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PRINCIPLE OF THE INSTITUTIONAL BALANCE IN THE JURISPRUDENCE OF THE COURT OF JUSTICE OF THE EUROPEAN UNION

Institutional balance is a basic principle of the EU constituting its foundation, attribute and system. The principle of the EU which is not proclaimed in Treaties, but rather derived from their wording and context by the Court of Justice. The Court defined the principle concerned, which was „discovered" as early as in 1958, only after 32 years and it has referred to the principle only a few dozen times. Three following principles can be derived from the jurisdiction of the ECJ: 1) each of the Community institutions should enjoy full autonomy in the execution of its competences, 2) institutions should not transfer their competences unconditionally to other bodies, 3) while executing their competences institutions must not breach prerogatives of other institutions. The jurisprudence of the ECJ appears to be of an equally unstable nature. One can recall, for example, the ECJ questioning the locus standi of the European Parliament on the grounds of the institutional balance only to recognise its legitimacy later on the basis of the very same principle. Acquis judiciaire of the ECJ in the form of developing the general principle of law has not been applied in the Treaties: institutional balance has not become a category of legal language and the ECJ ceased striving for "perfection" of the institution concerned as early as in the mid – 1990s. Nowadays, it is only quoted in the opinion of Advocates General.