Global Journal of Arts humanities and Social Sciences

Vol.1 No 3, pp.47-57, September 2013

Published by European Centre for Research Training and Development UK (www.ea-journals.org)

The Basic Principles as Limits of Constitutional Revision in the Constitutional Jurisprudence and Doctrine in Europe

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ABATRCT: *Whenever is raised the question of a constitutional revision, the most frequent dilemma concerns the limits till which a certain parliamentarian majority, even a qualified one, can "dare" to approach. The expressed limits set in the revising process of rigid constitutions play a guaranteeing role based on the un-derogation of certain principles or institutes. The basic principles constitute the fundaments of a given constitutional order and their revision or modification is seen as un-proper, because it would have caused the transformation of this order. They constitute limits set to the revising process, expressed or even implicit ones. Furthermore, it would have been an unlawful revision, even if they would be modified conform to the procedures previewed in the constitution. This article gives examples on comparative basis of the contemporaneous constitutional doctrine and practice of several European countries, even in the absence of an expressed restriction, where certain basic principles were identified and determined (on case by case basis) as implicit and absolute limits set in the revising process of a rigid constitution. Their existence derives by the concept of the material constitution and the constitutional courts have an essential role in the determination of these limits and in the constitutional transformations. Related cases are found in the German, French, Italian and Spanish experience, and even in the new constitutional jurisprudence and doctrine of post-communist states of Eastern and Southeastern Europe.*

KEYWORDS: Constitutional revision, Basic principle, Limit.

INTRODUCTION

The question that mostly arises when revising a constitution is: how far can go in carrying out constitutional changes a parliamentary majority, which is in power either temporarily or for a fixed term, and whether the possibility of changing the substantial content of the constitutional provision is limited or not[1]. This is the most frequent dilemma concerning the limits which can "dare to approach" a certain parliamentarian majority, even a qualified one.

The contemporary constitutional doctrine among the complexity of constraints set on the power of revision distinguishes among the limits arising directly from the constitutional text itself and therefore seen as limits pertaining to the internal legal order of the state, and the limits imposed by special legal orders outside the constitution, but that it must incorporate[2].

[1] E.Hoxhaj, G.Kokaj in *ПЕРСПЕКТИВЫ НАУКИ, SCIENCE PROSPECTS*, № 5(32) 2012, p.108.

[2] Ibid. See also: MEZZETTI L. in GAMBINO S., D'IGNAZIO G., *La revisione costituzionale e i suoi limiti: Fra teoria costituzionale, diritto interno, esperienze straniere*, Milano, GIUFFRÈ, 2007, p.265; RIGAUX M., *La theorie des limites materielles a l'exercice de la fonction constituante*, Bruxelles, 1985, p.141 and pp.208-

The following of this articles deals with the basic principles as limits arising directly from the constitutional text itself.

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The *explicit* limits of constitutional revision dealing with basic principles.
By definition the *explicit* limits derive directly from the constitutional text and are related to those constitutional provisions that are considered expressly unchangeable. The identification and definition of *explicit* limits in constitutional revision appears complex, but some of the European constitutions have explicit limits of constitutional revision, which are mostly set as prohibitions such as:
- The explicit prohibition of changing the form of government can be seen in the Greek Constitution (Article 110, paragraph 1), the Italian Constitution (Article 139), the Portuguese Constitution (Article 290, paragraph 1, letter b) and the Turkish one (Article 4)[3].
- The absolute inviolability of human rights numbered within basic texts is found in the provisions of the German Constitution (Article 79, paragraph 3), the Portugal Constitution (Article 190, paragraph 1, item d), etc.

The revision of the constitution realizes the evolution of the constitutional text in accordance with the economic and social exigencies in change (concerning substantial changes). In the same time, it provides the preservation of the "core" or essential part of the constitutional text by setting absolute limits to the revision process[4]. Authors such as Kelzen and Schmitt expressively exclude these limits only in relation to the constituent power, while for others such as Jellineck their exclusion is based precisely in the original constitutional power[5]. The limits set on the revision process of a constitution in relation to complex system aiming to identify and guarantee, represent, among other things, the characterizing elements of a constitution, which aims to ensure greater sustainability to the potential continuity of the legal order which was created by itself.

Some limits in the constitutional revision process can appear as *explicit* ones because of the will of the fathers of the constitution to guarantee the permanence in time of the respective

210; GREWE C., RUIZ FABRI H., *Droits constitutionnels européens*, Paris, Presses Universitaires de France, 1995, pp.101 and following.

[3] Note that, for the official text of the mentioned constitutions in this article, there have been used 2 publications of the Council of Europe: *Constitutions of Europe: Texts Collected by the Council of Europe Venice Commission, Volume I*, Boston, Martinus Nijhoff Publisher, 2004, and *Constitutions of Europe: Texts Collected by the Council of Europe Venice Commission, Volume II*, Boston, Brill Publisher, 2004. The purpose for using these publications of the Council of Europe concerns the usage of official text in English for the constitutional provisions referred to in the following.

[4] *ПЕРСПЕКТИВЫ НАУКИ, SCIENCE PROSPECTS*, № 5(32) 2012, p.109.

[5] *Ibid*. See also: *I procedimenti di revisione costituzionale nel diritto comparato*, Atti del Convegno Internazionale organizzato dalla Facoltà di Giurisprudenza di Urbino 23-24 aprile 1997, *a cura di* ACUŃA E.R., Urbino, Edizioni Scientifiche Italiane, 2000, p.35.

political and constitutional system. They can also appear as *implicit* ones because they were considered such by the contemporaneous constitutional practice.

The related problematic with constitutional revision concerns the identification of these limits, because there are cases when such limits are not easily identifiable, especially those limits which are called *implicit ones* by the modern constitutional doctrine and jurisprudence. The arguments for such limits in the revising process of a constitution are based on the presumed un-derogation of the fundamental principles by which derives all the other part of the constitutional order[6]. The most important to be stressed here is their guaranteeing role, which is based on this un-derogation of certain principles or institutes, which constitute the fundaments of the whole legal order, and whose modification would have caused the transformation of this order and as consequence the harm of the rigid core of the constitution. Even if they would be modified conform to the procedures previewed in the constitution, it would have been, however, an unlawful revision.

As explicite limits derive directly from the constitutional text, modern constitutions offer a large variety of such limits. They (and the *implicite* limits) aim to guarantee the internal coherence of the system[7]. These limits bring the prohibition of constitutional revision (usually partial, and in rare cases full revision) in several ways, and they are set in the following ways[8]:

i. In some cases, the limit in the revising process is set as permanent and without time-limit.

ii. In some other cases, the constitutional revision is allowed after a predetermined period of time after the entry into force of the constitution.

iii. There are also cases, in which the limit is set as a prohibition to revise the constitution certain periods of time, especially delicate ones in the “life of the state”.

i. Within the explicit limits set as permanent and with no-time-limit in the life of the constitution are the constitutional provisions that prohibit the change of the form of government, and the basic political principles of the constitutional. They are considered "no time limits" because they inhibit the change of the above provisions at any time, as they are the basis of the constitutional legal order. Explicite restrictions, without time limitations on the revising process of the modern European constitutions, currently are found at: Article 79 paragraph 3 of the German Constitution, article 139 of the Italian Constitution, article 89, paragraph 5 of the French Constitution, Article 110 of the Greek Constitution, etc.

Such limits in the Albanian Constitutional history refer to: The Fundamental Statute of the Republic of Albania of 1925, Article 141 /3, which provided that "*The Republican Form of State can not be changed in any way*"; The Fundamental Statute of the Kingdom of Albania of 1928, Article 224 /2, which content expressly prohibited the revision of articles 1, 2, 6, 50,

[6] BISCARETTI DI RUFFIA P., *Introduzione al diritto costituzionale comparato: le “forme di stato” e le “forme di governo”, le costituzioni moderne*, quarta edizione, Milano, 1980, p.585.

[7] MEZZETTI L. tek GAMBINO S., D’IGNAZIO G., *La revisione costituzionale e i suoi limiti: Fra teoria costituzionale, diritto interno, esperienze straniere*, vep.cit, fq.266.

[8] This classification is found in: BISCARETTI DI RUFFIA P., *Introduzione al diritto costituzionale comparato: le “forme di stato” e le “forme di governo”, le costituzioni moderne*, op.cit., p.587.

51, 52 and 70 of the Statute (Article 1 stated that Albania is a democratic, parliamentary and hereditary monarchy; Article 2 stated that Albania is an independent and indivisible state, its territorial integrity is inviolable and its land is inalienable; Article 6 "Albania's capital Tirana"; while, Articles 50, 51 and 52 were provisions that regulated the inheritance of the throne, and finally, Article 70 stipulated the prohibition of the union of the Albanian royal throne with the throne of any other kingdom.

ii. The prohibition of constitutional revision before the expiry of a period of time was stipulated in the first formal constitutions, and nowadays rarely occurs. Such limits of revison were set in the French Constitution of 1791[9], and in the Portuguese Constitutions of the years 1822 and 1826.

Such limitation is found in the current constitutions of Portugal and Greece, which respectively in Articles 284 /1[10] and 110 /6[11] accept the realization of constitutional revision only after the expiry of five years from the last constitutional revisions.

iii. Regarding the limits prohibiting explicite revision of the constitution in particularly sensitive periods of the state's live, they are known in literature as the limitations of "circumstances". They include limitations that impose the prohibition of the constitution review during:

- the regency period,
- the state of emergency or
- during the partial or total occupation of the territory.

Thus, the revision of the constitution is possible before the afore-mentioned critical period and, on the contrary, after it begins, it is stumbled any legal action to revise the constitution, as long as the situation remains in question.

The *explicit* limit on the constitutional revision during the regency period is previewed: in the the Constitution of Luxembourg, Section 115[12] (*During the regency it can not be approved any constitutional amendment that affects the rights of the Grand Duke, his status or the order of succession to the throne*") and the Belgian Constitution, Article 197 ("*During the regency can not be realized constitutional amendments dealing with the constitutional powers of the King and Articles 85 - 88, 91 - 95, 106 and 197 of the Constitution*").

The prohibition of constitutional revision during emergency or extraordinary situations is previewed in: the Portuguese Constitution, Article 289; the Romanian Constitution, Article 148, paragraph 3; the Estonian Constitution, Article 161, paragraph 2; the Albanian Constitution, Article 177 paragraph 2. In the Albanian case, Article 177, paragraph 2 of the Constitution determines that *no constitutional revision can be done during the time when extraordinary measures are set*. Then, the raised question concerns the determination of extraordinary measures and the time when they are set. However, it also gets answered within

[9] The constitutional text *explicitly* prohibited the proper revision within the first 10 years after its entering into force.

[10] See *Portuguese Constitution of 1976, art.284 /1* in: *Constitutions of Europe: Texts Collected by the Council of Europe Venice Commission, Volume II*, op.cit.

[11] See *Greek Constitution of 1975* in: *Constitutions of Europe: Texts Collected by the Council of Europe Venice Commission, Volume I*, op.cit.

[12] As amended in January 12, 1998.

constitutional provisions, Part XVI of the Constitution, Articles 170-176. According to article 170, paragraph 1, the extraordinary measures are set because of the state of war, extraordinary situation or incase of natural disasters, and they last for as much time as the particular situation continues.

The explicit limit to revise the constitution during wartime is proviewed also in the Belgian Constitution (Article 196), the French Constitution (Article 89), the Spanish Constitution (Article 169), the Estonian Constitution (Article 161, paragraph 1) and the Georgian one (Article 103).

The basic principles generally constitute *implicit* limits set to the constitutional revision, that is why they are mostly elaborated as such by the doctrine and the jurisprudence of several states (those having formal constitutions), because the *implicit* limits are not directly expressed in the constitutional text, but they derive from its systematic interpretation and presume the impedement to change some institutes or some principles set as the base or the core of the constitutional text. Arguments for such restrictions are based on the presumed underogability of the basic principles, from which derive all the rest of the legal order. But what is important in every constitutional order is the specific individualization of *implicit* material limits[13]. In this context, we can mention the German doctrine, which has received varying levels of implicit limits: Neff considers as material limits the constitutional power of the people, the existence of inviolable rights and basic principles of the state structure[14]; Gizcometti mentions the fundamental rights, the separation of powers and the principle of equality; the other constitutionalists of the so-called "School of Zurich" (except Ehmke, Kagi and Haug) have been searching for a material order of values, the "material justice" (*materiale Gerechetigkeit*), and of a "material ethic of values" (*materiale Wertethik*), which, according to them, oblige the holder of the revising power for every constitutional revision beyond the *explicit* limitations set in the constitution[15]. Their finding and identification in the constitutional practice and legal doctrine of several states is presented in the following issue.

The general principles that stand at the basis of the legal order, the provisions that stipulate the rights and freedoms of citizens, the provisions that determine the form of government, etc constitute absolute limits set to the revising process of a constitution. For some lawyers, the value of such a prohibitive disposition is relative, and they base their arguments on the principle "*lex posterior derogat priori*[16]" and *the practical exigencies of the contemporary constitutional legal orders*[17], which created the legislative organes and the revision ones on representative basis exactly to allow a constant evolution of the legal norms related directly with the changing social exigencies. Let us take for example one of the first formal constitutional, the French Constitution of 1791, under Title VII, Article 1 of which "*The National Constitutional Assembly declares that the nation has the irrevocable right to change*

[13] BISCARETTI DI RUFFIA P., *Introduzione al diritto costituzionale comparato: le "forme di stato" e le "forme di governo", le costituzioni moderne*, op.cit., p.585.

[14] MEZZETTI L. In: GAMBINO S., D'IGNAZIO G., *La revisione costituzionale e i suoi limiti: Fra teoria costituzionale, diritto interno, esperienze straniere*, op.cit., p.266

[15] Ibid.

[16] According to which the later-in-time provision can modify and abolish an earlier provision of the same legal power.

[17] ORSELLO G.P., *Revisione constituzionale e mutamento istituzionale*, Milano, 1952, p.27.

its constitution", and the Universal Declaration of Human Rights of 1793, Article 28, that recognized the permanent right of the people to review, reform and change the constitution by expressly stating that "*No generation can not impose its laws to the future generations*".

According to these last conceptions - with the assumption that the constitutional norms in question have a greater efficiency than all the others, and consequently, exists the opportunity to amend them acording the provided *revision procedure* (or eventually with most difficult procedures) - the limit (which was set before in time) is attainable through a two-time processing: first, it is eliminated the prohibitive disposition in question, and later then, in a second time, it is proceeded with the desired modification, by making the revision procedure more difficult and complex in the political plan[18]. However, the more suported and reliable thesis is the opposite one, according to which any change done on the content of the provision, which prohibits i.e. changing the form of government, can be performed only by unlawfull ways[19]. Currently, many European constitutions contain such *explicite* limits referring to the unchangeability through constitutional revision of the dispozitions that provide:

a. the political - legal principles set on the basis of the constitution,
b. the principles contained in the declaration of rights,
c. the form of state or the form of government.

Thus, the prohibition to revise the fundamental constitutional principles is set in the German Basic Law, Article 79, paragraph 3, which excludes any possible modification of: the organization of the Federation in Lander-s, the Lander participation in the federal legislative process and the principles contained in Articles 1 and 20:

- Human Dignity and its inviolability;
- the inviolability of human rights;
- the immediate binding, without having to draw the legal specifications, of the catalog of fundamental rights contained in the constitutional provisions;
- the federal character of the state organization;
- the creation of a social-democratic model, in which on one side is widened the circle of the protected rights, while, on the other side, the state actively intervenes in the economy to balance the differences created by the capitalist economic structure;
- the principle of popular sovereignty, and its exercise through free elections, referenda and special bodies of the legislative, executive and judicial power;
- the principle of constitutionality in the activity of legislative power and the principle of legitimacy in the activity the two other powers;
- the right of resistance of German people versus who undertakes actions to change the legal order in force.

Article 100 of the Greek Constitution prohibits the revision of some of the provisions of the aforementioned groups, because they affect the organization of the basic structures of the Greek state, and also some individual rights in particular way. It prohibits the constitutional

18 In: BISCARETTI DI RUFFIA P., *Introduzione al diritto costituzionale comparato: le "forme di stato" e le "forme di governo", le costituzioni moderne*, op.cit., p.589, the author referred to the general manuals of other author as: CROSA, LUCIFREDI, PERGOLESI, RANELLETTI, etc.
19 Ibid, by referring to the manuals of: BALLADORE, PALLIERI, MORTATI, etc.

revisions of the provisions that determine the basis and form of the political regime as a parliamentary republic, as well as those related to the following articles: Article 2, paragraph 1; Article 4 paragraph 1 and 4; Article 5 paragraph 1 and 3; Article 13, paragraph 1; Article 26, respectively:

- the obligation of the state to protect and respect human rights;
- the equality of all Grrek people before the law;
- the exclusive right to public office only to Greek citizens, apart from the exceptions provided for in special laws;
- the right to the free development of personality and participation in social, economic and political life of the country, for as long as there is no violation to the rights of the others, to the constitution, and to the ethical values;
- the inviolability of personal liberty;
- the inviolability of religious freedom, peaceful enjoyment of civil rights, regardless of personal religious beliefs;
- the exercise of legislative power by the Parliament and the President of the Republic;
- the exercise of executive power by the President and the government;
- the exercise of judicial power by the courts on behalf of the Greek people.

The constitutional provisions that prohibit the modification of the form of state or government are those encountered in a considerable number of constitutions. To be noted here is the example of France, which has preserved the republican form of government in all its constitutions since the Law of 14 August 1884[20]. Examples of the other European countries, which exclude the republican form of government from the constitutional revision, are: Greece (Article 110, paragraph 1), Italy (Article 139), Portugal (Article 290, paragraph 1, letter b) and Turkey (Article 4) [21]. The absolute integrity of the totality of human rights has been stressed in the constitutional texts of these countries: Germany (Article 79, paragraph 3), Portugal (Article 190, paragraph 1, item d), Algeria (Article 195 paragraph 4) and India (Article 13 paragraph 2)[22]. The importance and identification of the limits imposed on the revision process lies precisely in their role as guarantor of the stability of the constitutional legal system, especially when they are presented as absolute limits to the revision. Even when being implicit ones, they guarantee the underogability of the the presumed fundamental principles standing on the basis of the relevant legal order.

The role of constitutional courts on constitutional transformation and *implicit* limits of revision

The contemporaneous constitutional doctrine and the practice of several European countries has examples where certain basic principles were identified and determined (on case by case basis) as *implicit* and absolute limits set in the revising process of a rigid constitution, even in the absence of an expressed restriction.

Their existence derives by the concept of the material constitution and the constitutional courts have an essential role in the determination of these limits and in the constitutional

[20] The French Case includes: The Law of 14 august 1884, Article 2 paragraph 4; the Constitution of 1946, Article 95; the Constitution of 1958, Article 89 paragraph 5.

[21] RIGAUX M., *La theorie des limites materielles a l'exercice de la fonction constituante*, op.cit., p.44.

[22] Ibid.

transformations. The most modern European constitutions provide formal limits as special procedures of varying degrees on the difficulty to apply or implement proper revision, even different procedures for the total and partial revision of some chapters (such as the examples of the Austrian Constitution, the Spanish, Swiss, Bulgarian ones). They offer also a variety of material *implicit* and *explicit* limits set on the power of constitutional revision. The most raised question concerns to what extent is it possible to realize the changes in the constitutional text and if it is possible to abolish the constitution by legally way?

The practice (or the experience) has shown full cases in which, despite *explicite,* formal and material limits, they have been overcome through the implementation of constitutional revolutions or at best through the adoption of new constitutions. Here, it should be noted that the power to revise the constitution is not unlimited, and that, when it comes to constitutional amendment, it means the maintaining of the "solid core" of the constitution, whose provisions may be excluded from any revision, because they were "given" a supra-constitutional value[23].

In the legal doctrine, since earlier in time, different authors have co-shared the same views on "impossibility to change" these constitutional provisions and principles: some of the authors refer to the fundamental principles of the constitution, some other refer to the underogable and inviolable rights and freedoms, while other authors consider such even the relevant provisions of the revising formulas (the provisions of constitutional revision procedures). They certainly find grounds and relevant arguments in the contemporary doctrine or jurisprudence of the constitutional courts of several states, which have been an important influence on the analysis of the discussions about the definition of "the constitutional solid core". The general concept of a "solid core" of the constitution, around which is developed the whole constitutional system, refers to a set of principles, procedural and substantial ones, strong and compact enough to resist to the flow of time and to the possible standards accepted by different states, and whose denial would lead to an irreversible alteration of the identity of that legal order, that would lose its original features to be transformed into a completely different legal and institutional framework[24]. Let us recall herethe direct refer to "*the principles of mercy in the constitution*" and "*the spirit of the constitution*" set in Article 112 of the Norwegian Constitution which, inter alia, states that "*...Such amendment must never, howevver, contradict the principles embodied in the Constitution, but solely relate to modifications of particular provisions which do not alter the spirit of the Constitution, and such amendment requires the two third agree thereto...*". It does not give the definition of "*the principles of mercy in the constitution* " or "*the spirit of the constitution*" referred to, but seems to refer to the prohibition of modifications which may affect the "core" of the constitution and can abrogate it.

Constitutional courts play an essential role in the constitutional transformations (except their interpretative decisions through which they create a new law). Even on practical plan the formal and material limits, *explicite* and *implicit*e ones, set in the constitutional revising

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23 There is a huge literature on this matter: ARDANT P., *(Manuel) Institutions politiques & droit constitutionnel*, 6e édition, Paris 1994, p.82; CAMERLENGO Q. in Quaderni del "Gruppo di Pisa", *Giurisprudenza costituzionale e principi fondamentali. Alla ricerca del nucleo duro delle costituzioni*, Torino, Giappichelli, 2006, p.41; MORBIDELLI G., PEGORARO L., REPOSO A., VOLPI M., *Diritto pubblico comparato*, Torino, Giappichelli, 2004, p.77.

[24] Quaderni del "Gruppo di Pisa", *Giurisprudenza costituzionale e principi fondamentali. Alla ricerca del nucleo duro delle costituzioni*, op.cit., p.42.

process can take legal space within the effective control of the constitutionality of laws, since these limitss can be overcome even by any possible constitutional law, which consequently can be regarded as unconstitutional. There is no doubt that on political line (and in front of the public opinion) this may pose a problem not easily solvable. The confirmation of the importance and value of fundamental priciples is seen in an early important decision of the German Federal Constitutional Court of 1952th on a case regarding un-constitutional political parties, where are mentioned and argued as inalienable principles of the liberal-democratic juridical order "*the respect for the right of human dignity on life and free development, the sovereignity of the people, the division of powers, the responsability of the governement, lawfulness on the adminsitration activities, the independence of the judiciary, the principle of majority and the right to make outs*[25]".

Within this spirit is also the Decision of the Italian Constitutional Court nr.1146/1988 that declared the immutability of some principles of the constitution when statin "*the Italian Constitution contains some basic principles which can not be canceled or modified at their core content nor through constitutional review laws, or by other constitutional laws. Such are the principles which the Constitution itself expressly provides to the absolute limits on the power of constitutional review, as republican forms of government (Article 139 of the Constitution), and the principles which, although not expressly mentioned among those that are not subject to constitutional review procedure, belong to the core fundamental values on which the Italian Constitution created*[26]". This is justified, not only because of the same spirit of interpretation of the constitutional provisions, but alsa because of the increased communication and mutual referral decisions between the constitutional courts of different countries. Moreover, in the same decision of the Italian Constitutional Court there is a justification to which it can not be denied the competence of the Constitutional Court to rule on the compatibility of constitutional revision laws and other constitutional laws in relation to the fundamental principles of the constitutional order, because, if it can not be so, then it would lead at the absurdity of considering the system of constitutional guarantees as flawed and not effective in relation to its dispositions of the highest value.

The above mentioned decision[27] constituted *a maxim according to which was further set the question of implicit limits in the Italian Constitutional Order*. It was referred in the following other cases subject to review, mainly regarding the constitutional legality by incidental way: decision nr.203/1989, nr.459/1989 decision, order nr.291/1991, nr.35/1997 decision, the decision nr.29/1998, nr.425/1998 order, decision nr.134/2002, decision nr.2/2004.

Related cases are found in the French and Spanish experiences, and even in the new constitutional jurisprudence and doctrine of post-communist states of Eastern and Southeastern Europe: the basic principles of a constitution should be considered as un-modifiable in legal way, as they condition the entire concrete constitutional order, and whatever legal way of realizing the changes, will result not so legitimate in the obligatory comparison with these principles. For example, in cases where constitutions contain an explicit prohibition of changing the form of government, as in Greece, Italy, Portugal and Turkey, it can be argued that the prohibition includes the impossibility to change the relevant

25 Cited by: FURLAN F. in BARDUSCO F., FURLAN F., IACOMETTI M., MARTINELLI C., VIGEVANI G.E., VIVIANI SCHLEIN M.P., *Costituzioni comparate*, Torino, Giappichelli, 2005, p.119.
[26] Ibid.
[27] Refers to: The Decision of the Italian Constitutional Court nr.1146/1988

constitutional provisions, which in contrar case would have led to an in-formal change form of government itself. With the republican form of government are considered inextricably linked to: the principle of popular sovereignty, the principle of equality, the right to vote, the right to manifest.

CONCLUSIONS

The limits set on the revision process of a constitution in relation to complex system aiming to identify and guarantee, represent, among other things, the characterizing elements of a constitution, which aims to ensure greater sustainability to the potential continuity of the legal order which were created by itself. The basic principles generally constitute *implicit* limits set to the constitutional revision. They are not directly expressed in the constitutional text and the arguments for them are based on the presumed underogability of the basic principles, by which derives all the rest of the legal order. Their existence is derived from the concept of the material constitution and the proper identification is realized through the practice and constitutional doctrine of the states. That is why they are mostly elaborated as such by the doctrine and the jurisprudence of several states (those having formal constitutions), because the *implicit* limits are not directly expressed in the constitutional text, but they derive from its systematic interpretation and presume the impedement to change some institutes or some principles set as the base or the core of the constitutional text.

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