

When constitutional courts issue binding rulings on controversial, emotionally charged issues of public life, the rulings rarely end social tension. On the contrary, after a ruling is issued, its supporters usually declare their mobilisation a complete success, while its opponents accuse the court of lacking legitimacy, of being incompatible with national or supranational standards, and accuse their political opponents of cynically exploiting judicial power to pursue their own political agenda. So where does this lack of acceptance of constitutional court rulings on important political issues come from?

Perhaps the court simply issued an erroneous ruling, made a mistake. After all, it is made up of people, and people make mistakes. However, constitutional courts are usually composed of the most renowned legal authorities with extensive experience, and judges strictly adhere to a series of procedural requirements designed to guarantee the correctness of their rulings. So perhaps it is not the specific ruling that is flawed, but the judges' reasoning and procedure? However, this also seems unlikely. The canons of legal reasoning, the directives of interpretation and the series of steps that must be taken before a ruling is issued have been the subject of theoretical legal analysis for centuries, and their basic assumptions have not changed. Although it is possible that they are flawed, this is unlikely. Ultimately, it may be that the court issued a correct ruling and those who disagree with it are simply mistaken. One side of the political dispute is right and the other is wrong, and the court simply sides with the right one. However, if this were the case, it would be difficult to explain situations where the constitutional court completely revises its position, and such cases are not unknown.

Or maybe no one is wrong? Perhaps the existence of real, lively political disputes is not the result of an error on the part of one of the parties involved, but rather the irreducible multiplicity of values that society considers important? Perhaps the efforts of constitutional courts, although nobly aimed at resolving such disputes on the basis of rational criteria, are doomed to failure?

The subject of this research project is to examine this hypothesis. For over forty years, constitutionalism in continental Europe has been dominated by the belief that constitutional rights create an objective order of values, and that the task of all public authorities is to implement them to the greatest extent possible. This doctrine may be irreconcilable with another intellectual trend that is growing in popularity: the thesis of value pluralism, i.e. the existence of many objective but incompatible social values that are in inevitable conflict with each other.

If there is indeed tension between these two theses, and the thesis of pluralism of values accurately describes ethical reality, it may turn out that the view of the inevitable constitutionalisation of public life and the growing role of constitutional courts in democratic political systems may be unfounded. A better solution may be provided by an approach that seeks to resolve conflicts of values in a deliberative, political parliament.