The Development of the Institutional Balance in the European Union by the Treaty of Lisbon

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I, ZHAO ZHIBING, hereby declare that, I am the author of the above thesis and it is my original research work. This work has not been submitted anywhere else, either in part or whole, for a degree or other academic credits.

I undertake the sole responsibility for any inaccuracy in this declaration.

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Abstract

As the core of design of institutional structure of the European Union, institutional balance, firstly used by European Court of Justice in 1970s, is based on institutional system established and powers conferred to each institution. Inspired by the principle of separation of powers and shaped by the negotiations and discourses since 1950s, institutional system of European Union had taken shape before the Treaty of Lisbon. And the institutional structure and the powers conferred to each institution were adjusted by the Treaty of Lisbon, which would achieve a comparatively mature model of institutional balance.

In 1951, institutional system including High Authority, Common Assembly, Special Council and EESC was established in order to mainly pursuit whole interests of Europe immediately after two world wars. Apart from EESC, the other three institutions would evolve into European Commission, European Parliament and Council of the European Union, which I define as three basic legislative institutions from the perspective of say in decision making and legislation. Then Member States enhanced their inputs by relocating the decision making powers to Council of ministers in 1958. In 1979, transformation of the European Parliament enhanced the democratic legitimacy of operation of the institutional system of European Union and laid foundation of participation of European citizens at Union level.

Moreover, in order to further improve the institutional system at Union level, there were also new institutions appearing at Union level as a response to issues like “empty crisis” and “democratic crisis”. In 1986, European Council was admitted as an organ of the European Union, which would then play a role of directing the development and operation of the European Union. And in order to adequately protect the fundamental rights of European Citizens, in 1994, Committee of the Regions was established to directly present voices of local and regional authorities at Union level. Furthermore, in 1997, national parliaments were invited to widely participate in the
operation of the European Union. Then these new institutions together with three basic legislative institutions evolved into a unique structure that I define as the three-level institutional structure consisting of directing institution (European Council), basic legislative institutions (European Parliament, Council of the European Union and European Commission) and advisory institutions (Committee of the Regions, National Parliaments, European Economic and Social Committee). Consequently, from the perspective of structure, the institutional balance at Union level is a design of three-level institutional structure.

As to the functions of the three-level institutional structure, the three basic legislative institutions are convinced to effectively protect the fundamental rights of European citizens compared with that of a nation state. However, along with the application of majority voting in Council of Ministers, the function of the three basic legislative institutions to preserve the prerogatives of the Member States was gradually reduced and weakened. And the structure of institutional balance before the Treaty of Lisbon was mainly shaped by the re-arrangement of function of preserving prerogatives of the Member States as well as protecting the fundamental rights of European Citizens of the institutional system at Union level.

As to the development in Treaty of Lisbon, the status of European Parliament was enhanced to be nearly equal to Council of the European Union which consequently enhanced the democratic legitimacy of the three basic legislative institutions. In addition, the Treaty of Lisbon coupled separation of competences between EU and Member States with the three-level institutional structure by conferring Committee of the Regions and National Parliaments rights to check compliance of subsidiarity, which shall indirectly preserve the prerogative of Member States. Moreover, the Treaty of Lisbon also put operation and development of the European Union under the directing of European Council, which shall also preserve the prerogative of Member States to certain extent. Thus the design of three-level institutional structure shall enhance the function to protect the fundamental rights of European citizens and
to preserve the prerogatives of Member States.

The Institutional balance at Union level, breaking away from the concept of principle of separation of powers, is accumulated step by step through negotiations between different actors at Union level. The three-level institutional structure of institutional balance had existed before the Treaty of Lisbon and the Treaty of Lisbon only enhanced the functions of this unique structure. And the enhanced three-level institutional structure will make the institutional balance be a mature model to meet the requirement of European Union.

Keywords

Institutional Balance, Separation of Power, Democracy, Membership, Treaty of Lisbon
### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>EC</td>
<td>European Community</td>
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<td>TL</td>
<td>Treaty of Lisbon</td>
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<td>MS</td>
<td>Member States</td>
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<tr>
<td>QMV</td>
<td>Qualified Majority Voting</td>
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<td>QM</td>
<td>Qualified Majority</td>
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<tr>
<td>TEU</td>
<td>Treaty of European Union</td>
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<td>EMU</td>
<td>Economic and Monetary Union</td>
</tr>
<tr>
<td>CJEU</td>
<td>Court of Justice of the European Union</td>
</tr>
<tr>
<td>CFSP</td>
<td>Common Foreign and Security Policy</td>
</tr>
<tr>
<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
</tr>
<tr>
<td>PSC</td>
<td>Political and Security Committee</td>
</tr>
<tr>
<td>CSDP</td>
<td>Common Security and Defence Policy</td>
</tr>
<tr>
<td>ECHR</td>
<td>European Convention on Human Rights</td>
</tr>
<tr>
<td>ECB</td>
<td>European Central Bank</td>
</tr>
<tr>
<td>EESC</td>
<td>European Economic and Social Committee</td>
</tr>
<tr>
<td>IGC</td>
<td>Intergovernmental Conference</td>
</tr>
<tr>
<td>TEN</td>
<td>Trans-European Networks</td>
</tr>
<tr>
<td>Euratom</td>
<td>European Atomic Energy Community</td>
</tr>
<tr>
<td>EEC</td>
<td>European Economic Community</td>
</tr>
<tr>
<td>ECSC</td>
<td>European Coal and Steel Community</td>
</tr>
<tr>
<td>SEA</td>
<td>Single European Act</td>
</tr>
<tr>
<td>TCE</td>
<td>Treaty establishing a Constitution for Europe</td>
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<tr>
<td>ROs</td>
<td>Regional Organizations</td>
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<tr>
<td>COSAC</td>
<td>Conférence des organes spécialisés dans les affaires communautaires et européennes des parlements de l'Union européenne</td>
</tr>
</tbody>
</table>
INTRODUCTION .............................................................................................................. 10

1 Introductory Remark ............................................................................................. 10
2 Literature Review .................................................................................................. 12
3 Main Objectives .................................................................................................... 15
4 Research Questions ............................................................................................... 15
5 Methodology ......................................................................................................... 16
6 Scope and Limitation ............................................................................................ 16
7 Chapter Layout ...................................................................................................... 17

CHAPTER I - FROM SEPARATION OF POWERS TO INSTITUTIONAL BALANCE ......................... 18

1.1 Concept of Separation of Powers: Achieve Balanced Government Based on Checks and Balance .............................................................................................................. 18
1.2 Concept of Institutional Balance at Union Level: Towards a Tailor-made Version for European Union .............................................................................................................. 20

1.2.1 Three Fundamental Issues of Institutional Balance ........................................ 20
1.2.1.1 Three Fundamental Issues on Discussion of Institutional Balance .......... 20
1.2.1.2 How to Understand the Three Fundamental Issues .................................. 23

1.2.2 Input-oriented Institutional Balance: from the Dynamic Perspective .......... 24
1.2.2.1 Basic Law & Constitution ........................................................................ 25
1.2.2.2 European Citizens & Democracy .............................................................. 26

1.2.3 Output-oriented Institutional Balance: from the Static Perspective .......... 29
1.3 Basic Issues of Discussion of Institutional Balance ............................................ 32

CHAPTER II - CHRONOLOGY OF EVOLUTION OF THE INSTITUTIONAL BALANCE FROM 1951 TO 2004 ................. 34

2.1 Problematic Heritages Influence the Evolution of the Institutional Balance ....... 34

2.1.1 Problematic Heritage: Dynamic of New Tendency of Institutional Balance ... 34
2.1.1.1 Westphalia Sovereignty Regime is Problematic ...................................... 34
2.1.1.2 European Integration by Federalism is Problematic ................................ 36

2.1.2 New Tendency of Development of Institutional Balance: To Preserve the Prerogative of Member States ................................................................. 39
2.2 From 1951 to 1979: New Legal Order with 4 Main Institutions ......................... 41
2.2.1 Background: The Schuman Declaration and Before ..............................................41
2.2.2 Treaty of Paris 1951: Establishing Supranational Institutional System ..............43
2.2.3 Treaty of Roman 1958: Confirm the Supranational Structure and Relocate Legislative Power to Representative of Member States ...................................................47
2.2.4 Open an Era of New Legal Order ...........................................................................51

2.3 From 1979 to 1986: 4 Institutions Including Enhanced Parliament .................. 54
2.3.1 Background: Realization of Democratic Deficit .....................................................54
2.3.2 The Transformation of European Parliament to Fight against Democratic Deficit 56
2.3.3 Enhanced Parliament Alleviate Democratic Deficit ...............................................56

2.4 From 1986 to 1994: 5 Institutions Including New Recognized European Council ...........................................................................................................57
2.4.1 Background: Luxembourg Compromise and Its Influence ...............................57
2.4.2 Formalization of European Council: A Directing Institution ..............................58
2.4.3 Put Union under Directing of European Council ...................................................59

2.5 From 1992 to 1997: 6 Institutions Including the New Established Committee of the Regions...............................................................................................................60
2.5.1 Background: Call for Creative Efforts to Fight against Democratic Deficit ........60
2.5.2 Admit Committee of the Regions as Organ of European Union .............................61
2.5.3 Enhance Democracy by Creative Efforts .................................................................62

2.6 From 1997 to 2004: Invite National Parliaments to Participate in Operation of the 6 Institutions ....................................................................................................... 63
2.6.1 Background: Realization of the Importance of National Parliaments .................63
2.6.2 Inviting National Parliaments to Scrutinize Operation of European Union ..........64
2.6.3 Fight against Democratic Deficit and Strengthen Control of Member States to European Union ...........................................................................................................64

2.7 The New Institutional Structure Accommodates Balance of Actors at Union Level ....................................................................................................................... 65

CHAPTER III - TREATY OF LISBON: ENHANCED GOOD FUNCTIONING BASED ON THE THREE-LEVEL INSTITUTIONAL STRUCTURE ...........................................................................................................71

3.1 Process to the Treaty of Lisbon in the Background of Globalization and Fragmegration ........................................................................................................... 71
3.1.1 Background .............................................................................................................71
3.1.1.1 Globalization: Entail and Enhance Interdependence of Nation States ..........72
3.1.1.2 Fragmegration: Accommodate Governance to Enhanced Interdependence ....73
3.1.1.3 Interaction between Globalization and Fragmegration ......................................75
3.1.2 Laeken Declaration on the Future of European Union ........................................76
3.1.3 Debate and Rejection of Constitution for European Union ........................................ 77

3.1.3.1 Failure of TEC Indicate That the Main Content of Basic Law of EU Is Not Convincing and Clear .................................................................................................................................. 78

3.1.3.2 Reflection after Failure of TEC .................................................................................... 80

3.2 The Treaty of Lisbon: Strengthen Three-level Institutional Structure of Institutional Balance .............................................................................................................................. 81

3.2.1 Union Encapsulates Institutional Balance against Arbitrary Use or Misuse of Public Powers ..................................................................................................................................... 81

3.2.2 Domain of Institutional Balance: Space of Influence of Union .................................... 83

3.2.3 Ground of Institutional Balance: Basic Law Arrangement with High Standard of Requirement .......................................................................................................................... 84

3.2.4 Principle of Institutional Balance: Democracy and Membership .................................... 86

3.2.4.1 Democracy: Protect Interests of European Citizens ..................................................... 86

3.2.4.2 Membership: Protect Prerogative of Every Member State ........................................... 88

3.2.5 Division of Powers for Institutional Balance: Powers of Institutions ........................................ 93

3.2.5.1 European Parliament .................................................................................................... 93

3.2.5.2 European Council ......................................................................................................... 94

3.2.5.3 Committee of the Regions ............................................................................................ 95

3.2.5.4 National Parliaments .................................................................................................... 96

3.2.5.5 European Citizens ........................................................................................................ 98

3.2.5.6 European Commission ................................................................................................. 99

3.2.5.7 Council of the European Union (Council of Ministers) ............................................. 100

3.2.6 Operation of Institutional Balance: the Three Basic Legislative Institutions is Convinced to Protect the Fundamental Rights of European Citizens and the Three-level Institutional Structure is Designed to Preserve the Prerogative of Member States ....... 101

3.2.7 Negotiation for Institutional Balance: Create New Norms of Institutional Balance 103

3.2.8 Treaty of Lisbon Enrich the Concept of Institutional Balance ........................................ 104

3.3 Completion of Existing Positive Proposals on Institutional Balance .............................. 106

3.3.1 Exiting Arrangement on Agenda ........................................................................... 106

3.3.1.1 Re-weight the Qualified Majority in Council of European Union ............................. 106

3.3.1.2 Re-legitimate Executive Power of European Commission ........................................ 108

3.3.2 Future Arrangement Not on Agenda .......................................................................... 112

3.3.2.1 Future Arrangement Regarding the Three Basic Legislative Institutions ............... 112

3.3.2.2 Future Arrangement Regarding the Three-level Institutional Structure ................. 113

CONCLUSION .................................................................................................................. 114

1 The New Development of the Institutional Balance by the Treaty of Lisbon .... 114

2 New Institutional Balance in the European Union .......................................................... 115

2.1 Definition of Institutional Balance in European Union .............................................. 115
2.2 The New Design of the Three-level Institutional Structure: Good Functioning under Balance of Actors at Union Level ................................................................. 116
2.3 Contribution of the Institutional Balance to Global Governance ..................... 117

BIBLIOGRAPHY ................................................................................................. 118

Articles ................................................................................................................... 118
Books ..................................................................................................................... 124
Treaties ................................................................................................................... 126
Cases ...................................................................................................................... 127
Reports ................................................................................................................... 128
### Tables

<table>
<thead>
<tr>
<th>No.</th>
<th>Contents</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 1.</td>
<td>Three Fundamental Issues of Institutional Balance</td>
<td>22</td>
</tr>
<tr>
<td>Table 2.</td>
<td>Actors at Union Level</td>
<td>40</td>
</tr>
<tr>
<td>Table 3.</td>
<td>Actors Involved in the European Union</td>
<td>65</td>
</tr>
<tr>
<td>Table 4.</td>
<td>Controlling Instruments of Actors Involved in Union</td>
<td>66</td>
</tr>
<tr>
<td>Table 5.</td>
<td>Development of Institutional Balance</td>
<td>67</td>
</tr>
<tr>
<td>Table 6.</td>
<td>The Three-level Institutional Structure</td>
<td>69</td>
</tr>
<tr>
<td>Table 7.</td>
<td>Description of Powers Originally Belonging to Governments of Member States</td>
<td>74</td>
</tr>
<tr>
<td>Table 8.</td>
<td>Definition of Membership</td>
<td>89</td>
</tr>
<tr>
<td>Table 9.</td>
<td>Model of Strengthened Three-level Institutional Structure</td>
<td>101</td>
</tr>
<tr>
<td>Table 10.</td>
<td>Three Basic Legislative Institutions</td>
<td>102</td>
</tr>
<tr>
<td>Table 11.</td>
<td>Three-level Institutional Structure</td>
<td>102</td>
</tr>
<tr>
<td>Table 12.</td>
<td>Distinction between Institutional Balance and Separation of Powers</td>
<td>116</td>
</tr>
</tbody>
</table>