
UNDERGRADUATE PROGRAM IN CENTRAL EUROPEAN STUDIES

CERGE-EI AND THE SCHOOL OF HUMANITIES AT CHARLES UNIVERSITY



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CONSTITUTIONALISM IN THE EASTERN EUROPE

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OUTLINE OF THE COURSE:

The course is an attempt to exploit the recent transition in Central and Eastern Europe from the totalitarian society to democracy. This great experiment gives us the opportunity for systematic revival of the main principles on which democratic society is based. On the examples of concrete changes of the political economics and legal systems we can revise and reconsider the importance and sequence of the various reforms and changes.

GRADING POLICY:

Students will be given one written exam at the end of the semester. In addition to this final exam, students will also be continually evaluated by the professor during each class session. And as with the rest of the UPCES courses, attendance is mandatory. Failing to appear in class will result in a lesser grade per incident.

REQUIRED READING:

A courser reader will be available for students. It will contain all the selected readings.

TOPICS:

Week 1: Introduction - Historical and Political Overview

Readings:

- pp: 4 - 8. Historical Background of the Czech Republic
- pp. 9-10 Regional Maps

Week 2: The Collapse of Communism - Theories of Transformation

Readings:

- pp.11- 29 Richard A. Epstein: All Quiet on the Eastern Front, ***University of Chicago Law Review, 1991***

- pp.31 - 39 Vojtech Cepl: A Note on the Restitution of the Property,
The Journal of Communist Studies, Vol 7, 199

Week 3: The Natural Law Theory versus Legal Positivism

Readings:

- pp. 37 - 40 Vojtech Cepl: The Road out of Serfdom, ***Vera Lex Vol XII, 1992***

Week 4: The New Czech Constitution - Example of Modernisation of the Old Document

Readings:

- pp. 41 - 47 Vojtech Cepl: Constitutional Reform in the Czech Republic,
University of San Francisco Law Review, Vol 28, 1993

Week 5: The Concept of Constitutionalism

Readings:

- pp. 89 - 96 Fareed Zakaria: The Rise of Illiberal Democracy, ***Foreign Affairs 1997***

Week 6: Legislative and Executive Power

Readings:

- pp. 97 - 99 Vojtech Cepl: Senate Anyone?, ***East European Constitutional Review, 1993***

Week 7: Continental and Anglo-American Legal System

- Sources of Law
- Comparative Legal Science

Readings:

- pp. 115 - 125 John H. Merriman: The French Deviation,
The American Journal of Comparative Law 1996

Week 8: Judiciary in Transition

Readings:

- pp. 127 - 168 Act on the Constitutional Court of June 16th 1993

Week 9: Legal Profession

- Law Schools
- Advocacy
- State and Local Administration

Week 10: Constitutional Courts in Post-Communist Countries

Readings:

- pp. 172 - 191 Charter of Fundamental Rights and Freedoms of January 9th 1991

Week 11: Lustration Law

Readings:

- pp. 201 - 215 Resolution of the Federal Parliament No.204
- pp. 217 - 219 Vojtech Cepl: Ritual Sacrifices, ***East European Constitution Review, 1992***
- pp. 235 - 240 Vojtech Cepl: The Transformation of Hearts and Minds in Eastern Europe,
CATO Journal 1997

Week 12: Revival of Civil Society

- pp. 241 - 246 Robert D. Putnam: The Prosperous Community: Social Capital and Public Life,
The American Prospects, 1993

Week 13: Summing up Discussion

examinations

RECOMMENDED READINGS:

- pp. 49 - 81 Constitutional Act of the Czech National Council, December 16th 1992
- pp. 83 - 88 Jon Elster: On Majoritarianism and Rights,
East European Constitutional Review, 1992
- pp. 101 - 113 Vojtech Cepl and Mark Gillis: The Presidency in the 1993 Czech Constitution,
East European Constitutional Review 1994
- pp. 192 - 200 A Dissenting Opinion in the Czech Constitutional Court,
Parker School Journal of East European Law, 1994
- pp. 221 - 233 Vojtech Cepl: Retribution and Restitution in Czechoslovakia, Part I,
Archive for European Sociology and political Science, 1992