

CHARLES UNIVERSITY IN PRAGUE
FACULTY OF LAW

**THE CZECH LEGAL SYSTEM
IN EUROPEAN CONTEXT**

Prague 2006/2007

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Czech Republic – geographic details

Bordering Germany, Austria, Slovakia and Poland, Czech Republic is an **inland state in the central part of Europe**. Its borders (length 2,303 kilometers) are mainly historical and belong to the oldest in Europe.

Even though the Czech Republic's **area of 78,866 square kilometers** and its **10,3 million inhabitants** rank it among smaller or middle-sized countries, its wealth of natural beauty and monuments of cultural heritage contribute greatly to its global prestige as a **major cultural destination**.

The area of the Czech Republic is formed above all by **hills and highlands**. The lowlands form only 5% of the country area.

The climate of the Czech Republic results from its position in the middle of the **mild zone**. Four seasons change regularly, average summer temperature is 20 °C, average winter temperature 5 °C. **The coldest month is January, the warmest July**.



History of the Czech Republic in brief

Since time immemorial, the Czech lands have been the **crossroads of European cultures**.

The independent Czechoslovak Republic was established 28th October 1918, after the collapse of the Austro-Hungarian Monarchy, and Tomas Garrigue Masaryk was elected the first president of the republic in November.

15th March 1939 **Nazi German armies occupied Czechoslovakia**.

In the end of World War II, in May 1945, the **Red Army reached Czechoslovakia** and Czechoslovakia fell within the Soviet sphere of influence. Communists supported by the Soviet regime in Moscow carried out a **coup d'état** in Prague on 25th February 1948. **The 1950's** was an era of harsh repression and decline.

In the 1960's the country enjoyed a gradual liberalization under the reformist general secretary Alexander Dubcek. 21st August 1968 the **armed forces of the member states of the Warsaw Pact occupied Prague** and Czechoslovakia remained a communist country under the Soviet influence until November 1989.

A student demonstration in Prague on **17th November 1989** started the so called **Velvet Revolution** which led to the world-known peaceful fall of the communist regime in a couple of weeks. The communist government resigned and the popular Vaclav Havel was elected president of the Czechoslovak Federal Republic.

On **1st January 1993** the Czechoslovak Federal Republic split into **two independent states**, the **Czech Republic** (Bohemia, Moravia and Silesia) and the **Slovak Republic** (Slovakia). This peaceful splitting is known as the **Velvet Divorce**. Soon after its establishment, Czech Republic was accepted as the 179th member of the Organisation of United Nations (January 19, 1993) as a continuator of Czechoslovakia, an origin member of the Organisation of United Nations since 1945. Vaclav Havel was elected the first president of the independent Czech Republic.

Czech Republic is a **member of the Council of Europe, The International Monetary Fund and many economic and financial international organisations. It has become a NATO member on 12th March 1999 and 1st May 2004 is the date of its entry into EU**. The country has not adopted the Euro yet, however, and still uses its national currency, the **Czech crown**.

Prague

is the **capital and largest city** of the Czech Republic, situated in **central Bohemia**. Lying along the banks of the **River Vltava (Moldau)**, Prague is the magical city of bridges, towers, church domes and buildings of various style periods. Into its present-day shape it has been developing for eleven centuries.

Prague is, however, a green city, too.

Nowadays it covers a **total area of 496 square kilometers** with almost **1,2 million permanent residents**. In 1992 the **historical centre** with a unique panorama of the **Prague Castle** was listed in the **UNESCO World Cultural and Natural Heritage Register**.

Prague is the seat of the top-level legislative, administrative and political bodies of the country – **the Parliament, government and President**. The **most important social, cultural and educational institutions** reside here.

“**The Magical City**”, “**Golden Prague**”, “**The City of One Hundred Towers**” and “**The Paris of the East**” or “**The Rome of the North**” are some of the common descriptions of Prague.

History in brief

Since its beginnings **Prague has always played an important role in the history of the nation, country and Europe**. The first settlements on the site of the modern city date back to Neolithic times and before the arrival of the Slavs in the 6th century, the area was inhabited by Germanic and Celtic tribes. Fortified settlements were first recorded in the 9th century.

Since the Middle Ages, when the **expression Praga caput regni** (Prague, the Head of the Kingdom) was used, Prague has been famous as one of the most beautiful cities of the world.

During the **Charles IV** epoch (1346–1378) Prague grew into one of the largest cities in Europe and acquired many of its Gothic landmarks, including the **Charles Bridge** and **St. Vitus Cathedral**. Charles IV made Prague the **capital of the Empire** and founded the **Charles University in 1348**.

The **late 14th and early 15th** centuries witnessed an influential Church-reform movement, The **Hussite Revolution**, which had threatened the **Catholic status quo** all over Europe.

In 1526 **Hapsburg dynasty** ascended the Bohemian throne and Prague experienced great prosperity under **Emperor Rudolf II**.

After the proclamation of independence of Czechoslovakia in **1918**, **Prague became the new state capital** and its power and wealth grew until the **Munich agreement** allowed the Germans to occupy the country. Fortunately, Prague survived the 2nd World War virtually intact.

The University

Founded in 1348 by the Czech King and Roman Emperor Charles IV, Universitas Carolina Pragensis is the oldest university in Central Europe. It has enjoyed a long international reputation for high quality teaching and research. From the very beginning, instruction in Canon Law and Roman Law has been a part of the curriculum of Charles University and formed the basis of *ius communae europae*. Among the University's distinguished alumni, Johannes Kepler, Bernard Bolzano, T. G. Masaryk and Albert Einstein are included.

The fortunes of the University have been linked with the fates of the nation. In the second half of the XIXth century, the University was challenged by the aspirations and ambitions of political self-reliance. In 1882 the government in Vienna was forced (by the efforts of independence in the cultural and intellectual life of the Czech society) to divide the University into two separate institutions, the German one and the Czech one. This double status lasted until the German occupation. Protests by its students resulted in the closing of Czech universities from 17th November 1939 for the next six years. Some students and professors were executed, many of them oppressed. In 1945 the German University was abolished and the Czech one re-established. But, academic freedoms and privileges were violated again by the communist regime after the *coup d'etat* in 1948.

Charles University supported the political revolt of the *Prague Spring* in 1968. After a 'strike of sympathy' evoking strong feelings of solidarity between students and university academic staff, Jan Palach, a student of the Faculty of Arts, committed suicide, in an attempt to provoke resistance against the Russian occupation. Oppression followed . . .

The rebellion of Charles University students on 17 November 1989 started subsequent political developments in the country. Since the re-establishment of a democratic government and basic rights in the Czech Republic in 1989, Charles University has been facing the challenge of evolving and adapting in a rapidly changing environment, and has been prompted to revive its international position as a centre of excellence. The total number of its students now amounts to more than 40,000 throughout 17 Faculties.

The Faculty of Law

With more than 4000 students, the Faculty of Law is the largest accredited law faculty in the country. Many of its alumni hold prominent positions in the central and regional administration, the public service as well as in advocacy and private business.

The basic legal education at the Faculty takes five years and the curriculum is taught entirely in Czech. The first year provides students with a thorough background in Czech and European legal history, Roman law, legal theory and national economics. During the following four years, students are offered an in-depth study in all fields and aspects of law. Students who have completed this curriculum graduate as *Master of Law* (Mgr.). Those who pass successfully the rigorosum-exam are awarded the academic title JUDr. The Faculty also offers advanced studies within a three-year post-graduate curriculum, leading to the doctoral degree of *PhD*.

Since 1998/99 the Faculty has gradually been involved, together with universities in Germany, France, the United Kingdom, Ireland, Austria, Switzerland, Greece, Italy, Spain, Portugal, Belgium, the Netherlands, Denmark, Finland and Sweden, in the student and teaching staff mobility scheme within the ERASMUS programme of the European Union. Courses offered in English have been covered by the European Credit Transfer System (ECTS). The Faculty also admits students under the exchange programmes of inter-governmental cultural agreements and inter-university agreements. Each academic year, about 60 law students from the Member States of the European Union can spend one or two terms in Prague, while the equivalent approx 110 of Czech law students from Law Faculty of Charles University go abroad for a comparable period.

The students of Charles University consistently achieve distinguished positions among non-native English speakers in the International Moot Court competitions ELMCS, Jessup, Telders and R. Cassin (in 1998 and 2001 the Regional Final of the ELMCS was held in Prague). The Faculty has the pleasure of hosting the 2-year Distance Learning Programme organized by the Warsaw Centre for English and European Law of the University of Cambridge. There is a close co-operation with the University of San Francisco and South Texas (Summer Law School in Prague) and the University of Pretoria (South African Republic). The Faculty also maintains many bilateral projects with a number of another partner universities e.g. in Canada (McGill University), Japan (Waseda and Tsukuba Universities), Australia (Queensland) as well as in Slovakia, Poland, Hungary etc. There is an active branch of the European

Law Students Association (ELSA) together with other students associations Vsehrd and Common Law Society.

There is an established commitment within the University to interdisciplinary training in the management of EU-affairs for professionals from state bodies, non-profit entities, etc., called *Europeum*. The Faculty has been regularly inviting visiting professors and leading specialists from Germany, France and the United Kingdom, who are providing students with a unique opportunity to obtain first-hand knowledge of their respective legal systems.

It was the idea of reinforcing the Europeanization of higher education in the Czech Republic and of establishing alliances with academic partners within a wider Europe that formed the initial motivation for launching a specialized law course fully taught in English.

Objectives of the Programme

The programme of study The Czech Legal System in European Context (CLS) has been designed with the following goals in mind:

- to introduce a foreign student to the fundamentals of the Czech law, not only from an analytical perspective, but also in larger historical, political, social-economic, environmental and regional contexts;
- to familiarize students with the dramatic reforms which the Czech law, as well as the laws of other Central and Eastern European Countries (CEECs), has faced since the fall of communism in 1989;
- to analyse the close links between economic and social transformation and legal change;
- to describe how the law in transition works, focusing on the available remedies of law enforcement;
- to explain the procedure of, and prospects for, law approximation which accompanies the integration of the Czech Republic and other CEECs within the EU law.

The CLS Programme is a nine-month programme done on a full-time basis. Limited admission guarantees that each student receives optimal attention and has every opportunity to participate actively in the class. Students will obtain an official Transcripts of Records in the end of their study stay in Prague.

Job Opportunities in Prague

The graduates of The Czech Legal System in European Contexts programme can greatly increase their employment prospects in international law firms, multinational companies and associations or the media sector, dealing with Central European legal affairs or business. They can substantially improve their chances of career development in the EU-Member States Foreign Ministries or international departments of other state authorities, or in EU-institutions and agencies as well.

Programme Structure

The Programme is composed of 18 courses.

All courses are taught in English. Instruction is a combination of lectures and seminars. Participants are required to attend all classes in which they have been enrolled and an adequate preparation is expected from each student as well. There is an obligatory reading load of between 100–200 pages per course. Background material (lecture notes, statutory and treaty provisions, cases and other relevant legal texts) is distributed to all participants, or is available in the faculty library.

Courses are taught by distinguished academics from the Charles University in Prague and some other European universities, as well as judges and leading lawyers. There are two groups of courses – compulsory and optional – which aim at giving students an insight into and an understanding of the complexity of the Czech legal system in its regional and broader European contexts.

Participants of the eight compulsory courses meet for a total of 24 hours per course, the ten optional courses have a duration from between 20 and 24 hours each. Student performance is evaluated in each course and credits are awarded on the basis of contact hours and classes successfully completed. The total credit requirement is 60 credits, of which 48 credits in mandatory courses and a minimum of 12 credits in optional courses must be obtained. Course attendance (lectures and tutorials) amounts to approximately half of the workload, the other part consists of home preparation and background reading. Exams are both in written and oral forms.

Courses of the Czech language for beginners, as well as for advanced students, are offered free of charge.

Academic Calendar

The Programme runs through the autumn term for 12 weeks. Classes usually start the first week of October with an introduction-providing seminar (exact date will be specified – see our web site www.prf.cuni.cz) and finish before Christmas (15th December), followed by a break for the 6-week examination session, courses finished earlier in the autumn term might be followed by the exams successively. There is public holiday in the Czech Republic on 28th October, 17th November and the Christmas Holiday (16.12. – 2.1.) during the last week of December and the 1st January.

The duration of the spring term is 13 weeks. Classes start again in the middle of February and finish in the middle of May (exact days will be specified – see our web site www.prf.cuni.cz), followed by another 6-weeks examination session. There is public Easter Holiday, Labour Day on 1st May and public holiday on 8th May.

Facilities

The brand new Law Library, located in the Faculty building, is the most extensive and modern law library in the country. It stocks a wide range of specialist periodicals and journals, monographs and textbooks, both Czech and foreign. The library is open from 9 a. m. until 8 p. m. during weekdays and from 9 a.m. until 4 p.m. on Saturdays. Personal computers with up-to-date software, access (with special personal password) to the Internet and the EU database CELEX on CD-ROM etc. are also available. The European Documentation Centre is located nearby Charles University. Students have free access to e-mail and several Czech legal databases (ASPI, JURIS, LEXIS), to the European information KNOWEUROPE service, to the Czech National Bibliography and Index to Foreign Legal Periodicals.

The Faculty of Law frequently holds public lectures given by distinguished guests, international symposia etc. open to the whole academic community.

Visits to the Czech Supreme Court and Constitutional Court in Brno, the Czech Bar Association, law firms or to the historical sites and places of interest, etc. will be a consistent part of the programme.

Additionally, there are other in-door facilities in the faculty building ready for use, such as a fitness and sport centre.

Tuition Fee

Tuition fee amounts to **Euro 3.000** for the courses and includes the teaching material. Successful applicants are required to secure their admission with an advance payment of **Euro 2000 by 31 August 2006**, the remaining **Euro 1000** are due at **31 December 2006**.

Students are responsible for financing their living expenses while staying in Prague. Those admitted within quotas under bilateral agreements between the Czech Republic and the respective foreign country or institutional university agreements will be exempted from payment of fees for the courses. Upon the request, the national authorities or university information centres in the countries of which the foreign students are nationals provide advice concerning post-graduate scholarships and other available sources of funding offered by national and international foundations and enterprises. Applications for grants have to be processed by the earliest possible date.

Admission Requirements

Candidates might be both undergraduate and postgraduate students. In the case of undergraduates, students having intermediate and upper intermediate law knowledge are preferred.

Non-native speakers are obliged to submit a proof of their oral and written proficiency in English by sending a certification from a university or a recognised language school (TOEFL, CAE, CPE) verifying the candidates linguistic competence.

All candidates will be considered on the basis of their completed Application form and accompanying documents, including a detailed curriculum vitae, a cover letter explaining the candidates professional goals, expectations concerning the Programme and his/her personal interests in the relevant field of studies, a letter of recommendation from an academician or a respected personality as well as a declaration of the means of financing the study in Prague.

The application deadline for admission to the CLS Programme is 15th June 2006.

Late applications may be considered in September for places not taken up by admitted candidates. Repeated failure to comply with the formal requirements listed above will result in the application being inadmissible. Selections will

be made until the end of June. The candidates will be notified of the decision on admission without delay. Decisions on admission cannot be appealed.

Visa, Accommodation and Insurance

Students are responsible to secure their study visa for the Czech Republic prior to their enrollment. The Faculty of Law will assist students in applying for the required visa at the Czech Embassy/Consulate in the relevant home country by supplying the supporting documents as requested (pre-filled application forms for long-term residence, Letter of Acceptance, the confirmation of guaranteed accommodation in Prague).

All the dormitories which Charles University uses to house its foreign students meet European university standards. Each offers bedrooms with 1–2 beds and an en-suite bathroom, a canteen on site, where breakfast and dinner are served, as well as bars, social and leisure facilities. Those who would prefer to find private accommodation will choose from a wide variety of options on the market. There is also a canteen located in the Faculty building where lunch can be taken. In the Czech Republic, all health insurance valid within the EU is normally recognized. Nevertheless, students should check with their insurance office whether this is the case of their particular health insurance. Foreign students are also advised to take out additional insurance covering hospital care, if necessary, or insurance against third parties. This does not apply to British students (all health care is covered by bilateral agreements between the CR and the UK).

Please note: The following list of courses may be subject to changes at the beginning of each semester.

ACADEMIC PROGRAMME

Winter Term

I. Compulsory Courses

CONSTITUTIONALISM IN THE EASTERN EUROPE

Vojtech Cepl

Outline of the Course

- 1/ Introduction – Historical and Political Overview
- 2/ The Collapse of Communism – Theories of Transformation
- 3/ The Natural Law Theory versus Legal Positivism
- 4/ The New Czech Constitution – Example of Modernisation of the Old Document
- 5/ The Concept of Constitutionalism
- 6/ Legislative and Executive Power
- 7/ Continental and Anglo-American Legal System
 - Sources of Law
 - Comparative Legal Science
- 8/ Judiciary in Transition
- 9/ Legal Profession
 - Law Schools
 - Advocacy
 - State and Local Administration
- 10/ Constitutional Courts in Post-Communist Countries
- 11/ Lustration Law
- 12/ Revival of Civil Society
- 13/ Summing up Discussion examinations

Reading List

- Chapter 1: Historical Background of the Czech Republic, Regional Maps*
Chapter 2: Richard A. Epstein, All Quiet on the Eastern Front, University of Chicago Law Review, 1991
Vojtech Cepl: A Note on the Restitution of the Property, The Journal of Communist Studies, Vol 7, 1991
Recommendation: Eric A. Posner, Transitional Justice as Ordinary Justice, Harvard Law Review, 761 Jan. 2004

- Chapter 3: *Vojtech Cepl: The Road out of Serfdom, Vera Lex Vol XII, 1992*
Recom. Brian Z.Tamanaha, On the rule of Law, Cambridge 2004
- Chapter 4: *Vojtech Cepl: Constitutional Reform in the Czech Republic,*
University of San Francisco Law Review, Vol 28, 1993
Constitutional Act of the Czech National Council, Dezember 16th
1992
Recom. John C. Touchie, Hayek and Human Rights, Elgar 2005
- Chapter 5: *Jon Elster: On Majoritarianism and Rights, East European*
Constitution Review, 1992
Fareed Zakaria: The Rise of Illiberal Democracy, Foreign
Affairs 1997
- Chapter 6: *Vojtech Cepl: Senate Anyone?, East European Constitutional*
Review, 1993
Vojtech Cepl and Mark Gillis: The Presidency in the 1993
Czech Constitution, East European Constitutional Review 1994
- Chapter 7: *John H. Merryman, The French Deviation, The American*
Journal of Comparative Law, 1996
- Chapter 8: *Constitution: Chapter Four*
Act on the Constitutional Court of June 16th 1993
Recom. Law in Transition 2005, Year Book EBRD 2005
- Chapter 9: *Constitution: Chapter Seven*
- Chapter 10: *Charter of Fundamental Rights and Freedoms of January 9th*
1991
A Dissenting Opinion in the Czech Constitutional Court,
Parker School Journal of East European Law, 1994
Recom. Rafael la Porta ed., Judicial Checks and Balances,
NBER Working Papers 2003
- Chapter 11: *Vojtech Cepl: Ritual Sacrifices, East European Constitution*
Review, 1992
Vojtech Cepl: Retribution and Restitution in Czechoslovakia,
Part I, Archive for European Sociology and political Science,
1992
Vojtech Cepl: The Transformation of Hearts and Minds in
Eastern Europe, CATO Journal 1997
Recom. Resolution of the Federal Parliament No.204
- Chapter 12: *Robert D.Putnam: The Prosperous Community: Social Capital*
and Public Life, The American Prospects, 1993
Recom. Vojtech Cepl, Bottlenecks in the transformation of
Eastern Europe, Washington University Public Interest Law
Speaker Lecture, 1999

ECONOMIC AND PUBLIC POLICY

Jan Urban

Course description

The purpose of law is to regulate society in such a way as to provide, among other things, economic benefits. While the best way to accomplish this is as debatable as are the questions of who should benefit, economy does have a substantial effect on law. The purpose of this course is to describe and explain how economic behavior is influenced by law and public regulation and how this regulation vary widely in their impacts on economic performance

This course covers topics in the fields of economics of regulation and of law and economics. Economics of regulation draws from areas such as welfare economics and public economics, law and economics examines the economic consequences of laws and legal systems and economic efficiency of legal structures. It also draws heavily on the field of welfare economics and on the economic concept of efficiency.

The course offers students special study and research opportunities in a broad range of subject areas having a significant law-economics interface. Course requirements consist of a presentation and paper each student is asked to choose a (preferably a recent and/or controversial) topic, analyze the economic and other issues surrounding it and to present the analysis in class. Each student should also summarize the presentation in a paper which should be about 8 pages in length.

Main topics of the course:

1. Markets and Economic Efficiency
2. Market Failure, Government Intervention and Failure
3. Property Law, Externalities and Public Goods
4. Introduction to Regulation: Regulation of Natural Monopoly
5. Economic and Social Regulation
6. The Economics of Contracts and Tort Law

Course Materials and Selected Reading:

Paul Heyne, A Student Guide to Economics

Gary S. Becker, The Economic Way of Looking at Life

T. R. Machan, The Right to Private Property

Michael J. Boskin, Capitalism and its Discontents: The Adam Smith Address

R. Cooter and T. Ullen, Law and Economics, Scott Foresman, 2000

W. K. Viscusi, et. Al, Economics of Regulation and Antitrust, MIT Press, 2000

D. Friedman, Law's Order, Princeton University Press, 2000

PRIVATE LAW

Alena Macková

Jana Hrstková

Ondřej Frinta

Course Description

The aim of the course is to introduce the essentials of Czech private law, which, after 1989, has become again the very basis of the Czech legal order as a whole. The first part of the course is aimed at the understanding of the private law system, and its fundamental terms and principles thereof. Then, the course will focus in more details on the essentials of property and other rights to things, essentials of contracts as well as essentials of torts. The end of this part of the course is aimed at labour law and intellectual property law. At the end of the course the attention will be paid to the judicial protection of the rights in the Czech Republic. This is aimed at the elements of the judiciary system, the civil litigation and the system of legal remedies.

Outline of the Course

1. Introduction to the Private Law System
 - History of civil law
 - Basic principles of private law
 - System of private law
2. Fundamental Institutions of the Private Law System
 - Subjects of rights and duties
 - Property rights
 - Law of obligations etc.
3. Property Law
 - System of rights to things
 - Ownership
 - Lien (pledge, mortgage), easements, rights of retention
4. Contracts
 - Fundamental principles
 - Formation of contracts
 - Types of contracts
5. Torts
 - General and special liability for damage
 - Compensation of damage
 - Unjust enrichment

6. Law of Succession
 - Concept and function
 - Testamentary succession
 - Intestate (statutory) succession
7. Family Law
 - Features of the Family Law
 - Comparative insight into several institutes
 - Present codification and the future of the Family Law
8. Labour Law
 - Fundamental legislative changes
 - Provision of Employment
 - Collective Labour Law
 - Labour Dispute
9. Protection of Intellectual Property
 - Copyright Law
 - Industrial Property Rights
 - Trade Mark Law
10. Judiciary System
 - Overview of the History
 - Elements of the Judiciary system
 - Role of the Supreme court
11. Courts, Judges and Legal Aid System
 - Independence of the judge
 - Position and the liability of the judge
 - Attorneys, access to profession etc.
12. Civil Litigation
 - Basic principles of civil litigation
 - Role of the court and parties
 - Rules of evidence, judgement, costs, review

Reading List

Excerpts from the textbook of Civil Law, Codex, 1995, Vol. 1
The Civil Code, Trade Links, 1997
Bělina, M.: Labour Law and Industrial relations in the Czech Republic, in Labour Law and Industrial Relations in Central and Eastern Europe, Kluwer Law International, The Hague 1996
International copyright law and practice, yearbook, Mathew Bender
Civil Procedure Code, Trade Links, Prague, 1999
The Act on Arbitral Proceedings and Enforcement of Arbitral Awards

ADMINISTRATIVE LAW I, II

Taisia Čebišová

Richard Pomahač

Course Description

The lectures deal with the foundations of administrative law in Central Europe. The attention is paid to the sources and principles of administrative law and regulatory policy, to the civil service, as well as to the judicial control over public administration.

The course focuses on modernization of public administration and administrative law. Recently many questions concerning common administrative law have arisen as a result of EU enlargement. This aspect will hopefully provide a framework for reflection on the European Administrative Space.

Outline of the Course

Administrative Law I

(Administrative Law in Comparative and European Perspective)

Richard Pomahač

1. Introduction to Administrative Law
2. Substantive Principles – Legality and Restricted Discretion, Equality, Transparency, Proportionality, Legitimate Expectations
3. Procedural Principles – Right to Hearing, Equality of Arms, Due Care
4. Public Liability and Personal Data Protection
5. Administrative Justice
6. European Administrative Space

Administrative Law II

(Administrative Law and Public Administration Reform in the Czech Republic)

Taisia Čebišová

7. Reform of Public Administration and Administrative Law
8. Organization of the Public Administration
9. Administrative Procedures
10. Judicial Control of Administrative Acts

11. Public Administration Accountability – Parliamentary Control
– Ombudsman
12. Public Service Reform

Reading List

Pomahač, R.: Czech Administrative Law, Charles University, Prague 2004
Administrative transformation in Central and Eastern Europe (ed. J. J. Hesse), Blackwell, Oxford 1993
Code of Administrative Justice (ed. V. Vopálka), ASPI, Prague 2003
Code of Administrative Procedure (ed. V. Vopálka), ASPI, Prague 2005

II. Optional Courses

FINANCIAL LAW

Petr Kotáb

Course Description

The purpose of the course is to provide rather brief and general and yet professionally oriented introduction to Czech Financial Law. Special emphasis is given to those areas of Financial Law that are connected to pursuing business in the Czech Republic or that affect the integration of foreigners and foreign entities in respect of their activities and existence in the Czech Republic.

Outline of the Course

- 1 General Introduction
Finance and money. Financial activity. Financial Law in the system of Czech Law. Financial organs. Ministry of Finance. Czech National Bank. Fiscal (tax) authorities. Customs authorities. Securities Commission. Local financial bodies.
- 2 Czech Tax System
System of taxes and other budgetary revenues. Classification of taxes. Direct and indirect taxes. Basic elements of tax relations. Subject, object, tax base, tax rate and maturity.
- 3 Income Taxes
Individual and corporate taxpayers. Tax exemptions. Computation of tax base. Tax residents and non-residents. Tax-deductible expenses and other tax-deductible items. Tax rates. Withholding taxes.
- 4 Value Added Tax
Various models of taxation of turnover. VAT concept. VAT payer registration. Taxable supply. Tax rates. Exempt supplies. VAT and import/export of goods. VAT and export of services. VAT within the EU.
- 5 Other Taxes
Excise taxes. Models of taxation of consumption. Transfer taxes. Real estate tax. Road tax. Court fees and administrative fees. Local fees.
- 6 Monetary Law
Issuance of money. Issuing authority. Legal tender. Forced money circulation and connected rules. Payment intercourse.

- 7 Foreign Exchange Control and Anti-Money Laundering Regulations
Foreign exchange regulations. Convertibility. Residents and non-residents. Foreign exchange values. Obligations and restrictions. State of emergency. Anti-money laundering legislation. Suspicious transactions. Reporting obligation. Identification of participants. Suspension of transaction.
- 8 Banking Law
Central banking, commercial banking and investment banking. Types of banks and credit institutions. Criteria of bank authorization. Rules of prudent banking business. Capital adequacy. Credit engagement. Deposit insurance. Bank secrecy.
- 9 Financial Market
Definition of financial market. Division of financial market. Capital and money market. Investment services. Investment instruments. Classification of participants of capital market.

Reading List

Pauknerová, M. (editor): Doing Business in the Czech Republic, Juris Publishing, New York 1999
Czech Financial Services Legislation in 2004, Trade Links, Prague 2004
Czech Taxation in 2004 Volumes I and II, Trade Links, Prague 2004

INTRODUCTION TO PUBLIC INTERNATIONAL LAW IN THE CZECH LEGAL CONTEXT

Pavel Šturma

Course Description

The course intends to provide the participants with basic knowledge concerning the theory of public international law. Particular attention will be given to the Czech position in the international community and to the interaction between the Czech legal system and international law.

Outline of the Course

1. Introduction to the Course. Basic concepts. Public International Law and its peculiarities in comparison with national legal orders.

2. Relationship between international and internal law. Theory and practice. Comparative approach. International dimension of the Constitution of the Czech Republic. Article 10 and further developments.
3. Subjects of international law. State and its jurisdiction. International organizations at the universal and regional levels. Examples: United Nations and Council of Europe.
4. International status of individuals. Natural and juridical persons. Nationals and other categories of persons. Rights and obligations of individuals under international law.
5. The Czech constitutional Charter of Fundamental Rights and Freedoms. International protection of human rights. Categories of rights. Fundamental United Nations international instruments.
6. International protection of human rights (cont.). Implementation mechanisms at the UN level. Case law.
7. European protection of human rights. Activities and instruments of the Council of Europe. European Convention on Human Rights, European Social Charter, etc.
8. European protection of human rights (cont.). ECHR norms and standards. European Court of Human Rights and its interpretation of the protected rights. Case law.
9. International criminal justice. History and new developments of the prosecution of war crimes and crimes under international law. International Criminal Tribunal for the former Yugoslavia. International Criminal Court.
10. Time reserve for a possible extension of any subject. Case studies. Tutorial.

Reading List

Geistlinger + Konjecic (ed.): Public International Law at Central European Universities. Casebook, Karolinum, Praha, 2000

P. Šturma (ed.): Implementation of Human Rights and International Control Mechanism, PF UK, Praha, 1999

P. Šturma: The European Convention on Human Rights and the Role of National Constitutional Courts, in: Verfassung, Rechtsstaat und Demokratie im europäischen Umfeld. Seminar, PF UK, Praha, 1999

P. Šturma: Poverty and International Instruments on Economic and Social Rights, in: Hofmann et al., Armut und Verfassung. Sozialstaatlichkeit im europäischen Vergleich, Verlag Österreich, Wien, 1998

COMMUNITY EUROPEAN CIVIL LAW

Ulrich Magnus

Luboš Tichý

Course Description

The course is a review of the current europeisation of civil law. It approaches this highly important phenomenon of law in the following three parts.

Part I

The first part of the course deals with the constitutional basis of europeisation, e.g. discusses the philosophy of the harmonization, the role of European Court of Justice, etc.

Part II

The second part is comprised of four stages. In the first stage the course focuses on existing differences between different European countries in the fields of contract, tort and property law and it explains the reason for these differences. Furthermore, the course deals with the, more or less, unplanned convergence of legal developments that are achieved by international conventions (such as the CISG), parallel legislation and the growing similarity of legal methods and legal thinking. In the third stage the course also deals with the present state of the harmonization of contract, tort and property law in the EU. The final stage of Part II presents an evaluation and the prospects for common European private law.

Part III

The third part of the course focuses on the development of the Czech legal system under the influence of European private law. Primary attention is focused on consumer protection.

Outline of the Course

1. Differences

Short introduction to comparative law

Law families in Europe

The main differences in contract, tort and property law between European Countries and the reasons for their existence

2. Harmonization through legislation and application in the EU
 - Concept and function of directives within the EC Treaty
 - Directives in the context of national legal systems
 - The issue of consistent interpretation
 - Inadequate implementation
 - Sanctions for failures of implementation
3. Harmonisation
 - The legal and institutional background
 - Harmonisation of contract law in the EU
 - Directives (mainly on consumer protection)
 - the Lando Commission
 - Harmonisation of tort law in the EU
 - Directives (product liability)
 - Other efforts
 - Harmonisation of property law in the EU
4. Harmonization of private law
 - Harmonization of contract law in the EU
5. Czech private law in the process of Europeanisation
 - Current status of the reform of contract law
 - Law of torts
 - Property law
 - Private international law
 - Civil procedure
6. Czech consumer protection law in the view of its approximation with EC law
 - Product liability approach
 - Strict liability for services
 - Consumer protection in contract law
7. Assessments and perspectives at the Czech Republic level

Reading List

Introduction into Comparative Law, Zweigert, Kötz (J. C. B. Mohr, 2nd ed.)

AMERICAN LEGAL HISTORY

Radim Seltenreich

Course Description

The course provides an overview of the development of the American legal system from the Colonial period down till the present day. The course concentrates primarily on the development of American constitutional law and in this context great attention is paid to the key decisions of U.S. Supreme Court (and in a broader sense as well to the general philosophy of constitutional law). The course is taught in the same way as in the U.S. by the so called Socratic method of teaching. This supposes that students study the cases and materials in advance which are then discussed during the class. This interactive method makes possible discussion during which comparison can also be drawn with current legal issues in the Czech Republic (especially in the Bill of Rights area for example freedom of speech, the right to abortion etc.).

Outline of the Course

1. The Beginnings of Constitutionalism in America
2. The American Revolution
3. The New Republic
4. Courts and Judges in the New Nation
5. Slavery and the Constitution
6. Secession and Constitutional Theory
7. The Civil War, Reconstruction and Its Aftermath
8. Separate But Equal (Black People, Native Americans, Chinese)
9. World War I and Civil Liberties
10. World War II and Legal Developments
11. Civil Rights: Race, Affirmative Action
12. Civil Rights: Gender and Privacy

Reading List

K. L. Hall, W.W. Wiecek, P. Finkelman American Legal History (Cases and Materials), New York, 1991
L. M. Friedman A History of American Law, New York, 1985
J. H. Garvey, T. A. Aleinikoff Modern Constitutional Theory: A Reader, St. Paul, 1991

CZECH LEGAL HISTORY

Jan Kuklík

Petr Bělovský

Course Description

In order to understand the recent legal development in Czech Republic it is an indispensable requirement to know the past. The Czechs are often deeply rooted in their history and the knowledge of the basics of Czech historical background appears therefore useful.

Outline of the Course

- 1.– 2. An outline of the Legal history of the Czech lands until the age of enlightened absolutism
- 3.– 4. Austrian Civil Law (foundations of civil law tradition, ABGB)
- 5.– 6. Criminal Law in the 19th century and Austrian constitutional development
- 7.– 8. Czechoslovak legal development 1918–1939: the first Czechoslovak Republic
 - The Constitutional Act 1920
 - Legal dualism
 - Legal development 1938/1945
- 9.– 10. Czechoslovak legal development 1945–1948 and 1948–1989 in outline
 - Constitutional developments
 - Characteristic of communist regime and its periods
 - Main branches of law

Reading List

A history of the Czechoslovak Republic 1918–1948, V. Mamatey / R. Lua (Princeton, 1973)

Pursued by a Bear: the Making of Eastern Europe, Z. A. B. Zeman, (London, 1989)

History of Czechoslovakia in Outline, J. Polienský (Praha, 1991)

The Recognition of Czechoslovak Government in Exile and its International Status 1939/1941, J. Kuklík, in: *Prague Papers on History of International Relations*, (vol. 1, 1997)

Czechoslovak democracy at work, E. Taborsky (Londýn 1945)

AN INTRODUCTION TO THE CENTRAL EUROPEAN JUDICIAL CULTURE

Zdeněk Kühn

Mahulena Hofmann

Course Description

This course focuses on the judicial culture of Central Europe, particularly on Poland, Hungary and the countries of former Czechoslovakia. We would briefly explain the origins of Central European judicial culture. After this historical introduction, we would deal with the communist judicial culture as developed in the four decades of Eastern European communism and with its impact on the transforming Central European legal cultures. We would compare various features of judicial culture and its ideology in Central Europe with Western European judicial culture and try to assess what new these countries can bring to the emerging new European legal culture.

In the framework of this course, the constitutional systems of the new EU-candidate countries, Bulgaria, Romania, Croatia and Turkey, will be analyzed.

Topics:

1. The Concept of Europe. The Historical Emergence of Eastern Europe. Does Something like Central Europe Exist? Gaze in the Course of the Centuries. The Emergence of Central European Legal Tradition.
2. Marxism and Law. Positivism or Anti-Positivism? The Role of Judges and Law in Marxist Theory.
3. The Practice in the 1950's: The Stalinist Judicial Culture: General Features, Its Central European Variations. The Emergence and the Decline of Communist Anti-Positivism. The Practice in the 1970's and 1980's: Communist Post-Stalinist Judicial Culture in Central Europe. Making a Post-Stalinist Ultra-Positivism.
4. The Basic Problems of Post-Communist Legal Culture. The Transformation of Post-Communist Judiciary.
5. Facing a New European Legal and Judicial Culture: Are Central European Judges Different?
6. The EU and its Judiciary in the Next Decade: How European Post-Communist Newcomers Might Respond to the Challenges Relating to the EU Enlargement?

7.–10. Constitutional Systems of the New EU-Candidate Countries: Bulgaria, Romania, Croatia and Turkey.

Readings is based on the coursepack, including:

Topics 1–6:

Mirjan Damaška, *The Faces of Justice and State Authority. A Comparative Approach to the Legal Process.* New Haven, London, Yale University Press 1986.

Agata Fijalkowski, *The Judiciary's Struggle towards the Rule of Law in Poland, In: The Rule of Law in Central Europe (Jiří Příbáň, James Young eds.),* Dartmouth: Ashgate 1999

John Hazard, *Communists and Their Law. A Search for the Common Core of the Legal Systems of the Marxian Socialist States.* The University of Chicago Press, Chicago, London 1969

Martijn W. Hesselink, *The New European Legal Culture,* Kluwer-Deventer 2001

Zdeněk Kühn, *Worlds Apart. American Journal of Comparative Law* (2004)

Lenin V. I., *State and Revolution.* <http://www.marxists.org> (excerpts)

Wojciech Sadurski, *Marxism and legal positivism, in: Essays In Legal Theory* (Galligan D. J. /ed./), Melbourne University Press, Victoria 1984

Larry Wolff, *Inventing Eastern Europe,* Stanford 1994

Topics 7–10

Stanimir Alexandrov, *Paving the way for Bulgaria's accession to the European Union.* – *Fordham international law journal*, 21 (1998) 3, pp. 587–601.

Davor Božinović, *Croatia and the European Union.* – *Review of international affairs*, 54 (2003) 1111, pp. 25–31.

Dinesh D. Banani, *Reforming history: Turkey's legal regime and its potential accession to the European Union.* – *Boston College international and comparative law review*, 26 (2003) 1, pp. 113–127.

The selected case law and statutes.

ACADEMIC PROGRAMME

Summer Term

I. Compulsory Courses

THEORY AND SOCIAL CONTEXT OF HUMAN RIGHTS: CZECH EXPERIENCES

Jiří Přibáň

Course description

This course examines the human rights developments in the postcommunist Czech Republic. It focuses both on the common and specific features of the legal transformations in the fields of human rights. It provides an opportunity to understand the post-communist legal developments within the social, political and historical context. The course also considers some of the legal aspects of the integration of those countries into the European Union. Students will be introduced to the theoretical and social aspects of the new human rights legislation.

Lecture I: Introduction

Lecture II: Human Rights Between Past and Future

Lecture III: Human Rights Legislation and the European Convention

Lecture IV: Constructing the Protection of Free Speech and Democratic Politics

Lecture V: Public Morality, Private Enterprises and Freedom of Expression

Lecture VI: The Communist Legacy and Different Forms of Property Privatisation

Lecture VII: Property Restitutions and the Matter of Justice

Lecture VIII: Legal Transformation of Social Rights and the Social Welfare State

Lecture IX: Post-Communist Social Welfare and Gender Equality

Lecture X: Multiethnic Conditions of Central Europe

Lecture XI: Gypsies and Their Place in the Map of Europe

Lecture XII: Conclusions

Reading List

The Course Book:

Priban, J. Dissidents of Law. 2002. Aldershot. Ashgate

Priban, J. and J. Young (editors). The Rule of Law in Central Europe. 1999. Aldershot, Ashgate Publishers

EUROPEAN LAW IN THE CZECH-EU CONTEXT

Jiří Zemánek

Richard Král

Manfred A. Dausess

Course description

First, basics of the institutional and legal system of the enlarged European Union and fundamental principles of its operation and evolution are presented. Then, summary of EU law of internal market and related policies will follow. On this background the institutional and legal aspects of Czech EU membership shall be introduced. Special attention shall be paid to the role of the ECJ and the effects of EU law within legal and judicial systems of the EU member states. Also the analysis of the Treaty on Accession and transitional measures concerning Czech Republic shall be presented. The innovative potential of the Treaty on a Constitution for Europe will be discussed, too. The students should be given an impetus for their own judgements, opinions and approach; therefore, the discussion in the class is welcome.

Outline of the course

1. The evolution of EC/EU
 - Community pillar
 - Common Foreign and Security Policy
 - Police and Judicial Cooperation in Criminal Matters
2. Basic methods and principles of EU system of governance
 - Intergovernmentalism
 - Supranationalism
 - Division of powers

3. The EU and its Member States
 - Becoming a Member State
 - The membership's rights and duties
 - Enhanced co-operation
4. The EU-citizenship
 - An individual in the focus of the EU-law
 - The legal substance of the EU-citizenship
 - Protection of fundamental rights
5. The system of EC/EU law
 - Definition
 - Sources
 - General principles
6. The decision-making process
 - Institutions and their powers
 - Community method
 - Issue of democratic deficit
 - Role of national Parliaments
7. The law of Internal Market
 - Four freedoms
 - Free movement of goods
 - Free movement of workers
8. The EU competition law and policy
 - Cartels
 - Abuse of dominant position
 - State aids
 - Enforcement
9. The EU budget and selected EU policies
 - EU budget
 - Common agriculture policy
 - EU external policy
10. The area of freedom, security and justice
 - Judicial cooperation in civil matters
 - Police and judicial cooperation in criminal matters
11. The Court of Justice-ECJ
 - Structure and jurisdiction
 - Position (in the EU-institutional balance and vis-à-vis the Member States)
 - Procedures and rules

12. The Court of Justice and national courts
 - Preliminary ruling procedure
 - Methods of interpretation of EC law
 - Cases
13. The application and enforcement of the EC law by the national courts and administrations
 - Direct applicability of EC law
 - Supremacy of EC law
 - Principles of loyalty and effect utile
14. The Community Directives
 - Structure
 - Proper transposition
 - Consequences of improper transposition
 - Transposition of Community Directives in the Czech Republic
15. Accession of the Czech Republic and its effects
 - The Treaty on Accession (scope of obligations, transition arrangements)
 - The Czech constitutional context of attribution of powers
 - The enforcement of EU law within the Czech legal system
16. The constitutionalization of EU law
 - The constitutionalisation of EU law by the case law of the ECJ
 - The Treaty on Constitution for Europe
 - The future of the process started

Reading list

Dausies Manfred, Zemánek Jiří, Král Richard, Selected materials
Steiner Josephine, Woods Lorna, Textbook on EC Law, Blackstone 1999/
2003

www.europa.eu.int (Selected documents)

COMMERCIAL LAW AND INTERNATIONAL TRANSACTIONS

Monika Pauknerová

Alena Bányaiová

Zuzana Slovákoviá

Course Description

The course consists of two parts. The first part focuses on the general principles of Czech commercial law, in particular the legal status of entrepreneurs, and the essentials of Czech company law. Special attention will be paid to the latest developments in regulations regarding company law, as well as the main issues of the competition law. The course will deal with the law of commercial contracts including security obligations, breach of contracts, liability for damages and other types of remedies.

The second part of the course will be oriented directly to commercial relations with an international element, their legal regulations, as well as to some practical implications. Special regard will be paid to the conflict of laws rules. Further parts concern international commercial regulation, in particular commercial contracts and other formulations. Attention will also be drawn to the settlement of disputes, especially to the commercial arbitration.

Outline of the Course

I. Commercial Law

1. **General principles of commercial law, introduction to Czech company law**
 - legal status of entrepreneurs
 - essentials of Czech company law
 - legal forms of companies
 - establishment of companies
2. **Company law – general partnership, limited liability company**
 - corporate structure
 - rights and duties of partners (shareholders)
3. **Company law – joint stock company**
 - shares, registered capital
 - corporate structure, liability of members of corporate bodies
 - rights and duties of shareholders

4. **Company law – joint stock company, harmonization with EU law**
 - participations of shareholders in management of the company
 - principles of minority shareholders protection
 - mandatory tender offers
5. **Competition law**
 - unfair competition
 - merger control
 - cartel regulation
6. **Commercial obligations**
 - general principles
 - types of commercial obligations
 - law of contracts
7. **Commercial obligations**
 - breach of contracts
 - security obligations
 - liability for damages
8. **Commercial obligations**
 - typical commercial contracts
 - sales contract
 - contract on sale of enterprise

II. Private International Law and International Transactions

1. **General introduction and special characteristics of the Czech private international law, conflict of laws and substantive rules**
 - General introduction – the working of private international law demonstrated
 - Private international law rules and related rules
 - Conflict rules in general
2. **Sources of the Czech private international law, European private international law**
 - Sources of the Czech private international law
 - European private international law – introduction
 - Special characteristics of Czech private international law
3. **General problems of Private international law (selected topics)**
 - Classification (qualification)
 - Renvoi
 - Application of foreign law
 - Public policy

4. **Private international law rules and related rules**
 - Conflict rules and direct substantive rules in Czech private international law
 - Mandatory rules (rules of immediate application)
5. **Persons in Czech and European private international law**
 - Natural persons in private international law
 - Legal persons and “other than foreign natural persons” in private international law
 - Persons and freedom of establishment in European Community law
6. **Contractual and non-contractual obligations in Czech and European private international law**
 - Determination of the proper law of contract
 - Damages and Czech conflict of laws (contractual and non-contractual)
 - Contractual and non-contractual obligations in European private international law
7. **International commercial contracts and Czech law – general climate, sources of law and other formulations**
 - International commercial contracts
 - Sources of law
 - Other formulations – lex mercatoria under Czech law
8. **Settlement of disputes and commercial arbitration in the Czech Republic**
 - Introduction
 - Litigation or alternative dispute resolution
 - Arbitration in the Czech Republic

Reading List

Doing Business in the Czech Republic, editor Monika Pauknerová, Juris Publishing, New York 1999 (Contributors: A. Banayiová, D. Falada, A. Kerner, P. Kotáb, L. Neustupná, M. Pauknerová, J. Zemánek, V. Zunt)

Pauknerová, M., *Private International Law, Czech Republic in: International Encyclopedia of Laws, Kluwer Law International, The Hague 2002*

Private international law in Czechoslovakia, Zdeněk Kučera, in: *Bulletin of Czechoslovak Law*, vol. 23, No. 24, Prague, 1985

The Commercial Code, Commentary, Trade Links, Prague 2004

Czech Business Law, Z. Slováková, foreword by M. Pauknerová, UK PF, Prague 2006

Pauknerová, M., Růžička, K., Arbitration in the Czech Republic, in: P. Oberhammer (Ed.), Schiedsgerichtsbarkeit in Zentraleuropa, Arbitration in Central Europe, Center of Legal Competence Bd. 23, Manz Verlag, Wien – Graz 2005, p. 253– 374

CZECH CRIMINAL LAW

Coordinator

Zdeněk Kühn

Lecturers

Zdeněk Kühn

Jaroslav Fenyk

Course Description

The purpose of the course is to provide a general introduction into Czech Criminal Law in a European context. The course will emphasize similarities and differences with other Western and Central European legal systems as well as the United States. The course is taught by academicians as well as practitioners with a deep expertise in criminal law.

The first part of the course deals with the substantive questions of Czech Criminal law. We will deal with some interesting aspects of criminal law, like the law of abortion, which gave the right to abortion long before the similar reforms in most Western European nations and the United States. We will also go through emerging questions of harmonization of European criminal law by the law making activity of the EU. The second part will focus on the law of criminal procedure. It will explain ongoing reforms of criminal procedure law in Central European region after 1989 and assess their effects. We will also observe similar reforms in criminal law in other Central European nations, above all Poland, Slovakia and Hungary.

Outline of the Course

- 1. The Issue of Abortion – Central European Experience**
- 2. Criminal Law during Communism**
- 3. Crime and Corruption after Communism**
- 4. Procedural Law I. Anglo-American and Continental Conception of Criminal Process**
- 5. Procedural Law II. Fact Finding**

- 6. The Americanization of Criminal Procedure in Central Europe? The Case of Plea Bargaining**
- 7. The Problems of Czech Criminal View: Judge's View** (Guest Speaker)
- 8. Criminal Law and the EU: European Arrest Warrant**
- 9. Criminal Law and the EU** (Guest Speaker)
- 10. Theorizing Criminal Law: a Feminist Challenge**
11. TBA
12. Conclusions – Kuhn

Reading List

- Chapter 1: No readings
- Chapter 2: Pomorski S., *Communists and Their Criminal Law Revisited* (1989)
Havel V., *Kicking the Door*, 26 NY Review of Books Number 4 (1979)
- Chapter 3: Coulloudon V., *Crime and Corruption after Communism. The Criminalization of Russia's Political Elite*, *East Eur. Constitutional Rev.* 1997
Mungiu-Pippidi A., *Crime and Corruption after Communism. Breaking Free at Last: Tales of Corruption from the Postcommunist Balkans*, *East Eur. Const. Rev.* 1997
- Chapter 4: Langer M., *From Legal Transplants To Legal Translations: The Globalization of Plea Bargaining and the Americanization Thesis in Criminal Procedure*
William T. Pizzi, Mariangela Montagna, *The Battle to Establish an Adversarial Trial System in Italy* (2004), excerpts
- Chapter 5: Damaska M., *Presentation of Evidence and Factfinding Precision* (1975)
Diehm J., *The Introduction of Jury Trials and Adversarial Elements into the Former Soviet Union and Other Inquisitorial Countries* (2001)
Optional: Reichel P.L., *Comparative Criminal Justice Systems* 254–273 (2005)
- Chapter 6: Langer M., *From Legal Transplants To Legal Translations: The Globalization of Plea Bargaining and the Americanization Thesis in Criminal Procedure*, excerpts
Optional: William T. Pizzi, Mariangela Montagna, *The Battle to Establish an Adversarial Trial System in Italy* (2004), excerpts

- Chapter 8: European Commission Papers: Reactions to the Presentation of the Broad Outline of European Union Security Policy
Sanchez W., Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the Surrender Procedures between Member States
Alegre, S., Leaf, M. Mutual Recognition in European Judicial Cooperation: A Step Too Far Too Soon? Case Study – the European Arrest Warrant, 10 European Law Journal 200 (2004)
Is the EU Unconstitutional?
The German Federal Constitutional Court Decision on the EAW (Press Release)
- Chapter 10: Schulhofer S.J., The Feminist Challenge in Criminal Law. University of Pennsylvania Law Review, vol. 143, 2151 (1995)

II. Optional Courses

CZECH AND EUROPEAN ENVIRONMENTAL LAW AND POLICY

Milan Damohorský

Michal Sobotka

Course Description

The course provides information about the development of the Czech environmental policy and law since 1990 and about their current status. The course deals with legal, economic and institutional instruments of environmental protection in the Czech Republic. It covers both sectoral and horizontal Czech environmental legislation and the background of public administration of the environmental protection. The course also provides general information about the process of approximation of the Czech environmental legislation with that of the EC and about the current state of international and European standards of environmental protection.

Outline of the Course

1. The state of the environment and environmental policy in the Czech republic since 1989.
2. Environmental law (system, instruments). Institutional safeguards for environmental protection.
3. The liability system of environmental protection.
4. Access to environmental information, public participation in environmental decision-making.
5. Main horizontal legislation: EIA, IPPC, land-use planning.
6. Biodiversity and Nature protection.
7. Land and Forrestr Protection.
8. Air and Water protection.
9. Waste and waste packaging management regulation. Noise regulation.
10. Chemical substances and other sources of environmental harm. Nuclear Safety and protection against accidental harm.
11. Protection against natural disasters.
12. International, European and national environmental policy.
13. Problems of transposition and implementation of community law into the Czech legal order.

Reading List

Damohorský, M.: Czech Environmental Law, Charles University, Prague 2003

Kiss, A. – Shelton, D.: Manual of European Environmental Law, Cambridge University Press, 2nd Edition 1997

Krämer, L.: European Environmental Law, Sweet and Maxwell, 4th Edition, 2000

Krämer, L.: Casebook on European Environmental Law, Hart 2002

State Environmental Policy, Ministry of the Environment, Prague 2004

CONTRACTS AND TORTS

Jana Hrstková

Course Description

The purpose of the course is to give students an opportunity to study closely selected topics in the area of contracts and torts as provided in Czech Private law. In the first part of the course students will be introduced to principles of formulation, interpretation and enforcement of contracts. The relationship between the Civil Code and the Commercial Code will be considered. The following parts of the course will address in details legal protection afforded by the Civil Code against interference by others with security of ones person, property or intangible interests. Special emphasis will be given to consideration of general liability and special liability for damage. Student will have an opportunity to discuss current topics related to contracts and torts with practical examples from the legal practice and court decisions.

Course Outline

1. Contracts A.
 - Introduction to Contracts
 - Principal Sources
 - Definition and Meaning
 - Foundations of the Binding Force of Contract
 - The Synallagmatic or Bilateral Contract and the Unilateral Contract
 - Nominate and In nominate Contracts
2. ContractsB.
 - Formal Requirements

- Content of Obligation
 - Origination of Obligation
 - Contractual Capacity
3. Contracts C.
 - Contents
 - Modification of Obligation
 - Termination of Obligation
 - Security of Obligation
 - Remedies for Non-performance
 4. Contracts D.
 - Common Types of Nominate Contracts
 - Comparison of Civil Code and Commercial Code
 - Principles of Interpretation of Contracts
 - Purchase Contract
 - Contract on Work
 - Lease Contract
 5. Contracts E.
 - Recent Developments
 - Consumer Contracts
 - Consideration of Cases and Examples from Legal Practice
 6. Torts A.
 - Introduction to Torts
 - Principal Sources
 - Liability for Damage
 - Prerequisites
 7. Torts B.
 - General Liability for Damage
 - Special Liability for Damage
 - Types of Special Liability for Damages
 - Concept of Strict (Absolute Objective) Liability
 8. Torts C.
 - Manner and Scope of Compensation for Damage
 - Scope of Compensation for Damage
 - Joint Liability
 - Consideration of Cases and Examples from Legal Practice

Reading List

Civil Code, Trade Links, Prague 1998

Hrstková, J.: Fundamentals of Czech Civil Law, Charles University, Prague 2005

INSTITUTIONAL ECONOMICS AND ECONOMICS OF THE PUBLIC SECTOR

Jan Urban

Course description

The course is divided into two mutually related parts. The purpose of the first part is to describe and explain how economic behavior is influenced by institutions and how institutions vary widely in their impacts on economic performance: while some economies develop institutions that produce growth and development, others develop institutions leading to high costs, economic problems and stagnation.

The second part of the course focuses on functioning and economic principles of the public (government) sector. It looks both at general goals, mechanisms and efficiency of the public sector and at its specific issues analysed by economic theories of public choice, regulation, taxation and income redistribution, government bureaucracy and public companies.

Outline of the course

Part I

1. Institutional Economics: Basic Premises and Concept
2. Economic Theory of Ownership Rights
3. Theory of Contractual Relations
4. Theory of Corporate Governance
5. Institutions and Economic Transformation

Part II

1. Economic Reasons of Government
2. Theory of Public Choice
4. Public Sector and Bureaucracy
5. Theory of Taxation, Taxation and Efficiency
6. Public Social and Health Care Systems: Costs and Benefits

Selected Reading

1. *Structure and Change in Economic History*, D.C. North, 1981
2. *Institutions, Institutional Change and Economic Performance*, D.C. North, 1991
3. *Economics of the Public Sector*, J. E. Stiglitz, 1988
4. *Privatization and Institutional Reforms in Czech Republic*, J. Urban 2004

INTERNATIONAL AND EUROPEAN PROTECTION OF HUMAN RIGHTS

Harald Christian Scheu

Stanislava Hybnerová

Course Description

The protection of human rights is a fundamental component of the current international legal system. Basic rights and freedoms of the individual have been confirmed in various international declarations and conventions. The course introduces students to the development of both universal and regional human rights instruments. Students will examine the international protection of human rights in the context of current changes in the structure and organization of international law. There will be discussion on the development of the universal human rights system, the contribution of the United Nations to a comprehensive legal and political approach on the international level and the issue of cultural relativism in the field of human rights protection. Students will explore the functioning of universal and regional human rights mechanisms. The course aims at providing insight into relevant instruments of protection, like e.g. individual complaints, state reports and fact-finding missions. In this context students will study selected case-law developed by the European Court of Human Rights and other international bodies.

Outline of the course

1. The Basic Structure of the International System for the Protection of Human Rights
2. UN Human Rights Treaties
3. Universality versus Cultural Diversity
4. Case Study – Individual Communication to the Human Rights Committee
5. Regional Human Rights Treaties
6. Theory and Practice of the European System of Human Rights
7. Case Study – Procedure before the European Court of Human Rights
8. The Rights of National Minorities and the Elimination of Racial Discrimination
9. Current Aspects of International Humanitarian Law

Reading List

- *Henry J. Steiner, Philip Alston (ed.), International Human Rights in Context, Clarendon Press, Oxford, 1996.*
- *Paul Sieghart, The International Law of Human Rights, Clarendon Press, Oxford, 1983.*
- *R. St. J. Macdonald, F. Matscher, H. Petzold (ed.), The European System for the Protection of Human Rights, Martinus Nijhoff Publishers, 1993.*
- *P. van Dijk, G. J. H. van Hoof, Theory and Practice of the European Convention on Human Rights, second edition, Kluwer Law and Taxation Publishers, 1990.*
- *Sandra Fredman (ed.), Discrimination and Human Rights. The Case of Racism, Academy of European Law, European University Institute, Oxford University Press, 2001.*
- *Asbjorn Eide, Catarina Krause, Allan Rosas (ed.), Economic, Social and Cultural Rights. (A Textbook), Martinus Nijhoff Publishers, 1995.*
- *Benedetto Conforti, Francesco Francioni (ed.), Enforcing International Human Rights in Domestic Courts, Martinus Nijhoff Publishers, 1997.*
- *C. A. Gearty, European Civil Liberties and the European Convention on Human Rights. (A Comparative Study), Martinus Nijhoff Publishers, 1992.*
- *René Provost, International Human Rights and Humanitarian Law, Cambridge Studies in International and Comparative Law, Cambridge University Press, 2002.*
- *Gudmundur Alfredsson; Asbjorn Eide, The Universal Declaration of Human Rights: A Common Standard of Achievement, Martinus Nijhoff Publisher, Kluwer Law International, 1999.*
- *Hurst Hannum, Richard B. Lillich, International Human Rights: Problems of Law, Policy, and Practice, Aspen Pub., 1995.*
- *Frank C Newman; David S Weissbrodt, International Human Rights: Law, Policy, and Process, Second edition, Anderson Pub., 1996.*
- *Michael Geistlinger, Erwin Konjecic, Public International Law at Central European Universities, Karolinum, Prague, 2000.*
- *R. Bernhardt (ed.), Encyclopedia of Public International Law, Volume I–IV, 1992–2000.*

ACADEMIC STAFF AND OTHER LECTURERS PROFILES

Alena Bányaiová, JUDr., CSc., practising lawyer with more than 30 years of experience in economic and commercial law. Received her doctoral degree (JUDr.) from Charles University in 1973; in 1988 received CSc. degree (PhD equivalent), from Charles University. Served as an arbitrator at the Czechoslovak State Arbitration Agency, between 1976–87 a member of the Legislative Department of the Czechoslovak State Arbitration Agency, between 1988–89 research scholar at the Institution of State and Law of the Czechoslovak Academy of Sciences and since 1991 in private practice. A member of the Legislative Council of the Government of the Czech Republic. A member of the Czech Bar and the International Bar Association. Since 2001 arbitrator with the Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic with its seat in Prague.

Petr Bělovský, JUDr., Dr., graduated from the Law Faculty of Charles University in 1996 and continued his studies as postgraduate student at the Department of Legal History at the same faculty. After having completed his thesis on Roman Jurisprudence and finishing his doctoral studies, he continued with research in the area of Roman Law, especially in Roman property law and the history of the Czechoslovak civil law. He teaches Roman Law at the Faculty of Law of Charles University since 1997. He undertook research in Catania (Italy) and Pretoria (South Africa) where he was a visiting professor.

Vojtěch Cepl, Professor of Civil Law, JUDr.,CSc.; graduated from Charles University (1961); advanced studies of sociology at Oxford University (1967–9); research fellowship at University of Michigan (1969). Assistant lecturer at the Department of Jurisprudence CUNI (1970), than at the Civil Law (till 1989). Appointed: Head of the Dept. of Civil Law, Vice Dean of the Faculty of Law CUNI, Vice-Chairman of the Legislative Advisory Group of the Ministry of Finance Václav Klaus, Member of the Legislative Committee of the Federal Government, Head of the Drafting Group of the Civil Code (1990); Co-President of the British-Czech Law Society (1991); Member of the Government Drafting Committee for the Czech Constitution (1992); appointed by President Václav Havel to be a Justice

of the Constitutional Court of the Czech Republic (1993). The Awards and the Visiting Professorships: Wiegand Distinguished Visitor, University of San Francisco (1992); Visiting Professor, University of Chicago (1993); Distinguished Visiting Professor of Democratization, Georgetown University (1995); Visiting Professor, University of Georgia – Athens (1996); Visiting Professor, University of San Francisco (1998); Jurist in Residence, Washington University School of Law (1999); Distinguished Global Fellow, New York University (2001); Herzog Lecturer, John Marshall School of Law, Chicago (2002); Member of the US Government William Eagleton Mission in Iraq (2003); Visiting Professor, University of Michigan, Ann Arbor (2003). Author of more than one hundred publications.

Taisia Čebišová, Doc., JUDr., CSc., Associate Professor of Administrative Law and Public Administration, Law Faculty, Charles University, Prague. 1992–96 advisor of the Vice-Minister of the Interior responsible for the Civil Administration Section. She took part in legislative activities, as well in several activities of the Council of Europe. From 1996 involved as an expert in the Council of Europe Project Group on Administrative Law, taking part in elaboration of several documents, concerning principles of the relations between public administration authorities and private persons, legal status of public officials etc. In 1998 she was engaged in Phare Programme on Public Administration Reform in the Czech Republic. Member of editorial boards of two journals *Acta Universitatis Carolinae-Juridica* and *Administrative Law*. Co-author of several textbooks on Administrative Law, publications *Local Government* (Praha 1996), *Public Administration and Law* (Praha 1997), author of several articles, concerning mainly Civil Service and Public Administration Reform.

Milan Damohorský, Prof., JUDr., DrSc., graduated from the Faculty of Law in 1985. Before becoming teacher (1989–2005) and later Professor of Environmental Law at Charles University in 2005, he served as lawyer specialist at the State Institute for Nature Conservation. At present he is Vice-Dean for Foreign Affairs, Head of the Environmental Law Department and Director of the CLS Programme. He was member of the Commission of Environmental Law of the International Union for Nature Conservation (1994–2005) and is member of European Council of Agricultural Law (from 1999), president of the Czech Society for Environmental Law (from 2001). His main publications comprise monograph on environmental law liability and nature conservation. Author or co-author of more than 150 of books, commentaries, textbooks and articles on the environmental law issues. Damohorský, M., Drobník, J., Smolek, M., Sobotka, M., Stejskal, V.: Envi-

ronmental Law. 1.Edition. Publishing house C.H.Beck 2003, Damohorský, M.: Czech Environmental Law, Textbook. Book Edition: Czech Law and the European Union, Volume 2, Charles University, Prague 2003.

Manfred A. Dausés, Professor, studied law and political sciences at the Universities of Erlangen-Nürnberg, Würzburg and Lausanne; Dr. iur. utr. (University of Würzburg 1970); research fellowship at Georgetown University, Washington D. C. (1970/71); advanced studies at ENA Paris (1972/73). Public prosecutor and judge at Landgericht Essen; temporarily seconded for service with the Bundesministerium der Justiz (1975/78); legal secretary/director at the European Court of Justice (1979–92). Since 1993 Professor of Public Law, especially European Law, at the University of Bamberg (since 1993); visiting Professor at Charles University since 1995; extensive lecturing and consulting activities in the EU and CEECs, USA and Japan. Publications (a. o.): Handbuch des EG-Wirtschaftsrechts (7th ed. 1997, loose-leaf in two volumes), co-editor of Europäische Zeitschrift für Wirtschaftsrecht.

Ondřej Frinta, JUDr., member of the Department of Civil Law. Graduated from the Law Faculty of Charles University in 2004. Received his doctoral degree (JUDr.) from Charles University in 2005. Continues his studies as a postgraduate student at the Department of Civil Law at the same faculty. Focuses on issues such as legal regulation of subjects, namely of those with artificial nature, their legal personality, etc. Is interested in new reproductive techniques and concerning legal issues such as the establishment of parental relationships, surrogate motherhood, etc.

Mahulena Hofmann, Doc., JUDr., CSc., graduated at the Law Faculty of Charles University in Prague in 1980. In 1984 she defended her postgraduate (doctoral) thesis. During 1984–1990, she was a research fellow at the Institute of State and Law of the Czechoslovak Academy of Sciences, Prague, where she dealt mainly with general international law, law of mass media, space and telecommunications law. In 1990, she was awarded a scholarship of the Alexander von Humboldt Foundation to spend two years of research at the Max Planck Institute of Comparative Public Law and International Law in Heidelberg, Germany. In 1992, she started to work as senior research fellow at this Institute, the major fields of her research being the legal developments in the Eastern European countries, minority rights, telecommunications and space law. Since 1996, she is a member of the Space Law Committee and since 2001, member of the Human Rights Committee of the International Law Association. In January, 2006, she

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Jana Hrstková, JUDr., PhD., LL.M., graduated from the Faculty of Law of Charles University in Prague where she received her Magister of Laws (Mgr.), Doctor of Laws (JUDr.) and Philosophiae Doctor (PhD.) degrees. In addition, she also holds a Master of Laws (LL.M.) degree from Harvard Law School, where she was a recipient of the Fulbright Scholarship. She is an attorney-at-law, with over 12 years of legal experience and has been involved in a number of international business transactions providing legal assistance to foreign investors in the region of Central and Eastern Europe. Since 1997 she teaches course on contracts and torts as a visiting lecturer at the Faculty of Law of Charles University. In the period of 2000–2004, she has been acting as Secretary of the Information Technologies Law Commission of the Legislation Council of the Czech Government. In December 2000, she was awarded The Bolzano Prize for her doctoral thesis. She is a member of the New York State Bar in the U.S. and the Czech Chamber of Advocates.

Stanislava Hýbnerová, Doc. PhDr., CSc., has a degree in philosophy and a law degree from Charles University. She studied at the Indian School of International Studies in New Delhi where she wrote her thesis. After fulfilling different assignments she joined the Faculty of Law of Charles University where she is now associate professor at the Department of International Law (and Politics) with focus on international law and on human rights. She is one of the founders of the Czech branch of the International Studies Association and of the Czech Atlantic Commission. She was reading lectures at several foreign, mostly American Universities. In 1995 she was teaching the course Central and Eastern Europe: Two Hundred Years of Nationalism in the summer session at Adelphi University in New York. Since 1996 she has been teaching the course Russian Road to Democracy for the English speaking students at the Economic University in Prague.

Petr Kotáb, JUDr., graduated 1985. He is a member of the Department of Financial Law of Charles University Faculty of Law in Prague; visiting lecturer at the University of Economics in Prague and formerly visiting professor at the University of Connecticut and the Central European University. Previously, he was a member of several expert commissions of the Czech Government and a member of supervisory boards of several major

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Richard Král, Doc. JUDr. LL.M., lecturer in European law at Charles University Faculty of Law since 1992. Graduated from the Law Faculty in 1986. Master of EC Law at the University of Amsterdam (1990–91). Member of the Czech Bar. Author of many books, textbooks and articles on the European law issues. E. g. *Transposition and implementation of EC Directives in the EU member states and Czech Republic*, Prague C. H. Beck 2002; *Principles of application of EC law by national courts*, Prague C. H. Beck 2003.

Jan Kuklík, Prof., JUDr., DrSc. the present Vice-Dean for Reform of the Studies of the Law Faculty. Graduated from the Faculty of Law in 1989 (JUDr.); awarded Doctorate in legal theory and history (1995); in 1991–92 a visiting graduate student at St. Edmund Hall, Oxford University, where he specialized in Czech and Czechoslovak legal history, with a focus on the 19th and 20th centuries. Publications on Czechoslovak legal history and foreign policy during the interwar period and WW II; monograph: *The Establishment of the Czechoslovak National Committee and Provisional Government in Exile*.

Zdeněk Kühn, JUDr., PhD., LL.M., S.J.D. candidate; graduated from the Faculty of Law of Charles University in Prague where he received his Magister of Laws (Mgr.), Doctor of Laws (JUDr.) and Philosophiae Doctor (PhD.) degrees. He also holds a Master of Laws (LL.M.) degree from the University of Michigan Law School (a recipient of the Fulbright Scholarship 2001/2002); in 2003 he received an S.J.D. candidacy at the same school (a recipient of the University of Michigan Václav Havel Graduate Fellowship 2002/2003). Mr. Kühn teaches legal theory at the Faculty of Law of Charles University. He has been awarded several prizes including the Bolzano Prize, the Hlávka Foundation Prize for the best university graduates, and numerous fellowships (Michigan Grotius Fellowship for Summer 2004 and Summer 2005, University of Michigan Center for Russian and Eastern European Studies Mellon Fellowship (2003) etc.). He widely publishes in the Czech Republic as well as abroad. The Bar Exam at the Czech Chamber of Advocates in 2000; now an advisor to the Czech Constitutional Court Justice.

Alena Macková, Doc., JUDr., Ph.D., graduated 1985 (Charles University Prague), Ass.Professor at the Civil Law Dept., PHARE expert. Author of “Independence of the Judge”, 1996 (awarded The Rector of the Charles University and the Rule of Law Foundation Prizes), “Attorney’s Services” (C.H.Beck, 2002) etc. Research interests include issues such as the role of the judge, the effectiveness of judicial protection, legal aid etc.

Ulrich Magnus, Professor, Dr., studied law at the Universities of Berlin, Freiburg and then Heidelberg, where he also received his doctorate degree (1972). He worked for eight years as a research fellow of the Hamburg Max-Planck-Institute for Foreign and Private International Law. Since 1981, Professor for Civil, Comparative and Private International Law at the University of Hamburg; since 1995 also a part-time judge at the Court of Appeal in Hamburg. His main publications comprise comparative studies of the law of damages, books and articles on the Uniform Sales Law, especially the CISG, and on private international law.

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Zuzana Slováková, JUDr., Ph.D., graduated from the Faculty of Law of Charles University in Prague where she received her Magister of Laws (Mgr.), Doctor of Laws (JUDr.) and Philosophiae Doctor (PhD.) degrees. At present she is a senior lecturer in the Department of Commercial Law at the Faculty of Law of Charles University. Research interests include issues such as the commercial obligations, the intellectual property rights, etc.

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Pavel Šturma, Prof., JUDr., DrSc., Professor of International Law, graduated from Charles University in 1985, awarded a research degree at the Institute of Law of the Academy of Sciences where he was a research fellow. Prior to his appointment as lecturer (1995) in international law at the Faculty of Law CU, he used to stay at IHEI University Paris II (1990–91), Council of Europe (1992) and worked as a UN staff member (UN Office at Vienna, 1992–1994). Since autumn 1997 head of the Department of International Law at the Faculty, since February 2006 Vice Dean for Research and Publications. He is also (co-) author of several books, including *Introduction to the European Law of Human Rights Protection* (Praha 1994), *Asylum and Refugees in International Law* (Brno 1997), *Course in International Economic Law* (Praha 1997), *International and European Control Mechanisms in the Field of Human Rights* (Praha 1999, 2003), *International Criminal Court* (Praha 2002), *International Responsibility* (Brno 2003), as well as many articles published in Czech reviews and partly abroad (in English or French). Member of the Legislative Council of the Czech Government, member of the Permanent Court of Arbitration (The Hague), member of the EU Network of Independent Experts in Fundamental Rights and of several academic and professional associations, visiting professorship at the University Paris XI (2001).

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Jiří Zemánek, JUDr.Ing.CSc., graduated in law and economics in Prague. Since 1993 a researcher in international economic law at the Czechoslovak Academy of Sciences. In 1990 fellow of the Alexander von Humboldt-Stiftung at the Max-Planck-Institute for Foreign and International Private Law in Hamburg, in 1991 assignment at the Swiss Institute of Comparative Law in Lausanne. In 1993 he came to the Charles University as a full-time lecturer, since 1998 Jean Monnet Professor of EU-law focusing on European constitutional law (member of the European Constitutional Law Network) and legal implications of the Czech accession to the EU. Member of the Council for Legislation of the Czech Government, President of the Czech Branch of International Law Association.

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