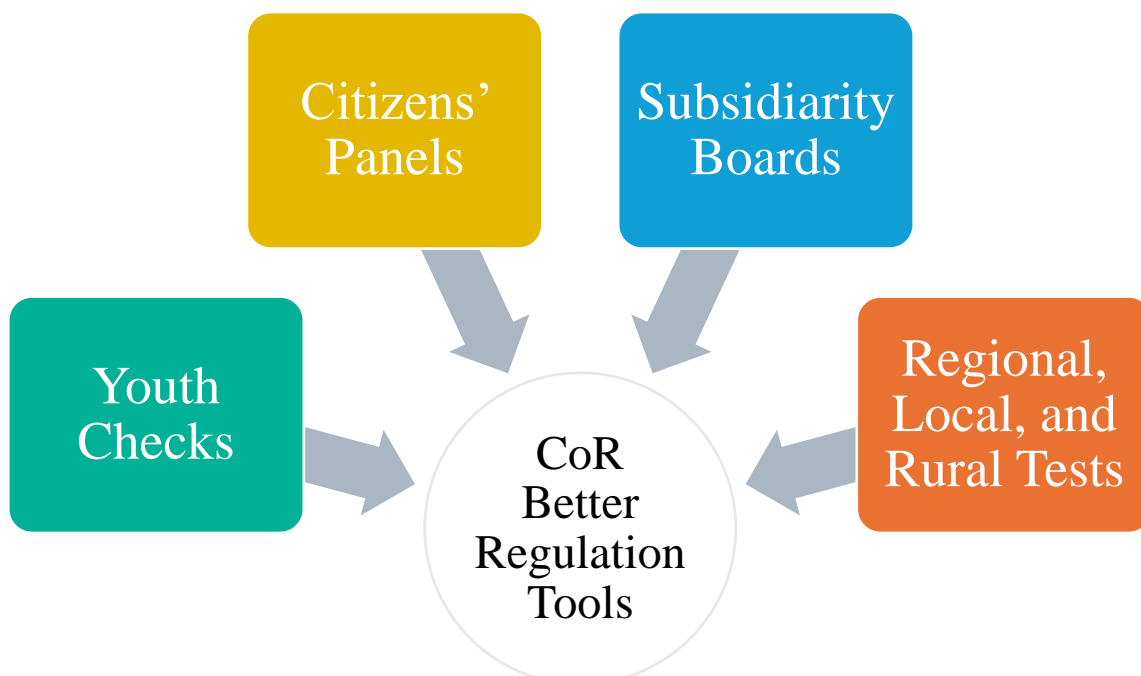


Figure 14: Overview of potential new tools

It should be taken into consideration, however, that Better Regulation aims to make laws simpler and better, and the creation of new tools should not lead to overlap with existing tools. It is for this reason that closer

collaboration between the CoR and the EP, the EC, and the Council based on existing tools is recommended before new tools, under careful consideration, are developed.

5. **Consider long-term reforms with a view to Treaty amendments:** As a final recommendation and with a view to potential Treaty amendments, the CoR can consider the following reforms leading to an increased role in the EU policy-making process:

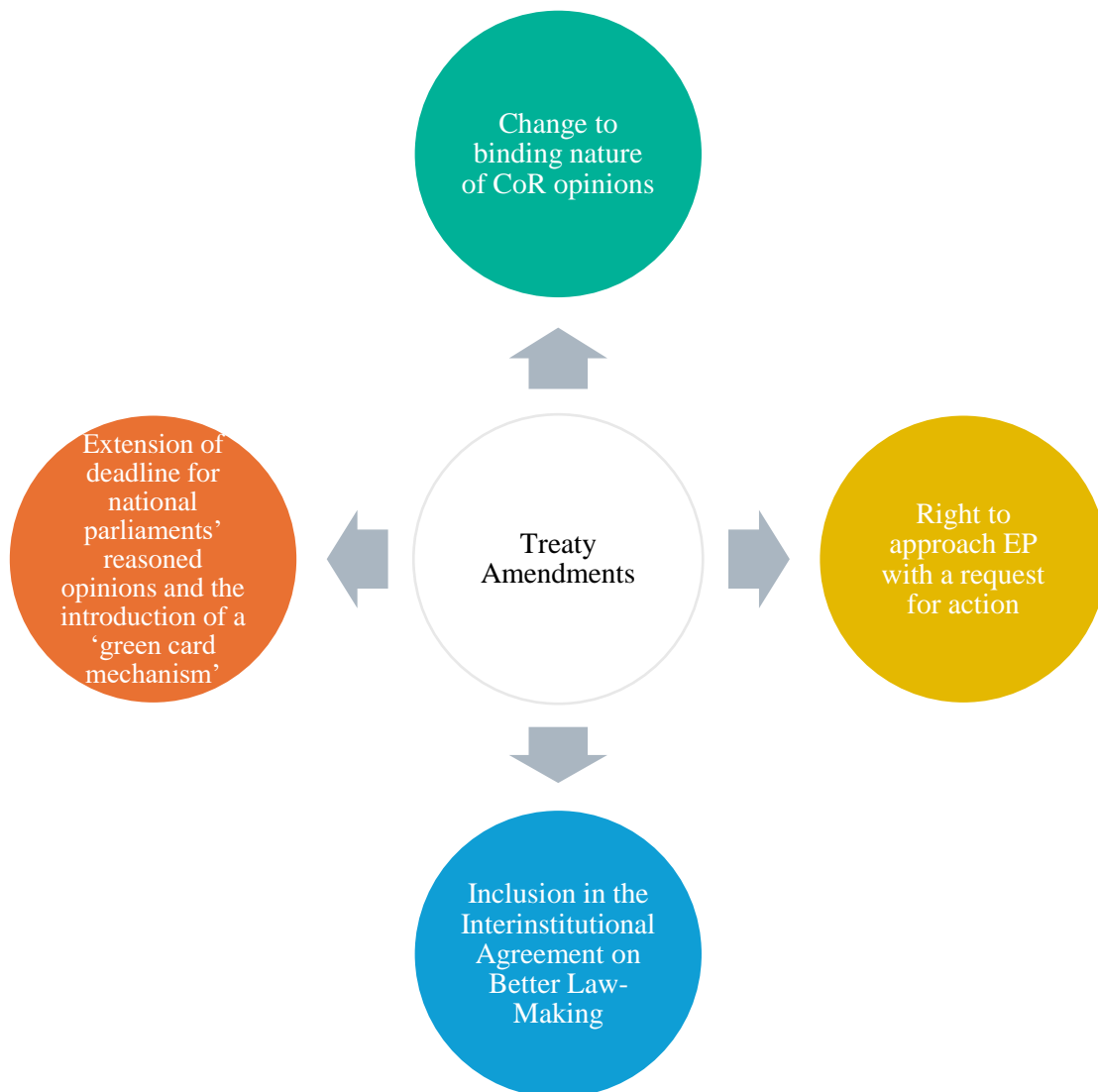


Figure 15: Overview of reforms in case of Treaty amendments

In light of feasibility of all suggested reforms in this report, these long-term reforms cannot be recommended as a priority for the CoR, but rather as a potential route in case a Treaty amendment procedure is envisaged.

Overall, the recommendations enable existing tools to be applied in a more systematic way, in collaboration with the EC, the EP, and the Council. In addition,

they highlight important points which need to be taken into consideration when debating wider engagement of the CoR and potential new Better Regulation tools. If implemented, a stronger interaction between the CoR Better Regulation instruments and processes and those of the EU institutions (as set out in **Part I** of the report) could be visualised as follows:

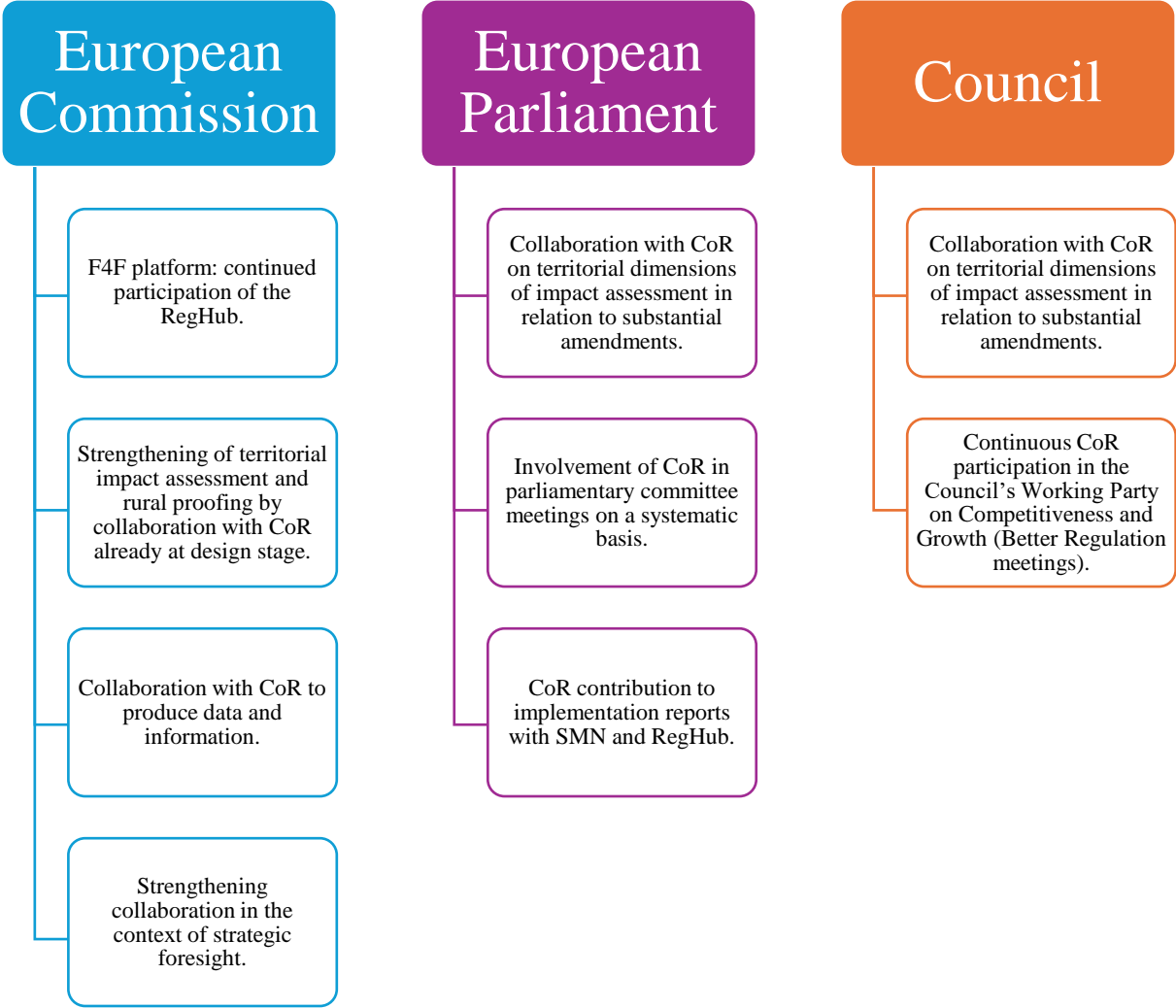


Figure 16: Overview of intertwinement of tools

# Annex

## I. Suggested Changes to the Interinstitutional Agreement

As set out throughout the report, the CoR is not part of the Interinstitutional Agreement on Better Law-Making. For this reason, and against the background of Article 295 of the TFEU which provides the legal basis for Interinstitutional Agreements between the EC, the EP, and the Council, there exist difficulties in advocating for the following amendments. However, including the CoR to some extent in the Agreement would lead to a guaranteed dialogue between the EC, the EP, the Council, and the CoR on Better Regulation, the respective tools, and potential new collaborative mechanisms (see under *Inclusion of the European Committee of the Regions in the Interinstitutional Agreement on Better Law-Making*). At the same time, the suggested changes would better represent the dynamics of multilevel governance and the local and regional dimension of better regulation (see various sections throughout *Existing Better Regulation Tools*).

The suggested amendments to the Interinstitutional Agreement suggested in this report are as follows (changes in italics):

13. (...) In its own impact assessment process, the Commission will consult as widely as possible. *Regarding the assessment of territorial impacts, the Commission collaborates with the European Committee of the Regions to identify potential asymmetric impacts and assess them.* The Commission's Regulatory Scrutiny Board, *which is comprised of 9 members, one of them a permanent member coming from the European Committee of the Regions,* will carry out an objective quality check of its impact assessments. The final results of the impact assessments will be made available to the European Parliament, the Council and national Parliaments, and will be made public along with the opinion(s) of the Regulatory Scrutiny Board at the time of adoption of the Commission initiative.

19. Public and stakeholder consultation is integral to well-informed decision-making and to improving the quality of law-making. Without prejudice to the specific arrangements applying to the Commission's proposals under Article 155(2) of the Treaty on the Functioning of the European Union, the Commission will, before adopting a proposal, conduct public consultations in an open and transparent way, ensuring that the modalities and time-limits of those public consultations allow for the widest possible participation. The Commission will in particular encourage the direct participation of SMEs and other end-users in the consultations, *as well as the participation of local and regional authorities*



*(directly or through the European Committee of the Regions). This will include public internet-based consultations. The results of public and stakeholder consultations shall be communicated without delay to both co-legislators and made public.*

25. (...) The Commission shall also explain in its explanatory memoranda how the measures proposed are justified in the light of the principles of subsidiarity and proportionality and how they are compatible with fundamental rights. *The Commission shall do so by including a subsidiarity sheet added to each proposal, which entails the results from the application of the subsidiarity grid. (...)*

37. *The European Parliament and the Council as co-legislators will, in the interests of subsidiarity and proportionality, add to their amendments a subsidiarity sheet, which entails the results from the application of the subsidiarity grid regarding these amendments.*

# Bibliography

- Altun N and Schulz-Ruhtenberg E, ‘How to make the voice of regions heard in EU legislation. Strengthening the role of the Committee of the Regions’ (6 July 2022) Hertie School Jacques Delors Centre Student Policy Brief
- Atterton J, ‘ENRD Thematic Group Rural Proofing – Background document. Analytical overview of rural proofing approaches and lessons learned’, available at [https://ec.europa.eu/enrd/sites/default/files/tg-rp\\_background\\_paper-rural\\_proofing-jane\\_atterton\\_220127.pdf.pdf](https://ec.europa.eu/enrd/sites/default/files/tg-rp_background_paper-rural_proofing-jane_atterton_220127.pdf.pdf)
- Better Regulation Toolbox, available at [https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0\\_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL.pdf](https://commission.europa.eu/document/download/9c8d2189-8abd-4f29-84e9-abc843cc68e0_en?filename=BR%20toolbox%20-%20Jul%202023%20-%20FINAL.pdf)
- Blackwell A, ‘European Commission commits to a “Youth Check”’, available at <https://www.youthforum.org/news/european-commission-commits-to-a-youth-check>
- Commission Decision of 11 May 2020 establishing the Fit for Future Platform (2020/C 163/03)
- Commission Staff Working Document Better Regulation Guidelines (3 November 2021) SWD(2021) 305 final
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Better Regulation: Joining forces to make better laws (29 April 2021) COM(2021) 219 final
- Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘The principle of subsidiarity and proportionality: Strengthening their role in the EU’s policymaking’ (23 October 2018) COM(2018) 703 final
- Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, ‘Better regulation for better results – An EU agenda’ (19 May 2015) COM(2015) 215 final
- Conference of Committee Chairs, Summary Report (13 June 2023)  
DV\1280622EN PE 700.007
- Conference on the Future of Europe, ‘Report on the Final Outcome’ (May 2022)
- Consolidated Version of the Treaty on European Union [2008] OJ C115/13
- Consolidated Version of the Treaty of the Functioning of the European Union [2016] OJ C202/150
- Council of the European Union, Communication (16 November 2023) CM 5312/23

- Communication (30 August 2023) CM 4118/23
- Decision requesting the Commission to submit a study complementing the impact assessment of the proposal for a Regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115, and to propose follow-up actions, if appropriate in view of the outcomes of the study (9 December 2022) 15652/22
- Impact assessment – Guidance for Working Party Chairs – Indicative Checklist (12 March 2018) 6270/18
- Impact assessment – Indicative guidance for Working Party Chairs (9 June 2016) 9790/16
- Impact Assessment within the Council – 2023 annual report – Endorsement (16 June 2023) 10082/23
- Outcome of Proceedings (30 November 2023) 16230/23
- Council of the European Union, ‘Council preparatory bodies’, available at <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/>
- ‘Working Party on Competitiveness and Growth’, available at <https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-on-competitiveness-and-growth/>
- Dunlop C A and Radaelli C M, ‘Better Regulation in the European Union’ in Martino Maggetti, Fabrizio Di Mascio, and Alessandro Natalini (eds), *The Handbook of Regulatory Authorities* (2022)
- EPRS, ‘About’, available at <https://epthinktank.eu/about/>
- ‘Impact Assessment and European Added Value’ (July 2022)
- ‘Scrutiny Toolbox’, available at <https://epthinktank.eu/scrutiny-toolbox/>
- EU Monitor, ‘Interinstitutional agreement (IIA)’, available at <https://www.eumonitor.eu/9353000/1/j9vvik7m1c3gyxp/vh7dppj508rg>
- European Commission Annual Report 2022 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments (12 October 2023) COM(2023) 640 final
- Annual Report 2021 on the Application of the Principles of Subsidiarity and Proportionality and on Relations with National Parliaments (1 August 2022) COM(2022) 366 final
- European Commission, ‘Better regulation: taking stock and sustaining our commitment’ (15 April 2019), available at [https://commission.europa.eu/document/download/d1728974-433d-463b-8cd2-cc56b96d78bc\\_en?filename=better-regulation-taking-stock\\_en.pdf](https://commission.europa.eu/document/download/d1728974-433d-463b-8cd2-cc56b96d78bc_en?filename=better-regulation-taking-stock_en.pdf)
- European Commission, ‘Better Regulation: why and how’, available at [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation\\_en#:~:text=The%20Better%20Regulation%20agenda%20ensures,where%20it%20matters%20the%20most](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation_en#:~:text=The%20Better%20Regulation%20agenda%20ensures,where%20it%20matters%20the%20most)
- ‘Citizens’ Engagement Platform’, available at

- – [https://citizens.ec.europa.eu/panels/european-citizens-panels\\_en](https://citizens.ec.europa.eu/panels/european-citizens-panels_en)
  - – ‘Composition’, available at [https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/composition\\_en](https://commission.europa.eu/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/composition_en)
  - – ‘Conference on the Future of Europe’, available at [https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe\\_en](https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/conference-future-europe_en)
  - – ‘Megatrends Hub’, available at <https://visitors-centre.jrc.ec.europa.eu/en/media/publications/megatrends-hub>
  - – ‘Regulatory Scrutiny Board’, available at [https://commission.europa.eu/law/law-making-process/regulatory-scrutiny-board\\_en-composition](https://commission.europa.eu/law/law-making-process/regulatory-scrutiny-board_en-composition)
  - – ‘Strategic foresight’, available at [https://commission.europa.eu/strategy-and-policy/strategic-planning/strategic-foresight\\_en](https://commission.europa.eu/strategy-and-policy/strategic-planning/strategic-foresight_en)
  - – ‘Subsidiarity control mechanism’, available at [https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/subsidiarity-control-mechanism\\_en](https://commission.europa.eu/law/law-making-process/adopting-eu-law/relations-national-parliaments/subsidiarity-control-mechanism_en)
  - – ‘Task force on subsidiarity, proportionality and doing less more efficiently’, available at [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation/task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en)
  - – ‘Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently” Factsheet, available at [https://commission.europa.eu/document/download/739a21b7-fe1c-42b7-aa24-83ad344c790e\\_en?filename=task-force-factsheet-subsidiarity-proportionality.pdf](https://commission.europa.eu/document/download/739a21b7-fe1c-42b7-aa24-83ad344c790e_en?filename=task-force-factsheet-subsidiarity-proportionality.pdf)
- European Committee of the Regions, ‘A new treaty: a new role for regions and local authorities’, available at <https://cor.europa.eu/en/our-work/Documents/Our-work/lisbon-treaty.pdf>
- – ‘Better Regulation and Active Subsidiarity’, available at <https://cor.europa.eu/en/our-work/Pages/Better-Regulation-and-Active-Subsidiarity.aspx>
  - – ‘Cities and regions building strategic foresight capacity to better prepare for the future’, available at <https://cor.europa.eu/fr/news/Pages/strategic-foresight-capacity-better-prepare-future.aspx>.
  - – ‘Meeting of the Better Regulation and active subsidiarity Steering Group’, recording available at <https://cor.europa.eu/en/events/Pages/active-subsidiarity-Steering-Group.aspx>
  - – ‘Network of Regional Hubs. Assessing EU law from the ground’, available at <https://cor.europa.eu/en/our-work/Pages/network-of-regional-hubs.aspx>
  - – ‘Territorial Impact Assessment’, available at <https://cor.europa.eu/en/our-work/Pages/Territorial-Impact-Assessment.aspx>

- – ‘The Subsidiarity Monitoring Network’, available at <https://portal.cor.europa.eu/subsidiarity/thesmn/Pages/default.aspx>
- – ‘21<sup>st</sup> CIVEX Commission meeting’, recording available at <https://cor.europa.eu/en/events/Pages/21st-civex-commission-meeting-2024.aspx>
- – ‘22<sup>nd</sup> CIVEX Commission meeting’, recording available at <https://cor.europa.eu/en/events/Pages/22nd-civex-commission-meeting-1.aspx>
- European Committee of the Regions, Annex 1 to the draft non-paper: CoR contribution to a future “Better Regulation Funding Programme” of the EU, COR-2023-048733-01-01-TCD-TRA (EN) 1/4
- European Committee of the Regions, Audit Report on the adequacy of territorial impact assessment system (27 April 2021)
- European Committee of the Regions Opinion Better Regulation: Joining forces to make better laws (147<sup>th</sup> plenary session, 1-2 December 2021) CIVEX-VII/007
- European Committee of the Regions Opinion Strategic foresight as an instrument of EU governance and Better Regulation (157<sup>th</sup> plenary session, 9-11 October) CIVEX-VII/022
- European Committee of the Regions Resolution The Outcome and Follow Up of the Conference on the Future of Europe (150<sup>th</sup> plenary sessions, 29-30 June 2022) RESOL-VII/023
- European Committee of the Regions Subsidiarity Annual Report 2020 (10 March 2021) COR-2021-00231-14-01-NB-TRA (EN) 1/16
- European Committee of the Regions, 216<sup>th</sup> Meeting of the Bureau of the European Committee of the Regions, Item 7 Renewed Territorial Impact Assessment Strategy (7 February 2023) COR-2022-05326-08-1-NB-TRA
- European Committee of the Regions, ‘A new chapter for EU democracy’, available at <https://cor.europa.eu/en/engage/Pages/new-chapter-4eudemocracy.aspx?origin=spotlight>
- – ‘A new chapter for participatory democracy’, available at <https://cor.europa.eu/en/engage/Pages/a-new-chapter-for-participatory-democracy.aspx>
- – ‘Embracing Uncertainty: Harnessing Strategic Foresight for Regional and Local Progress. Strategic Foresight in regions & cities’ (December 2023), available at [https://cor.europa.eu/en/our-work/Documents/5056%20Brochure%20Strategic%20Foresight\\_EN\\_7.pdf](https://cor.europa.eu/en/our-work/Documents/5056%20Brochure%20Strategic%20Foresight_EN_7.pdf)
- – ‘List of partners. The CoR Subsidiarity Monitoring Network’ (status December 2020), available at <https://portal.cor.europa.eu/subsidiarity/Documents/SMN%20->

[%20List%20of%20Network%20Partners/SMN\\_List\\_of\\_Network\\_Partners.pdf](#)

- ‘State of the art and challenges ahead for Territorial Impact Assessments’ (2020)
  - ‘Territorial Impact Assessment. A Drone Strategy 2.0’ (8 May 2023), available at <https://cor.europa.eu/en/our-work/Documents/Territorial-impact-assessment/tia-drone-strategy-2.0.pdf>
  - ‘Territorial Impact Assessment/Rural Proofing. Legislative framework for Sustainable food systems’ (22 June 2023), available at <https://cor.europa.eu/en/our-work/Documents/TIA%20Sustainable%20food%20systems.pdf>
  - ‘Territorial Impact Assessment. Strategic Technologies for Europe Platform’ (2 October 2023), available at <https://cor.europa.eu/en/our-work/Documents/5039-TIA-report.pdf>
- European Economic and Social Committee, ‘About’, available at <https://www.eesc.europa.eu/en/about>
- ‘Better Regulation’, available at <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/better-regulation>
- European Parliament Committee on Constitutional Affairs Working Document on the principles of subsidiarity and proportionality (7 July 2021) PE629.901v01-00
- European Parliament Report on Better regulation: Joining forces to make better laws (2021/2166(INI))
- Report on the implementation of the Regulations on the European citizens’ initiative (2022/2206(INI))
- European Parliament resolution of 23 November 2023 on European Union regulatory fitness and subsidiarity and proportionality – report on Better Law-Making covering 2020, 2021, and 2022 (2023/2079(INI))
- resolution of 22 November 2023 on proposals of the European Parliament for the amendment of treaties (2022/2051(INL))
  - resolution of 14 September 2023 on Parliamentarism, European citizenship and democracy (2023/2017(INI))
  - resolution of 24 June 2021 on European Union regulatory fitness and subsidiarity and proportionality – report on Better Law Making covering the years 2017, 2018, and 2019 (2020/2262(INI))
  - resolution of 18 April 2018 on the Annual Reports 2015-2016 on subsidiarity and proportionality (2017/2010(INI))
- European Parliament, ‘Briefing EU Legislation in Process. Strategic technologies for Europe platform (STEP)’ (February 2024)
- ‘How the EU Treaties are modified’ (Briefing September 2022)
  - ‘New European Commissions communication on Better Regulation: Joining forces to make better laws’ (Briefing May 2021)
  - ‘SMEs and Better Regulation – At a Glance’ (Plenary February 2020)

- ‘The ‘one in, one out’ principle – A real better lawmaking tool?’ Study requested by the JURI Committee (October 2023)
- EPRS, ‘Proposal for a regulation laying down the rules to prevent and combat child sexual abuse – Complementary impact assessment’ (April 2023) Ex-Ante Impact Assessment Unit PE 740.248
- European Union, ‘How the EU budget is adopted’, available at [https://european-union.europa.eu/institutions-law-budget/budget/how-eu-budget-adopted\\_en#:~:text=The%20annual%20budget%20negotiating%20process&text=The%20EU%27s%20annual%20budget%20is,European%20Parliament%20and%20the%20Council](https://european-union.europa.eu/institutions-law-budget/budget/how-eu-budget-adopted_en#:~:text=The%20annual%20budget%20negotiating%20process&text=The%20EU%27s%20annual%20budget%20is,European%20Parliament%20and%20the%20Council)
- Fernandes M, Eisele K and Anglmayer I, ‘How evaluation is understood and practised in the European Parliament’ (2024) 30 Evaluation 253
- Fit for Future Platform Opinion, Public Procurement (28 November 2023) AWP 2023
- Fit for Future Platform Opinion, The Digital Europe Programme (28 November 2023) AWP 2023
- Fit for Future Platform Opinion, Revision of the end-of-life vehicles directive and the directive on the type-approval of motor vehicles (5 December 2022) AWP 2022
- Fit for Future Platform Opinion, Governments interoperability strategy (5 December 2022) AWP 2022
- Gaugitsch R and others, ‘Rural proofing – a foresight framework for resilient rural communities’ (2020), available at [https://cor.europa.eu/en/engage/studies/Documents/Rural%20proofing%20-%20a%20foresight%20framework%20for%20resilient%20rural%20communities/coter\\_nat\\_rural.pdf](https://cor.europa.eu/en/engage/studies/Documents/Rural%20proofing%20-%20a%20foresight%20framework%20for%20resilient%20rural%20communities/coter_nat_rural.pdf)
- Gawłowski R, Nefas S and Makowski K, ‘Subsidiarity Principle – Its Realization in Self-Government in Lithuania and Poland’ (9 March 2020) 10 Administrative Science 1
- Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making [2016] OJ L123/1
- Jones H and others, ‘Study on the Citizens’ Panels as part of the Conference on the Future of Europe’ (November 2022)
- La Administración al día, available at <https://laadministracionaldia.inap.es/noticia.asp?id=1228544>
- Lindner J and Mack S, ‘Europe must improve the quality of its regulation’ (20 December 2023) Hertie School Jacques Delors Centre Policy Position
- Listorti G, Basyte-Ferrari E, Acs S, and Smits P, ‘Towards an Evidence-Based and Integrated Policy Cycle in the EU: A Review of the Debate on the Better Regulation Agenda’ (2020) 58 Journal of Common Market Studies 1158

- Nicolosi S F and Mustert L, ‘The European Committee of the Regions as a watchdog of the principle of subsidiarity’ (11 May 2020) 27 Maastricht Journal of European and Comparative Law 284
- OECD, ‘Better Regulation Practices across the European Union’ (28 June 2022), available at <https://www.oecd.org/publications/better-regulation-practices-across-the-european-union-2022-6e4b095d-en.htm>
- Opinion European Economic and Social Committee ‘A competitiveness check to build a stronger and more resilient EU economy (explanatory opinion)’ (14 December 2022) INT/1000
- Opinion of the European Committee of the Regions on ‘Do no harm to cohesion – A cross-cutting principle contributing towards cohesion as an overall objective and value of the EU’ (2023/C 257/01)
- Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Better regulation for better results – An EU agenda (16 September 2015) SC/41 Better Regulation
- Protocol on Cooperation between the European Commission and the European Committee of the Regions (20 March 2024)
- Reducing bureaucracy in these unprecedented times – French-German Paper on Better Regulation and Modern Administration in Europe (9 October 2023)
- RegHub Secretariat, ‘Evaluation Report – Network of Regional Hubs for EU Policy Implementation Review’ (September 2020)
- Regulatory Scrutiny Board, Annual Report 2022
- Renda A and others, ‘Feasibility Study: Introducing “One-In-One-Out” in the European Commission’ (5 December 2019)
- Report of the Task Force on Subsidiarity, Proportionality and “Doing Less More Efficiently”, ‘Active Subsidiarity. A new way of working’ (2018), available at [https://commission.europa.eu/document/download/8530a17b-e2b8-4cd4-a68d-597767cfbad7\\_en?filename=report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently\\_en.pdf](https://commission.europa.eu/document/download/8530a17b-e2b8-4cd4-a68d-597767cfbad7_en?filename=report-task-force-subsidiarity-proportionality-and-doing-less-more-efficiently_en.pdf)
- Report on the Proposals of the European Parliament for the amendment of the Treaties 2022/2051(INL); European Parliament resolution of 9 June 2022 on the call for a Convention for the revision of the Treaties (2022/2705(RSP))
- Rodríguez-Pose A, Dijkstra L and Poelman H, ‘The geography of EU discontent and the regional development trap’ WP 03/2023, available at [https://ec.europa.eu/regional\\_policy/sources/reports/Geography\\_of\\_Discontent\\_and\\_development\\_trap\\_forlay-out.pdf](https://ec.europa.eu/regional_policy/sources/reports/Geography_of_Discontent_and_development_trap_forlay-out.pdf)
- Röhl K-H, ‘Bürokratieabbau und bessere Rechtsetzung: Wer macht was in EU, Bund und Ländern?’ (IW-Policy Paper 1/20)



Rules of Procedure European Committee of the Regions (2021) OJ L 472/1

Sartor G, ‘The way forward for Better Regulation in the EU – better focus, synergies, data and technology’ (August 2022) European Parliament in Depth Analysis Requested by the JURI Committee

Simonelli F and Iacob N, ‘Can We Better the European Union Better Regulation Agenda?’ (2021) 12 European Journal of Risk Regulation 849

Stakeholder consultation Opinion on Active subsidiarity: a fundamental principle in the EU Better Regulation agenda (12 February 2024, 13:30-15:00 CET), available at <https://cor.europa.eu/en/events/Pages/consultation-opinion-on-active-subsidiarity.aspx>

Think Tank European Parliament, ‘EPRS online annual conference on better law-making’ available at <https://www.europarl.europa.eu/thinktank/en/events/details/eprs-online-annual-conference-on-better-/20220712EOT06721>

Vasilopoulou S and Talving L, ‘Euro-scepticism as a syndrome of stagnation? Regional inequality and trust in the EU’ [2023] Journal of European Public Policy 1

212<sup>th</sup> Meeting of the Bureau of the European Committee of the Regions, Point 10 A – Active Subsidiarity in Practice: Better Regulation and Active Subsidiarity Steering Group (23 June 2022)





**European Committee  
of the Regions**

Created in 1994, the European Committee of the Regions is the EU's political assembly of 329 regional and local representatives such as regional presidents or city-mayors from all 27 Member States, representing over 446 million Europeans.

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