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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

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Abbreviations

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

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