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DOI <https://doi.org/10.32782/npnuola.v37.2025.13>*N. V. Mishyna*

## CONSTITUTIONAL RESILIENCE IN TIMES OF CHANGE: FRENCH INSPIRATIONS FOR UKRAINE'S CONSTITUTIONAL DEVELOPMENT

**Problem statement and its connection with important scientific or practical tasks.** The resilience of constitutional systems has become one of the main subjects of discussion in recent European scholarship. In moments of crisis, constitutions are not only legal documents but also living instruments that help societies maintain stability and continuity. France's constitutional experience, with its long evolution from revolutionary ideals to a modern semi-presidential democracy, shows how institutions can adapt without losing their democratic essence. For Ukraine, which faces both the challenges of war and the demands of European integration, the French example offers important lessons on how to balance a strong state with the protection of individual rights.

In many ways, France has turned constitutionalism into a continuous process of reflection and reform. Since 1958, the French Fifth Republic has combined effective executive power with robust constitutional control, especially after the expansion of the Constitutional Council's authority. Its approach to the hierarchy of norms, the recognition of social rights, and the integration of constitutional principles into everyday governance has influenced many European countries. These practices may now serve as a source of inspiration for Ukraine, whose constitutional system continues to evolve amid unprecedented political and social pressures.

The present study explores how selected principles and mechanisms of French constitutionalism—such as the constitutional review system, the notion of a *“bloc de constitutionnalité,”* and the balance between centralization and local self-government—could contribute to Ukraine's ongoing constitutional development. It argues that France's experience demonstrates how a state can remain unitary yet pluralistic, centralized yet open to local autonomy, and how legal stability can coexist with democratic change.

**Analysis of recent research and publications, which initiated the solution of this problem and on which the author relies, highlighting previously unresolved parts of the overall problem to which the article is devoted.** The majority of Ukrainian research on comparative constitutionalism tends to focus on the institutional design of European Union member states rather than on the internal dynamics of their constitutional cultures. As a result, France is usually presented through its EU membership, for instance in studies on the implementation of the principle of subsidiarity, rather than as a constitutional system with a long and unique historical trajectory [5; 6]. Only a few Ukrainian authors have engaged more deeply

with French legal doctrine, examining issues such as constitutional control [2-4], the influence of the *Conseil constitutionnel* on administrative justice, or the evolution of the Fifth Republic's semi-presidential model.

Another underexplored area concerns the integration of constitutional and administrative principles in France – a topic especially relevant for Ukraine's ongoing decentralization. While the French system demonstrates a sophisticated balance between national sovereignty and local autonomy, Ukrainian literature often treats decentralization as a purely administrative process, without analysing its constitutional foundations. In this respect, French scholarship, including works by Rousseau, Beaud, and Pacteau, could provide valuable insights into how constitutional law ensures the coherence of a multi-level governance system. Yet these sources are rarely cited in Ukrainian academic discourse, partly due to language barriers and limited access to contemporary French legal publications.

Therefore, the present study seeks to fill this research gap by systematically examining the French constitutional experience not as a peripheral case, but as a central example of institutional resilience and constitutional culture. The article relies on both French and Ukrainian sources to build a bridge between the two traditions and to demonstrate how French constitutional ideas – particularly those related to rights protection, judicial review, and local democracy – can enrich Ukraine's constitutional development in the context of European integration and post-war reconstruction.

**The aim of the article.** This article aims to examine how the principles and institutional practices of French constitutionalism can inform the ongoing constitutional transformation in Ukraine. In particular, it focuses on how the French experience demonstrates a pragmatic balance between legal continuity and reform, central authority and local autonomy, and rights protection and public interest. The study does not attempt to suggest a direct transplantation of models but rather to identify elements that could be thoughtfully adapted to the Ukrainian legal and political context.

The main objectives of the study are threefold. First, to analyse the core features of French constitutional resilience, including the role of the Constitutional Council, the hierarchy of norms within the *bloc de constitutionnalité*, and the institutional mechanisms that safeguard the rule of law. Second, to assess how similar mechanisms could strengthen Ukraine's constitutional framework, especially in areas such as judicial independence, decentralization, and the protection of social rights. Third, to explore the broader idea of constitutional culture – the shared values, traditions, and practices that make a constitution effective in everyday governance.

The article is guided by a comparative legal and contextual approach. This mixed method allows not only to trace legal similarities and differences but also to identify the cultural and institutional factors that shape constitutional performance. Ultimately, the study seeks to contribute to the ongoing discussion about how Ukraine can strengthen its constitutional democracy while preserving its national identity and responding to contemporary European challenges.

## Main Analysis

### 1. The French “*bloc de constitutionnalité*” and its relevance for Ukraine

One of the most remarkable features of the French constitutional system is the concept of the *bloc de constitutionnalité*, which has become a cornerstone of modern French constitutionalism. The term was first formulated by the French Constitutional Council in its landmark decision of 16 July 1971 (*Liberté d'association*), when the Council extended the scope of constitutional review beyond the written provisions of the 1958 Constitution. By recognising the constitutional value of the Preamble and the 1789 Declaration of the Rights of Man and of the Citizen, the Council effectively transformed the French Constitution into a living system of principles rather than a static legal text. Over time, this bloc was expanded to include the 1946 Preamble and certain “fundamental principles recognised by the laws of the Republic” (*principes fondamentaux reconnus par les lois de la République*), creating a coherent hierarchy of constitutional norms that guide both legislation and administration.

The *bloc de constitutionnalité* is not only a doctrinal innovation but also a practical mechanism that bridges law, history, and politics. It ensures that the French legal order remains consistent with the enduring values of liberty, equality, and fraternity, while also adapting to new social realities. Through its jurisprudence, the Constitutional Council has invoked the bloc to affirm principles such as freedom of association, equality before the law, the right to education, and the protection of human dignity. Importantly, this approach allows the Council to interpret constitutional rights dynamically, taking into account evolving social, economic, and technological conditions. In doing so, France has managed to create a flexible yet stable constitutional framework that preserves democratic continuity even in times of crisis.

For Ukraine, the *bloc de constitutionnalité* offers a valuable model of interpretative constitutionalism. The Ukrainian Constitution of 1996 contains a comprehensive list of rights and freedoms, many of which reflect international human rights standards. However, the interpretation of these rights in practice has often been narrow and formalistic, focusing primarily on literal meaning rather than on the spirit of the Constitution. As a result, constitutional principles such as equality, social justice, and solidarity remain underdeveloped in judicial reasoning. The French experience shows that historical and preambular principles can have genuine normative force and guide both constitutional and administrative decision-making.

Adopting a similar conceptual approach in Ukraine could significantly strengthen the national human rights protection system. For example, the Ukrainian Constitutional Court could use the *bloc de constitutionnalité* method to give constitutional value to the Preamble of the Ukrainian Constitution, which refers to human dignity, democracy, and the rule of law as fundamental principles of the state. It could also integrate references to international and European human rights instruments into its reasoning, as the French Council does with universal declarations and charters. This would not only improve the coherence of Ukrainian constitutional jurisprudence but also align it more closely with European standards of interpretation.

Moreover, the *bloc de constitutionnalité* approach could enhance the constitutional role of local and regional authorities in Ukraine. By extending constitutional reasoning to include social and economic dimensions, as is done in France, Ukrainian courts and lawmakers could strengthen local mechanisms of rights protection and public accountability. For instance, principles such as equality in access to public services or the protection of social welfare could be interpreted as constitutional obligations guiding municipal governance. This perspective would move Ukraine toward a more integrated and human-centred constitutional model—one that protects rights not only in abstract legal terms but also in their practical, community-based expression.

Ultimately, the French *bloc de constitutionnalité* demonstrates how a constitution can serve as both a repository of historical values and a tool for contemporary governance. Its relevance for Ukraine lies not in direct imitation but in the adoption of its interpretative philosophy – a belief that constitutional rights derive their strength from the unity of legal norms, social ethics, and civic responsibility. By applying this principle in judicial and administrative practice, Ukraine could foster a constitutional culture grounded in dignity, solidarity, and resilience – values essential for the country's democratic recovery and European future.

## 2. Constitutional review and the culture of constitutional dialogue

Since 1958, France has developed one of the most distinctive and balanced systems of constitutional review in Europe. Under the Constitution of the Fifth Republic, the Constitutional Council (*Conseil constitutionnel*) was initially designed as a political rather than a judicial body. Its main task was to ensure that Parliament respected the boundaries of its legislative competence, leaving the protection of fundamental rights largely outside its scope. However, the Council gradually evolved beyond this limited role, especially after its historic decision of 16 July 1971 on the Freedom of Association. In that judgment, the Council declared that legislation must comply not only with the 1958 Constitution but also with the principles set forth in the Declaration of the Rights of Man and of the Citizen (1789) and the Preamble of the Constitution of 1946. This interpretation laid the foundation for the *bloc de constitutionnalité* and transformed the Council into a genuine constitutional court.

Over the following decades, the French Constitutional Council progressively expanded its jurisprudence, striking down laws that violated constitutional rights and establishing itself as a guardian of both democratic governance and individual freedoms. However, a major milestone came with the constitutional reform of 23 July 2008, which introduced the *Question Prioritaire de Constitutionnalité* (QPC). This mechanism allows any individual involved in a judicial case to raise a constitutional question concerning the law applied to their situation. The ordinary courts then refer the question, if it meets certain conditions, to the Council of State or the Court of Cassation, and ultimately to the Constitutional Council. This innovation fundamentally changed the French constitutional landscape. It made constitutional justice accessible to citizens, encouraged ordinary judges to participate in constitutional interpretation, and established a direct dialogue between different judicial levels.

The QPC system also helped reconcile two values that are sometimes seen as contradictory: judicial activism and respect for parliamentary sovereignty. By allowing the Council to review legislation only after its enactment and within the framework of specific cases, the reform maintained the primacy of Parliament while ensuring that rights violations could be addressed effectively. The result is a dynamic, multi-level form of constitutional dialogue where courts, legislators, and citizens all contribute to the living development of constitutional norms. As a result, constitutional review in France is no longer perceived as a purely abstract control, but as an ongoing conversation about the meaning and limits of rights in a democratic society.

Ukraine's experience with constitutional review presents a contrast. Since its establishment, the Constitutional Court of Ukraine has played a central role in maintaining the balance between branches of power. However, its work has been periodically interrupted by political crises and external pressure, which weakened public trust in the institution. Episodes such as the constitutional crisis, when the Court annulled parts of the anti-corruption legislation, illustrated how fragile the boundary between law and politics can be. This fragility has undermined the perception of the Court as an impartial arbiter of constitutional principles. Restoring confidence therefore requires both procedural and cultural reform – an area where the French model provides relevant inspiration.

Adopting certain features of the French QPC system could represent a meaningful step toward greater transparency and citizen participation in constitutional justice in Ukraine. For instance, allowing individuals to challenge laws during ongoing proceedings, rather than relying solely on abstract petitions from political actors, would democratize access to the Constitutional Court. It would also create new channels for cooperation between ordinary courts and the constitutional judiciary, strengthening professional dialogue and reducing institutional isolation. The introduction of such a “priority constitutional question” procedure, adapted to Ukraine's context, could help shift constitutional review away from political manipulation and toward a rights-based, citizen-oriented practice.

Furthermore, the French experience shows that procedural innovation must go hand in hand with the development of a broader constitutional culture. The effectiveness of constitutional review depends not only on legal provisions but also on the willingness of judges, lawyers, and citizens to treat the Constitution as a shared value rather than a political instrument. Ukraine can learn from the French emphasis on education, judicial ethics, and public communication surrounding constitutional decisions. The Constitutional Council's publication of detailed decisions and explanatory summaries, for example, promotes transparency and legal literacy – practices that could significantly improve civic understanding of constitutional justice in Ukraine.

In the long term, the establishment of a culture of constitutional dialogue could become one of the strongest guarantees of Ukraine's democratic resilience. The French model demonstrates that such dialogue is not a sign of institutional weakness but of maturity – a way for courts, parliament, and society to collectively interpret and uphold the fundamental principles of the

Republic. For Ukraine, this approach could help transform constitutional justice from a field of political confrontation into a space for consensus, stability, and protection of human rights.

### 3. *Decentralization, subsidiarity, and local democracy*

The French constitutional experience in the field of decentralization provides an instructive example of how a unitary state can preserve national cohesion while empowering local authorities to govern autonomously. Since the early 1980s, France has undergone a gradual but profound process of decentralization, initiated by the *lois Defferre* of 1982–1983, which transferred significant administrative powers from the central government to local entities – the regions, departments, and communes. This evolution was later entrenched at the constitutional level by the revision of 28 March 2003, which introduced the notion of *organisation décentralisée de la République* into Article 1 of the Constitution. This reform explicitly recognised that territorial communities shall “administer themselves freely by elected councils,” thereby confirming decentralization as a constitutional principle rather than a mere political choice.

From a constitutional point of view, this shift has two major implications. First, it establishes a balance between the indivisibility of the Republic and the autonomy of local governments. The French Constitution continues to affirm the unity of the state, yet within that unity it acknowledges a plurality of decision-making levels. Second, it integrates the principle of subsidiarity into domestic governance – the idea that public responsibilities should be exercised as closely as possible to citizens, unless their effective performance requires coordination at a higher level. In practice, this means that local authorities enjoy not only administrative freedom but also legal protection against undue interference by the central state. The Constitutional Council and the administrative courts have consistently reaffirmed that decentralization does not threaten the unity of the Republic but rather strengthens it by making governance more responsive and participatory.

This model is particularly relevant for Ukraine, which since 2014 has embarked on an ambitious decentralization reform. The reform’s primary aim has been to strengthen local self-government, improve the delivery of public services, and foster citizen participation in local decision-making. The reform has also contributed to the creation of consolidated territorial communities (*hromadas*), which serve as the backbone of local democracy. However, the full constitutionalisation of decentralization in Ukraine remains incomplete. Although Article 7 of the Constitution guarantees local self-government, the detailed division of powers between state and local levels is still defined mainly by ordinary legislation, leaving room for political manipulation. The ongoing war has also introduced new complexities, with many local councils operating under military or civil-military administrations. This situation makes the constitutional safeguarding of local autonomy more urgent than ever.

The French example offers several lessons that could guide the next phase of Ukraine’s decentralization. First, the explicit constitutional recognition of local government autonomy, as found in Article 72 of the French Constitution, provides a stable legal foundation for self-governance. Embedding a similar



provision in the Ukrainian Constitution – for instance, affirming the right of territorial communities to manage their affairs within the law – could protect them from central overreach during times of political instability or security emergencies. Second, France's experience shows the importance of clear financial guarantees for local authorities. Constitutional provisions and organic laws in France ensure that the transfer of powers to local entities is accompanied by adequate fiscal resources. For Ukraine, developing a comparable system of constitutional or statutory guarantees could prevent the weakening of local governments and promote accountability in public spending.

Furthermore, the French model demonstrates how constitutional law can promote solidarity among regions through mechanisms of equalization and interterritorial cooperation. The *Délégation interministérielle à l'aménagement du territoire et à l'attractivité régionale* (DATAR) and later agencies have played a central role in reducing territorial disparities. For Ukraine, where war has created vast differences in reconstruction needs, a similar approach could be adopted: constitutional or legislative frameworks could require the central government to support war-affected communities through targeted investment and reconstruction funds. Such measures would not only promote balanced development but also reinforce national unity based on fairness and inclusion.

Another element of the French decentralization model that could inspire Ukraine is the role of the prefect – a representative of the central state in each department and region. The prefect does not exercise direct authority over elected local councils but ensures the legality of their decisions through a posteriori review. This mechanism preserves the balance between local initiative and national supervision, preventing abuses while respecting local autonomy. Ukraine could adapt this model by introducing an independent administrative review mechanism for local acts, possibly through regional offices of the State Audit Service or the Ministry of Justice, instead of relying on politically appointed governors. Such a step would enhance transparency and strengthen the rule of law at the subnational level.

Finally, decentralization in France has been closely linked to civic participation and the protection of social rights at the local level. Local authorities play a key role in implementing policies related to housing, education, public health, and environmental protection. This integration of social policy and territorial governance ensures that constitutional rights have tangible effects in citizens' everyday lives. In Ukraine, where the reconstruction process involves rebuilding not only infrastructure but also social trust, empowering local governments to act as guarantors of social and economic rights could make the Constitution more meaningful in practice. By promoting participatory governance and supporting local capacity building, Ukraine could follow France's example of transforming decentralization into a living expression of constitutional democracy.

**Conclusions.** In conclusion, the French model of decentralization demonstrates that a unitary state can achieve both efficiency and inclusiveness when local self-government is grounded in constitutional principles. It provides Ukraine with a roadmap for consolidating its decentralization reform

through clear constitutional guarantees, fiscal autonomy, and participatory governance. Beyond institutional design, it also offers a broader lesson: that local democracy, when supported by constitutional norms, becomes a vital source of national resilience – a quality that Ukraine urgently needs as it rebuilds its state and society in the aftermath of war.

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### Summary

**Mishyna N. V. Constitutional resilience in times of change: French inspirations for Ukraine's constitutional development.** – Article.

The resilience of constitutional systems has become one of the main subjects of discussion in contemporary European scholarship. In crisis, constitutions are not merely legal documents but living instruments that help societies maintain stability and continuity. France's constitutional experience, with its long evolution from revolutionary ideals to a modern semi-presidential democracy, demonstrates how institutions can adapt without losing their democratic essence. For Ukraine, which is confronting both the challenges of war and the demands of European integration, the French example offers important lessons on how to balance a strong state with the protection of individual rights.

This article aims to examine how the principles and institutional practices of French constitutionalism can inform the ongoing constitutional transformation in Ukraine. In particular, it focuses on how the French experience demonstrates a pragmatic balance between legal continuity and reform, central authority and local autonomy, and rights protection and public interest. The study does not attempt to suggest a direct transplantation of models but rather seeks to identify elements that could be thoughtfully adapted to the Ukrainian legal and political context.

The main objectives of the study are threefold. First, to analyze the core features of French constitutional resilience, including the role of the Constitutional Council, the hierarchy of norms within the bloc de constitutionnalité, and the institutional mechanisms that safeguard the rule of law. Second, to assess how similar mechanisms could strengthen Ukraine's constitutional framework, especially in areas such as judicial independence, decentralization, and the protection of social rights. Third, to explore the broader idea of constitutional culture – the shared values, traditions, and practices that make a constitution effective in everyday governance.

The article is guided by a comparative legal and contextual approach. This mixed method allows for tracing not only legal similarities and differences but also for identifying the cultural and institutional factors that shape constitutional performance. Ultimately, the study seeks



to contribute to the ongoing discussion about how Ukraine can strengthen its constitutional democracy while preserving its national identity and responding to contemporary European challenges.

*Key words:* Constitutional Reform; French Constitutionalism; Comparative Law; Rule of Law; Decentralization; Human Rights Protection; Constitutional Tradition.

#### Анотація

**Мишина Н. В. Конституційна реформа: французький досвід для конституційного розвитку України.** – Стаття.

Стійкість конституційних систем стала однією з головних тем обговорення в сучасній європейській науці. У моменти кризи конституції є не лише юридичними документами, але й живими інструментами, які допомагають суспільствам підтримувати стабільність та спадкоємність. Конституційний досвід Франції, з її довгою еволюцією від революційних ідеалів до сучасної напівпрезидентської демократії, демонструє, як інституції можуть адаптуватися, не втрачаючи своєї демократичної сутності. Для України, яка стикається як із викликами війни, так і з вимогами європейської інтеграції, французький приклад пропонує важливі приклади, як збалансувати сильну державу із захистом прав і свобод людини і громадянина.

Ця стаття досліджує, як принципи та інституційні практики французького конституціоналізму можуть вплинути на конституційну трансформацію в Україні. Зокрема, вона зосереджується на тому, як французький досвід демонструє баланс між правовою спадкоємністю та реформою, центральною владою та місцевою автономією, а також захистом прав людини та публічним інтересом. Дослідження не намагається запропонувати пряме перенесення моделей, а, швидше, ідентифікує елементи, які можуть бути продумано адаптовані до українського правового та політичного контексту.

Основні завдання дослідження є потрійними. По-перше, проаналізувати ключові особливості французької конституційної стійкості, включаючи роль Конституційної Ради, ієрархію норм у межах *bloc de constitutionnalité*, та інституційні механізми, що гарантують верховенство права. По-друге, оцінити, як подібні механізми можуть посилити конституційну основу України, особливо в таких сферах, як судова незалежність, децентралізація та захист соціальних прав. По-третє, дослідити ширшу ідею конституційної культури – спільних цінностей, традицій і практик.

У статті застосовано порівняльно-правовий та контекстуальний підходи. Це дозволяє не лише простежити юридичні подібності та відмінності, а й ідентифікувати культурні та інституційні чинники, які формують конституційну ефективність. Зрештою, дослідження має на меті зробити внесок у триваючу дискусію про те, як Україна може посилити свою конституційну демократію, зберігаючи при цьому свою національну ідентичність та відповідаючи сучасним європейським викликам.

*Ключові слова:* конституційна реформа; французький конституціоналізм; порівняльне право; верховенство права; децентралізація; захист прав людини; конституційна традиція.

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