

## DO CONSTITUTIONAL TRADITIONS HAVE AN EXPLANATORY ROLE FOR THE PHILOSOPHY OF PUBLIC LAW AND AN EVOCATIVE ROLE FOR THE POLITICAL HISTORY OF THE PEOPLE?

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**Abstract.** *The constitutional declaration of democratic traditions or insurrectional ideals at a constitutional level is legitimate and explicable as an element of public law philosophy and social psychology, but also of national identification, especially in situations where the Constituent Assembly establishes a democratic political regime, opened to the aspirations of a nation that has liberated itself from the authoritarianism of a tyrannical government system. However, the issue we are raising is whether constitutional traditions are justified in a normative regulation. In my opinion, the proper place to preserve the national values and the historical political and juridical traditions of a people cannot be the normative text of the Constitution, because it, as a fundamental normative act, has the role to regulate political, social and economic relations and others as valid phenomena as positive, measurable, politically and legally nature. The original place of the traditions and values of a community lies in its public consciousness and in the general lifestyle. Here, they retain intact the ideological content and form as they penetrated through objective scientific knowledge, as well as through a spiritual path in the individual's consciousness, and extended to successive generations. In this way, traditions acquire an explanatory role for the philosophy of public law. A question arises: if traditions are transposed by constitutional norms in the national legal order, can they be challenged scientifically and historically? Contesting the democratic traditions in a scientific work or denying their existence, as well as legislating some areas of social life without taking into account the Romanian's constitutional traditions, are subjected to malpractice or even sanctioned by the law?*

**Keywords:** constitutional traditions, philosophy of public law, constitution, national legal order

### 1. Introduction

Normally, a constitution contains normative provisions designed to regulate fundamental social relations of power, which primarily concern state-citizen relations as well as the relations between state's powers. Sometimes, however, the constitutional text refers to non-judicial concepts, such as values, traditions, or ideals, which they directly refer to terms that have explicit constitutional content. In this way, the normative regulation of a constitutional level, connected to certain values and historical traditions, receives the idea of continuity and constant in the

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