



# THE CZECH LEGAL SYSTEM IN EUROPEAN CONTEXT

**FACULTY OF LAW**

CHARLES UNIVERSITY

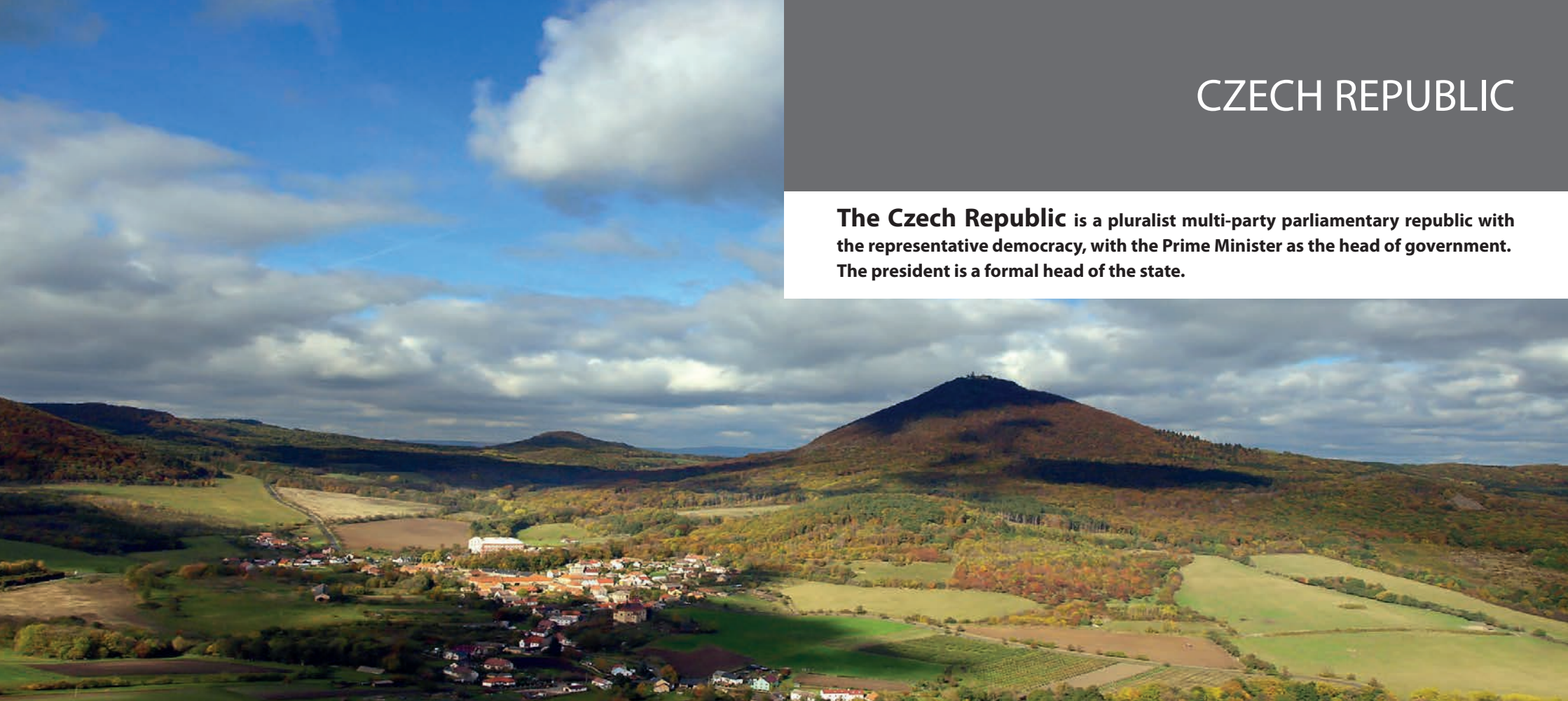


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# CZECH REPUBLIC

**The Czech Republic** is a pluralist multi-party parliamentary republic with the representative democracy, with the Prime Minister as the head of government. The president is a formal head of the state.



**The Czech Republic is a member of the United Nations,**

Council of Europe, OECD, The International Monetary Fund and many other economic and financial international organisations. The Czech Republic joined NATO on 12th March 1999 and became member of the European Union on 1st May 2004. Subsequently on 21st December 2007 the Czech Republic joined the Schengen Area, so on Czech citizens can travel freely across almost the whole of Europe without border checks. The country has not adopted the Euro yet, however, and still uses its national currency, the Czech crown.

**Czech Republic has a civil law system based on Germanic law.**

Czech judiciary has triumvirate system of the main courts when Constitutional Court, the Supreme Court and the Supreme Administrative Court have specific competencies. Written law is the basis of the legal order, and the most important source of law are mainly legal regulations, international treaties and findings of the Constitutional Court. The case law is not defined as a source of law in the Czech Republic. Despite that the findings of the Constitutional Court are considered as a source of law and are binding for general courts.







## GEOGRAPHIC DETAILS

The Czech Republic is a landlocked country in Central Europe bordered by Germany, Austria, Slovakia and Poland.

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

The topography of the Czech Republic is exceedingly various, it consists primarily of **hills and highlands**, as lowlands form only 5% of the country's area. In 2014 the Czech Republic was ranked as the fifth most environmentally conscious country in the world within the Environmental Performance Index.



The Czech Republic is situated in the middle of the **mild zone**.

It has a continental climate, with warm summers and cold, cloudy and snowy winters. The temperature difference between summer and winter is relatively high, due to the geographical position.



# PRAGUE



**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 also reside here.

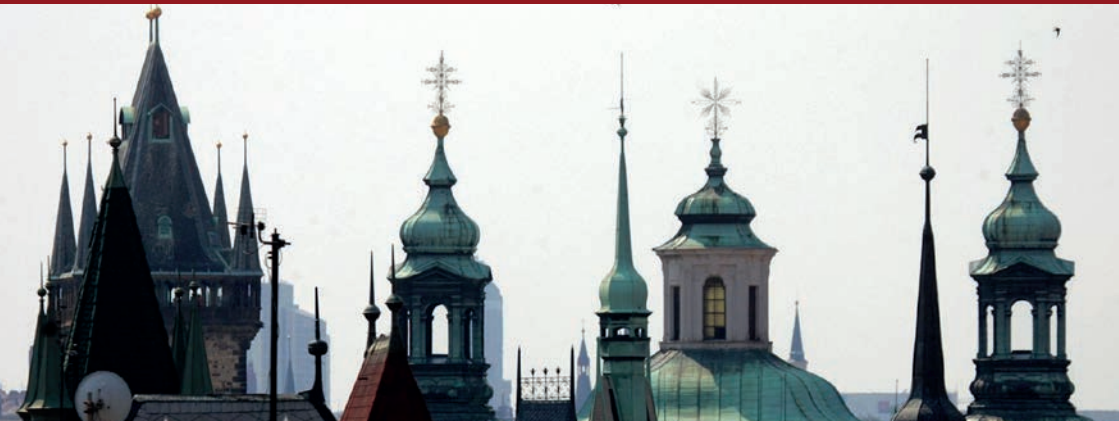
**Prague is the capital and largest city of the Czech Republic, situated in central Bohemia and it is lying along the banks of the River Vltava (Moldau).**

Prague is a magical city of bridges, towers, church domes and buildings of various style periods. For eleven centuries it has been developing into its present day shape. However, Prague is considered as very environmental city with lots of parks and other green spots.

**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.**



**“The Magical City”, “Kafka’s Prague”, “Golden Prague”, “The City of One Hundred Towers”, “The Paris of the East” and “The Rome of the North” are some of the common descriptions of Prague.** In general Prague has very good connection with all other capital cities in Europe via its international airport. It is also an ideal starting point for exploring other countries in Central Europe.



**Public transportation is highly developed within the city itself, including underground, trams, buses, trains, cableway and river ferry.**





# CHARLES UNIVERSITY

## Founded in 1348

by the Czech King and Roman Emperor Charles IV., *Universitas Carolina* is the oldest university in Central Europe and also among 20 oldest universities in the world which are still in operation since their foundation. It has enjoyed a long international reputation for high quality teaching and research. From the very beginning, instruction in Canon Law and Roman Law have been a part of the curriculum of Charles University and have formed the basis of *ius communae europae*. Johannes Kepler, Bernard Bolzano, T. G. Masaryk and Albert Einstein are included among the University's distinguished alumni.

1348  
*Universitas Carolina*

## The fortunes of the University have been linked with the fate of the nation.

In the second half of the XIXth century, the University was challenged by the aspirations and ambitions of political self-determination within the Austrian – Hungarian monarchy. 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 students resulted in the closing of the Czech University 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.





**However, academic freedoms and privileges were soon violated again by the communist regime after the *coup d'état* in 1948.**

For many years to follow, the regime subjected education and research to tight ideological and political control. However, Charles University supported the political revolt of the *Prague Spring* in 1968 and some students were trying to provoke resistance against the Russian occupation.

**After next 20 years it was followed by the protests of Charles University students on 17th November 1989.**

It has contributed to the opposition against totalitarian regime and started subsequent political development in the country. Since the re-establishment of a democratic government and basic rights in the Czech Republic in 1989, also the University has gained proper academic background.

**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. Modern university life began to thrive, drawing strongly on international cooperation. Charles University continues to nurture academic cooperation and plays an active role in a broad spectrum of European and global programmes. **The total number of its students nowadays amounts to more than 45 000 throughout its 17 Faculties.**



B







# FACULTY OF LAW

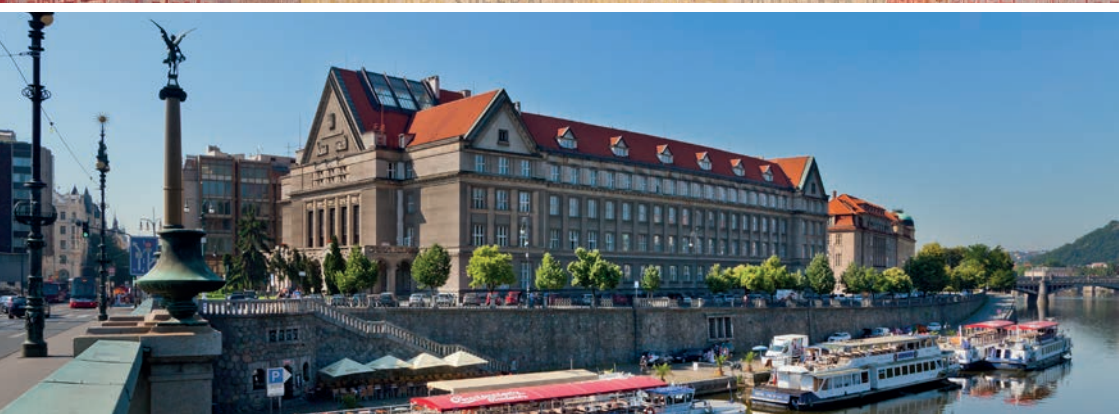
**With more than 4000 students,** the Faculty of Law is the largest law faculty in the country. Being a public Faculty of Law it offers a complete accredited programme in law for undergraduate students (5 years of study) and 13 different specializations of doctoral (Ph.D.) studies.

**All these study programmes are equally accredited in English.**

Many of the alumni hold prominent positions in politics, central and regional administration, in public service, as well as in advocacy and private business.

**The Czech universities have been invited to participate in the European dimension in higher education since the academic year 1998–1999.** The legal basis for its extension formed the Europe Agreement on Association – Decision of the **Association Council No. 2/1997**, which provides incoming students to a Czech university with a treatment equal to that established under the original **SOCRATES Programme**.

This move of the Central and Eastern European countries towards the Open European Area of Education and **Training has been stimulated by the Agenda 2 000 of the European Commission.**



**Since 1998/99** the Faculty of Law has gradually been involved, together with many other European universities 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 or faculty agreements. **Since the year 2011** the Faculty of Law of Charles University in Prague makes another step towards modern forms of continuous education by opening its own LL.M. programme in three different specializations.



Nowadays, over **200 law students from the Member States of the European Union nominated by their home Universities can spend one or two terms in Prague, while approximately 160 Czech law students from Law Faculty of Charles University go abroad for a comparable period.**

## ADMISSION REQUIREMENTS TO THE CZECH LEGAL SYSTEM IN EUROPEAN CONTEXT PROGRAMME

Candidates can be either undergraduate or 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 candidate's linguistic competence.

Detailed information about the application procedure and the **Erasmus+ programme at Charles University can be found at: <http://www.cuni.cz/UK-928.html>.**

For more information regarding study at the Faculty of Law visit <http://www.prf.cuni.cz/en/erasmus-1404042250.html>.

All candidates, nominated by their home Universities for studies at the Faculty of Law of Charles University in Prague in connection with the Erasmus+ exchange programme, **have to do their on-line registration <https://is.cuni.cz/webapps/erasmus/> before the deadline**, which is usually **June 30th for Winter (Autumn) term and October 31st for Summer (Spring) term**. Further, they have to send a printed version of their Application Form and Learning Agreement, duly signed and confirmed by Institutional and Faculty Erasmus+ Coordinator of their home University, to the Faculty of Law in Prague. Subsequently they will receive a **Letter of Acceptance** and an **accommodation voucher** from the European Office of Charles University in Prague.

## ACCOMMODATION AND CATERING



**Foreign students are housed usually in the University's Residence Halls, in double occupancy rooms with shared kitchen and bathroom facilities. Accommodation in single rooms is not available.** Generally it is also relatively easy to rent an apartment privately. Students can use either the cafeteria in the Law Faculty building, cafeteria in other university buildings or in some dormitory areas.



## OTHER FACILITIES

The **Law Library**, located in the Faculty building, is the most extensive and modern law library in the country. It stocks a wide range of scientific 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.

Wireless internet connection is available in the whole building of the Law Faculty.



**The Faculty of Law frequently holds public lectures given by distinguished guests or respected professors, international symposia, important events etc. open to the whole academic community.**

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



## THE CZECH LEGAL SYSTEM IN EUROPEAN CONTEXT (CLS) - a study programme for incoming law students

**The CLS Programme is a nine-month programme done on a full-time basis and is intended first of all for pregraduate students.**

Limited admission guarantees that each student receives optimal attention and has every opportunity to participate actively in the class.

A different set of courses in English is given in each semester of the academic year thus enabling the maximum exchange period of two terms. The Winter Semester starts usually with the first week of October and lasts until mid-February (this includes an exam period in January and the first half of February). The Summer Semester starts in mid-February and ends in June.

## THE CLS PROGRAMME STRUCTURE

The Programme is composed of more than **20 courses**. **All courses are taught in English** by distinguished academics from Charles University and some other European universities, as well as judges and leading lawyers.

Before the nominated student comes, **a preliminary Learning Agreement** on the choice of courses must be signed by the student's home University and Charles University.

**During the first two weeks** after a semester beginning, each incoming student can attend all CLS courses, consult with their professors and, as the case may be, alter the **choices and fill in a final (binding) Learning Agreement**.

Participants are then required to attend all classes in which they have been enrolled (according to the final Learning Agreement) and 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 and is available in the faculty library.

## OBJECTIVES OF THE CLS PROGRAMME

### THE CLS PROGRAMME HAS BEEN DESIGNED WITH THE FOLLOWING GOALS IN MIND:

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

## LIST OF CLS COURSES;

### Distribution of ECTS - credits for courses:

#### WINTER SEMESTER:

CODE	THE CLS COURSE TITLE	NO.of lectures	NO.of classes	CREDITS
<b>GENERAL COURSES:</b>				
ASC1	Czech Constitutional Law	12	24	6
ASC2	Public Policy: An Economic Perspective	12	24	6
ASC3	Private Law	12	24	6
ASC4	Administrative Law	12	24	6
ASC5	International Protection of Human Rights/ Universal and Regional Standards	12	24	6
<b>COURSES OF SPECIALIZATION:</b>				
ASO1	Financial Law	10	20	3
ASO2	Introduction to Public International Law in the Czech Legal Context			
ASO4	Natural Resources Law	10	20	3
ASO5	Czech Legal History	10	20	3
ASO6	An Introduction to the Central European Judicial Culture	10	20	3
ASO8	Emerging Legal Disciplines – Medical Law and Sports Law	10	20	3
ASO9	Legal Reasoning: First Amendment Case Law	10	20	3
SSO8	IP and IT Law	10	20	3
ASO7	Czech Language/ (Basic) *	12	24	2

#### SUMMER SEMESTER:

CODE	THE CLS COURSE TITLE	NO.of lectures	NO.of classes	CREDITS
<b>GENERAL COURSES:</b>				
SSC1	Czech and European Environmental Law and Policy	12	24	6
SSC2	European Law in the Czech - EU Context	12	24	6
SSC3	Commercial Law and International Transactions	12	24	6
SSC4	Criminal Law	12	24	6
<b>COURSES OF SPECIALIZATION:</b>				
SSO2	Contracts and Torts	10	20	3
SSO3	Institutional Economics and Economics of the Public Sector	10	20	3
SSO4	Labour Law and Social Security Law	10	20	3
SSO5	Out-of-Court Dispute Resolution	10	20	3
ASC6	U.S. First Amendment Free Expression Issues	10	20	3
ASC7	Comparative Constitutional Law	10	20	3
SSO7	Czech Language/ (Basic) II *	12	24	2

\* Czech language courses are offered free of charge. The courses will take place subject to a sufficient number of participants and may be subject to change.

The amount of credits for a course is fixed. **Credits are awarded only when the course has been successfully completed by satisfying the assessment requirements, which are mainly written (tests, essays) or may be also oral examinations.**

**Students will obtain official Transcripts of Records, duly signed by the Erasmus Law Faculty Coordinator, with their exam results and a respective number of credit points at the end of their study in Prague.**



## GRADING SYSTEM:

CZECH GRADE	ECTS GRADE
1, 1-	A (Excellent)
2+	B (Very Good)
2, 2-	C (Good)
3+	D (Satisfactory)
3	E (Sufficient)
4	F/FX (Fail)

## ACADEMIC CALENDAR

### WINTER SEMESTER:

**The Czech Legal System in European Context (CLS) usually runs through the winter term for 12 weeks.**

Classes usually **start in the first week of October** with a registration meeting (exact date will be specified) and finish before Christmas, 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 are public holidays in the Czech Republic on 28th October, and 17th November. The Christmas Holidays depend on the dates, but mostly occupy two weeks.

### SUMMER SEMESTER:

**Summer term usually lasts 12 weeks.**

**Classes start in the middle of February** and finish around the middle of May (exact dates will be specified), followed by another **6-weeks examination** session. There are public holidays on Easter Friday and Monday, the 1st of May and the 8th of May.

# CONTACTS



**DIRECTOR  
of the CLS PROGRAMME  
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<http://www.prf.cuni.cz/en/erasmus-contacts-1404044643.html>



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**FACULTY OF LAW**

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116 40 Praha 1  
Czech Republic



# ACADEMIC PROGRAMME

PLEASE NOTE:

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

WINTER TERM:

## *I. General courses*

### **CZECH CONSTITUTIONAL LAW**

JAN KUDRNA • MILUŠE KINDLOVÁ • JAN GRINC

#### **LECTURES:**

1. Introductory Information; Roots of the Contemporary Constitutional System of the Czech Republic (Kudrna)
2. Law-making and the Sources of Law in the Czech Republic; International Law and European Law (Hofmannová)
3. The President of the Republic (*Kindlová*)
4. The Government in the Parliamentary System of the Czech Republic (*Kindlová*)
5. Elections in the Context of Constitutional Law of the Czech Republic (*Antoš*)
6. Institutional Protection of Human Rights – the Judiciary, the Constitutional Court and the Public Defender of Rights (Kindlová)
7. The Charter and Its Character; the Principle of Equality (Hofmannová)
8. Political Rights in the Czech Republic (*Hofmannová*)
9. Principles of the Welfare State and Social Rights in the Charter, related decisions of the Constitutional Court of Czech Republic (*Hofmannová*)
10. Transformation of the Constitutional System; Selected Topical Problems – Sample Study: Lustration (*Kudrna*)
11. Examination



### COURSE MATERIALS:

- The Introduction to Czech Constitutional Law (a course-book)
- The Constitution of the Czech Republic
- The Charter of Fundamental Rights and Freedoms
- Kieran Williams: A Scorecard for Czech Lustration (in Central Europe Review, Vol. 1, No. 19)

## PUBLIC POLICY: AN ECONOMIC PERSPECTIVE

HELENA CHYTILOVÁ

### COURSE DESCRIPTION

The course aims to provide students with basic knowledge of economic issues and economic principles. It studies behaviour on the part of consumers and firms, how markets work, market efficiency and market failure, public policy issues such as taxation, trade policy, the problems of unemployment, inflation, and economic growth, and the instruments of monetary and fiscal policy.

### STUDENT LEARNING OUTCOMES

Upon completion of this course, students will be able to understand basic economic concepts, understand the role of economics in public and private decision-making, understand effects of economic policies and use this knowledge in everyday business-law dealings to make more effective decisions.

### LECTURES:

#### **Microeconomics**

##### **I. Homo Oeconomicus and its Behavior**

principles of economics, consumer choice, market demand  
producer choice, specialization and comparative advantage  
supply, demand and market equilibrium

##### **II. Government Regulation**

state price interventions, taxes and subsidies  
monopoly, regulation, cartels, antitrust law

##### **III. Market for Factors of Production**

labor demand, labor supply, equilibrium wage, minimum wage laws, trade unions  
and unemployment capital markets and the interest rate, usury laws

##### **IV. Market Failures**

property rights, externalities, transaction costs, Coase theorem, free common resources, free goods, public goods, free rider problem

#### **Macroeconomics**

##### **V. Measuring a Nation's Income**

Domestic product, price index, aggregate expenditures

##### **VI. Economic Growth**

productivity, physical and human capital

##### **VII. Money and Inflation**

money, money supply and state monopoly over money creation, money demand, inflation, nominal and real interest rate

##### **VIII. Open Economy and Trade policy**

export, import, exchange rate, flows of capital, international trade regulations

##### **IX. Business Cycle and Macroeconomic Regulation**

aggregate demand and aggregate supply model, monetary policy, fiscal policy, Phillips curve, short run and long run

### SELECTED READINGS:

MANKIW, G. N., *Principles of Economics*, 2004, Mason: Thomson, course book, (a different edition may also be used)

BECKER, G., *Nobel lecture, The Economic Way of Looking at Behavior, Journal of Political Economy*, Vol. 101, No. 3, Jun., 1993, pp. 385-409, (Section I.).

SMITH, A. an Inquiry into the Nature and Causes of the Wealth of Nations, Chapter 1 (pp.10-17), *an Electronic Classics Series Publication*, Jim Manis, Editor, PSU-Hazleton, Hazleton, PA 18202, Pennsylvania University, 2005, (Section I.).

Coase, R.H., The problem of Social Cost, *Journal of Law and Economics*, Vol. 3, Oct., 1960, pp. 1-44, (Section IV.).

Acemoglu, D., ROBINSON, J., The Making of Prosperity and Poverty, Chapter 3, in book: *The Origins of Power, Prosperity and Poverty, Why Nations Fail? Crown Business*; Reprint edition, Sep. 17, 2013, ISBN-13: 978-0307719225, (Section VI.).

FRIEDMAN, M., FRIEDMAN, R., The Anatomy of Crisis, *The Journal of Portfolio Management* Fall 1979, Vol. 6, No. 1: pp. 15-21, (Section IX.).

## PRIVATE LAW

ALENA MACKOVÁ • ONDŘEJ FRINTA • DAVID ELISCHER

### COURSE DESCRIPTION

The aim of the course is to introduce the essentials of Czech private. Private Law, after 1989, has become again the very basis of the Czech legal order. The first part of the course is aimed at the understanding of the private law system, and its fundamental notions 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 and Fundamental Institutions of the Private Law

- History of civil law • Basic principles of private law • System of private law
- Subjects of rights and duties • Property rights • Law of obligations etc.

#### 2. Property Law

- System of rights to things • Ownership
- Lien (pledge, mortgage), easements, rights of retention

#### 3. Contracts

- Fundamental principles • Formation of contracts • Types of contracts

#### 4. Torts

- General and special liability for damage • Compensation of damage
- Unjust enrichment

#### 5. Law of Succession

- Concept and function • Testamentary succession • Intestate (statutory) succession

#### 6. Family Law

- Features of the Family Law • Comparative insight into several institutes
- Present codification and the future of the Family Law

#### 7. Labour Law

- Fundamental legislative changes • Provision of Employment • Collective Labour Law
- Labour Disputes

#### 8. Protection of Intellectual Property

- Copyright Law • Industrial Property Rights • Trade Mark Law

#### 9. Judiciary System

- Overview of the History • Elements of the Judiciary system • Role of the Supreme Court

#### 10. Courts, Judges and Legal Aid System

- Independence of the judge • Position and the liability of the judge
- The Bar (Attorney, European Attorneys)

## 11. Civil Litigation

- Basic principles of civil litigation • Role of the court and parties
- Rules of evidence, judgement, costs, review

### READING LIST

Private Law – Excerpts from the textbook of *Civil Law, Codex*, 1995, Vol. 1

MACKOVÁ, WINTEROVÁ – *Civil Procedure in Czech Republic*, International Encyclopaedia of Laws, Kluwer, 2007

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

Text of laws:

*Civil Procedure Code*, Trade Links, Prague, 1999

*The Civil Code*, Trade Links, 1998

*The Act on Arbitral Proceedings and Enforcement of Arbitral Awards*

## ADMINISTRATIVE LAW I, II

RICHARD POMAHÁČ • JAKUB HANDRLICA • LENKA PÍTROVÁ

### COURSE DESCRIPTION

**Administrative law is a body of law the rules of which are characterized by derogation from common/private law in accordance with the demands of public interest. The course is concerned with the sources and principles of administrative law and regulatory policy. It focuses on two key problems - the judicial review of administrative action and the structure and function of the European Administrative Space.**

### OUTLINE OF THE COURSE

#### *Administrative Law I*

#### *(Administrative Law in Comparative and European Perspective)*

#### 1. National and Transnational Public Administration. Good Governance

#### 2. Substantive Principles of Administrative Law

- Legality and Restricted Discretion • Equality • Transparency • Proportionality
- Legitimate Expectations • Public Liability

#### 3. Procedural Principles of Administrative Law

- Right to Hearing • Equality of Arms • Due Care • Fair Proceedings

#### 4. Administrative Justice and Judicial Review

#### 5. Europeanization of Administrative Law and the European Administrative Space

#### 6. Comparative Administrative Law

### READING LIST:

1. POMAHAČ, R.: *Czech Administrative Law*, Charles University, Prague 2009
2. *Administrative transformation in Central and Eastern Europe* (ed. J. J. HESSE), Blackwell, Oxford 1993
3. *Principles of Good Administration*  
<http://www.statskontoret.se/upload/Publikationer/2005/200504.pdf>
4. *The Independence and Efficiency of Administrative Justice*  
<http://www.aeaj.org/spip.php?article77>

### Administrative Law II

#### *(Administrative Law and Public Administration Reform in the Czech Republic in the context of its EU membership)*

7. **Organization of the Public Administration in the Czech Republic I**
  - Government • Ministries • Czech National Bank • Supreme Audit Office
  - Independent Regulatory Authorities (problems and challenges)
8. **Organization of the Public Administration in the Czech Republic II**
  - Cooperation of the Czech administrative authorities with the EU agencies
  - Cooperation of the Czech administrative authorities with authorities of the other Member States
9. **Delegation of powers on the persons of the private law**
  - Challenges and risks • New trends in public administration (receptions of the UK models in the Czech law) • Examples (construction procedures) • Problem of control of the decision making by the persons of private law
10. **Decision making in the process of change I**
  - Administrative Act • Certificate issued by authorised inspectors • Public contracts
  - Administrative acts issued in the other EU Member States • Case studies
11. **Decision making in the process of change II**
  - Measures of general nature • Planning law and special development • Case studies
12. **Judicial Control – Code of Administrative Justice**

### READING LIST:

1. POMAHAČ, R.: *Czech Administrative Law*, Charles University, Prague 2009.
2. COMTE, F.: 2008 *Commission Communication "European Agencies - the Way Forward"*: What is the follow-up since then?, *Review of European Administrative Law*, Vol.
3. MEUWESE, A., SCHUURMANS, Y., VOERMANS, W.: *Towards a European Administrative Procedure Act*, *Review of European Administrative Law*, Vol. 2 (2009), pp. 3 – 35.  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1494274](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1494274)
4. Designing independent and accountable regulatory authorities for high quality regulation <http://www.oecd.org/dataoecd/15/28/35028836.pdf>

5. *Code of Administrative Procedure* (in: Nový správní řád, zákon č. 500/2004 Sb. Act of 24th June 2004 Code of Administrative Procedure. Praha:ASPI, a.s., 2005)  
[http://aplikace.mvcr.cz/archiv2008/spravnirad/500\\_2004\\_eng.pdf](http://aplikace.mvcr.cz/archiv2008/spravnirad/500_2004_eng.pdf)
6. *Code of Administrative Justice* (in: Nová úprava správního soudnictví, ASPI Publishing, 2003 <http://www.nssoud.cz/docs/cap2004.pdf>

## INTERNATIONAL PROTECTION OF HUMAN RIGHTS – UNIVERSAL AND REGIONAL STANDARDS

HARALD CHRISTIAN SCHEU • VERONIKA BÍLKOVÁ

### COURSE DESCRIPTION

This course examines different aspects of human rights protection. Participants will deal with dateless as well as highly topical human rights issues and study the complexity of different models of protection. The topics will be treated from different perspectives, combining and confronting the points of view of history, anthropology, philosophy, theory of international relations, ethics and law. Special focus will be put upon the protection of human rights as a fundamental component of the current international legal system. The course will introduce students to the development of both universal and regional human rights instruments and mechanisms of protection. Participants of the course will examine the international human rights system in the context of current changes in the structure and organization of international law. 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.

Students will further study selected case-law developed by the European Court of Human Rights and other international bodies, with a special focus to the practice of the Czech Republic. Czech reality will be reflected from the point of view of crucial legal documents as well as the implementation and application of international standards. Furthermore, moral and philosophical issues linked to Czech experiences will be discussed. By applying an inter-disciplinary approach to the issue of human rights protection the course aims at offering a comprehensive survey of the relevant aspects.

### OUTLINE OF THE COURSE

#### *A. Interdisciplinary Aspects of the Human Rights System*

1. **Nothing New Under the Sun?**
  - Historical Evolution of Human Rights
2. **Universal Heritage or Western Creation?**
  - Universality versus Cultural Diversity"



### 3. The Other Face of Human Rights?

- Concept of Human Responsibilities

### 4. Friends or Enemies?

- Non-State Actors and Human Rights (NGOs, TNCs)

### 5. Saving by Killing?

- Humanitarian Intervention

### 6. Freedom or Security?

- Human Rights in the Era of Terrorism

## B. The International and European Dimension of Legal Protection

### 1. The Basic Structure of the International System for the Protection of Human Rights

### 2. UN Human Rights Treaties and Universal Mechanisms of Control

### 3. Case Study I – Individual Communication to the Human Rights Committee

### 4. The Regional Systems for the Protection of Human Rights

### 5. The Protection of Human Rights in Europe

### 6. Case Study II – Procedure before the European Court of Human Rights

## C. Selected Human Rights Issues

### 1. The Protection of Minorities and the Elimination of Racial Discrimination

### 2. The Combat against Trafficking in Human Beings

#### READING LIST

#### Mandatory Reading

Christian TOMUSCHAT: *Human rights: between idealism and realism*, Academy of European law, European University Institut, Oxford : Oxford University Press, 2003  
R. St. J. MACDONALD, F. MATSCHER, H. PETZOLD (eds.): *The European System for the Protection of Human Rights*, Martinus Nijhoff Publishers, 1993  
Michael GEISTLINGER & Erwin KONJECIC: *Public International Law at Central European Universities*, Karolinum, Prague, 2000

#### RECOMMENDED LITERATURE

David ROBERTSON: *A dictionary of human rights*, London, 2004  
Walter KÄLIN, Lars MÜLLER, Judith WYTTEBACH: *The face of human rights*, Müller Publishers, Baden, 2004  
Andrew CLAPHAM: *Human rights obligations of non-state actors*, Oxford University Press, 2006  
Henry J. STEINER, Philip ALSTON (eds.): *International Human Rights in Context*, Clarendon Press, Oxford, 1996  
Sandra FREDMAN (ed.): *Discrimination and Human Rights. The Case of Racism*, Academy of European Law, European University Institute, Oxford University Press, 2001

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

R. BERNHARDT (ed.): *Encyclopedia of Public International Law*, Volume I–IV, 1992–2000

## II. Courses of Specialization

### FINANCIAL LAW

PETR KOTÁB · RADIM BOHÁČ · MICHAEL KOHAJDA

#### COURSE DESCRIPTION

The purpose of the course is to provide rather brief and general and yet professionally oriented introduction to Czech Financial Law with occasional overlaps to the Financial Science. Special emphasis is given to those areas of Financial Law that are connected to the stay, activities, business and investments of foreigners 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.

##### 2. Monetary Law

Tangible and intangible money. Issuance of money. Issuing authority. Legal tender. Forced circulation of money and connected rules. Payment intercourse. Payment systems. Czech crown and the euro.

##### 3. Foreign Exchange Control and Anti-Money Laundering Regulations

Foreign exchange regulations. Convertibility. Residents and non-residents. Foreign exchange values. Obligations and restrictions. Acquisition of real estate. Anti-money laundering legislation. Suspicious transactions. Reporting obligation. Identification of participants. Suspension of transaction.

##### 4. Czech Tax System

System of taxes and other budgetary revenues. Classification of taxes. Direct and indirect taxes. Basic elements of tax construction. Subject, object, tax base, tax rate and maturity.

##### 5. Income Taxes

Individual Income Tax. Corporate Income Tax. Taxpayers and payors. Computation of tax base. Partial tax bases. Tax residents and non-residents. Tax-deductible expenses and other tax-deductible items. Tax rates. Tax credits. Administration of Income Taxes.

## 6. Value Added Tax

Universal indirect taxes. VAT concept. Taxable persons and VAT payor registration. Taxable supply. Principles of VAT. Output and input VAT. Tax point. Tax rates. Administration of VAT. VAT exemptions.

## 7. Other Taxes

Property taxes. Real estate tax. Road tax. Transfer taxes. Inheritance Tax. Gift Tax. Real- Estate Transfer Tax. Excise taxes. Energy taxes. Customs.

## 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 and other asset 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. Collective investment.

### READING LIST

1. Presentation outlines for individual lectures – will be distributed electronically at the end of the course

### RECOMMENDED:

RADVAN, Michal: **Czech Tax Law**, 3rd edition, MUNI Press – Masaryk University, Brno, 2010  
3. KOTÁB, Petr, VOŽEHOVÁ, Lucie, ŠAFKA, Jiří: **Czech Republic, In: Financial Services Regulation in Europe** (General Editor: Etay Katz), Second Edition, Oxford University Press, Oxford 2008, pp. 151-167  
4. KOTÁB, Petr: **Czech Republic, In: The International Comparative Legal Guide to: Corporate Tax 2011**, Global Legal Group Ltd., London 2010, pp. 56-61  
Also available for free download on the Internet at:  
<http://www.iclg.co.uk/khadmin/Publications/pdf/3999.pdf>

## INTRODUCTION TO PUBLIC INTERNATIONAL LAW IN THE CZECH LEGAL CONTEXT

PAVEL ŠTURMA · VERONIKA BÍLKOVÁ

### 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

- M. GEISTLINGER & E. KONJECIC (eds.): *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

## NATURAL RESOURCES LAW

MILAN DAMOHORSKÝ · MICHAL SOBOTKA · KAROLINA ŽÁKOVSKÁ

### COURSE DESCRIPTION

The aim of the course is to introduce and discuss basic approaches to natural resources management and protection under Czech law. Historical and political context is introduced with a specific consideration for transition from the state controlled economy. Attention is paid to the ownership rights over natural resources and statutory limits of their execution. Different public and private approaches to natural resources management are explained with respect to key conflicts between their economic utilisation and environmental protection. This course is related to the Czech and European Environmental Law and Policy course.

### OUTLINE OF THE COURSE

1. General introduction and overview
2. Legal regulation of mining
3. Energetic law
4. Atomic law
5. Renewable and alternative sources of energy
6. Water management law
7. Land use
8. Biological diversity protection and exploitation
9. Forest management law
10. Fishing and hunting
11. Marine resources

## READING LIST

- Report on the Environment of the Czech Republic 2009* (Ministry of the Environment)
- State Environmental Policy (2002-2010)* (Ministry of the Environment)
- State Energy Policy* (Ministry of Industry and Trade, 2004)
- The Raw Material Policy of the Czech Republic in the Field of Mineral Materials and Their Resources* (Ministry of Industry and Trade and Ministry of the Environment, 1999)
- National Renewable Energy Action Plan of the Czech Republic* (Ministry of Industry and Trade, 2010)
- Conception of Water Management Policy of the Czech Republic for the Period after EU Accession (2004-2010)* (Ministry of Agriculture)
- Report on Forestry in the Czech Republic* (Ministry of Agriculture, 2009)
- Game Management in the Czech Republic* (Ministry of Agriculture, 2004)
- Convention on Biological Diversity* (Rio de Janeiro, 1992)
- United Nations Convention on the Law of the Sea* (Montego Bay, 1982)

## CZECH LEGAL HISTORY

JAN KUKLÍK · PETR BĚLOVSKÝ · ZÁBOJ HORÁK

### 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
11. Typology of State Law on Churches in states of Europe and Northern America.
12. State Law on Churches in Czechoslovakia and in the Czech Republic.



## READING LIST

- V. MAMATEY & R. LUA: *A history of the Czechoslovak Republic 1918–1948*, Princeton, 1973
- Z. A. B. ZEMAN: *Pursued by a Bear: the Making of Eastern Europe*, London, 1989
- J. POLIŠENSKÝ: *History of Czechoslovakia in Outline*, Praha, 1991
- J. KUKLÍK: *The Recognition of Czechoslovak Government in Exile and its International Status 1939/1941*, in: Prague Papers on History of International Relations, vol. 1, 1997
- E. TABORSKY: *Czechoslovak democracy at work*, Londýn, 1945
- G. ROBBERS (ed.): *State and Church in the European Union*, 2nd Edition, Baden-Baden, 2005

## 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 Přibáň, 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 BOŽINOVIČ: *Croatia and the European Union*, in: *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*, in: *Boston College international and comparative law review*, 26 (2003) 1, pp. 113–127.
- The selected *case law and statutes*

## EMERGING LEGAL DISCIPLINES: MEDICAL LAW AND SPORTS LAW

PETR ŠUSTEK • JAN KUKLÍK • DAVID KOHOUT

### COURSE DESCRIPTION

Despite the increasing globalization and interdependence of national legal orders it is possible to observe certain internal tendencies for particularisation of law. The complexity of law and professional challenges bring needs for deeper specialization of modern lawyers beyond traditional branches of law. As a consequence new legal disciplines emerge and gain growing importance both in the legal theory and practice. This course aims at introducing (some of) these new legal disciplines that arose often on the thin line between the Private and Public Law. The purpose of this course is to present the basic principles and most remarkable issues connected to these areas of law to the students and make them acquainted with approaches common to these legal (sub-)disciplines. The Medical Law has received a lot of attention over the last decades as it is preoccupied with values central to human life and involves often great ethical implications. The Sports Law regulates not only a leisure activity but in the present world it is connected also to business activities as well as disciplinary or even Criminal Law issues (e.g. doping, liability for damages).

### OUTLINE OF THE COURSE

1. **Intro to European and Czech Medical Law (Dr. Krejčíková)**
2. **Euthanasia (Dr. Krejčíková)**
3. **Healthcare Management -Legal Issues (Dr. Sovová)**
4. **Informed Consent (Dr. Holčápek)**
5. **Wrongful Life/Birth (Dr. Krejčíková)**
6. **Civil Liability for Medical Malpractice (Dr. Holčápek)**
7. **Sports Law - General Notion, Perspectives and Development (Prof. Kuklík)**
8. **Civil Liability in Sport (Dr. Šup)**
9. **Doping and Law (Mgr. Haindlová)**
10. **Contracts and Sport (Mgr. Kučera)**
11. **Jurisdiction over Sport Related Disputes (Dr. Kohout)**

### READING LIST

BRAZIER, M., CAVE, E.: *Medicine, patients and the law*, 4th ed., London: Penguin Books, 2007. MASON, J. K.: *Mason & McCall Smith's law and medical ethics*, 7th ed., Oxford: Oxford University Press, New York, 2006.  
BLACKSHAW, I. S.: *Sport, mediation and arbitration*, Hague: T.M.C. Asser Press, 2009.  
GARDINER S.: *Sports law*, 4th ed., London: Routledge, 2012.

## LEGAL REASONING: FIRST AMENDMENT CASE LAW

SEAN WESLEY DAVIDSON

### COURSE DESCRIPTION

The First Amendment to the U.S. Constitution safeguards freedom of expression, freedom of religion, and freedom of press, and also protects the principle of separation of church and state. Studying the judicial interpretation of the First Amendment is fundamental to understanding constitutional law in the United States, as many important and controversial high court cases have concerned the First Amendment, especially in recent years.

### OUTLINE OF THE COURSE

This course focuses on U.S. Supreme Court decisions in selected First Amendment cases, including the arguments asserted and reasoning applied. Students are required to assess these cases and make legal arguments in seminar discussions and also formal moot court debate exercises. In particular, the cases in this course concern the following topics: symbolic expression, extremist expression, political satire, threatening speech, speech rights of students, establishment of religion, and exercise of religion. This course also takes a comparative approach to studying many of the decisions, especially those which are inconsistent with the decisions of European courts in similar cases. Cultural differences and implications are naturally considered as well.

The objectives of this course include the following: **1)** to deepen students' understanding of U.S. interpretation of freedom of expression and religion; **2)** to provide context for students to compare and assess various approaches to such issues; **3)** to provide a framework for students to evaluate the applicability and merits of First Amendment legal arguments in potential future cases; **4)** to aid students in acquiring and using sophisticated legal English vocabulary and grammar.

### SELECTED BIBLIOGRAPHY:

Irons, PETER (Editor, 1997). *May it Please the Court: The First Amendment*. The New Press.  
Post, ROBERT C. (2012). *Democracy, Expertise, and Academic Freedom: A First Amendment Jurisprudence for the Modern State*. Yale University Press.  
Stone, GEOFFREY (et al.) (2008). *The First Amendment*. Aspen Publishers.  
Sullivan, KATHLEEN M. and Gunther, GERALD (2010). *The First Amendment Law*, 4th edition. Foundation Press.

### COURSE DESCRIPTION

This course covers the whole area of the intellectual property law and so called IT law. Lectures will also aim at copyrights, patents, trademarks, trade secrets and designs. The course addresses the policies underlying the protection of intellectual property and IT and compares the different ways organizations and individuals can use intellectual property to protect their interests.

Technological developments and innovations affecting copyright are also addressed, including issues related to computer software, internet and cyberspace.

Special attention shall be paid on the international case law at the respective field.

### LIST OF LECTURES

1. **The subject and system of IP Law**
2. **Copyright Law – License agreements and limitations and exceptions**
3. **Copyright Law – Neighboring rights, other related rights and collective management**
4. **Copyright protection in Cyberspace**
5. **IT Law (protection of software, databases, know-how and other IP rights related to IT)**
6. **Industrial property – Trademarks**
7. **Industrial property – Patents, Utility models, Industrial designs, Geographical indications, Commercial names**
8. **International Copyright Law, EU Copyright Law**

## SUMMER TERM:

### I. General courses

#### **CZECH AND EUROPEAN ENVIRONMENTAL LAW AND POLICY** MILAN DAMOHORSKÝ · MICHAL SOBOTKA · KAROLINA ŽÁKOVSKÁ

### COURSE DESCRIPTION

The course provides information about the development of the Czech and European environmental policy and law and about their current status. The course deals with legal, economic and institutional instruments of environmental protection in the Czech Republic and EU. It covers both sectoral and horizontal environmental legislation and the background of public administration of the environmental protection.

The course also provides general information about the process of transposition and implementation of European environmental law in member states, especially on the example of the Czech Republic. Attention is paid also to international standards of environmental protection as to basis for European and national legal action.

### OUTLINE OF THE COURSE

1. The state of the environment on global, European and national level. International, European and Czech environmental policy
2. Environmental law as a key instrument of Environmental policy (system, instruments). Institutional safeguards for environmental protection
3. European and national environmental law – transposition and implementation
4. The liability system of environmental protection
5. Access to environmental information, public participation in environmental decision-making
6. Main horizontal legislation I: EIA, IPPC
7. Main horizontal legislation II: Land-use planning
8. Air pollution regulation
9. Water resources protection
10. Land and Forest Protection
11. Biodiversity and Nature protection
12. Regulation of sources of endangerment I: Waste
13. Regulation of sources of endangerment II: Chemicals
14. Regulation of sources of endangerment III: Protection against accidental harm. Noise regulation
15. Ownership and Environmental protection. Land and Agricultural Law & Environment
16. Role of the justice (courts) in the protection of environment



## READING LIST

DAMOHOŘSKÝ, M.: *Czech Environmental Law*, 2nd edition, Charles University, Prague 2006, KISS, A. – Shelton, D.: *Manual of European Environmental Law*, Cambridge University Press, 2nd Edition 1997  
KRÄMER, L.: *European Environmental Law*, Sweet and Maxwell, 6th Edition, 2007  
KRÄMER, L.: *Casebook on European Environmental Law*, Hart 2002  
SCHEUER, S. (ed.): *EC Environmental Policy Handbook – A critical Analysis of EU Environmental Legislation*, EEB, 2005  
State Environmental Policy (2002-2010) (Ministry of the Environment)  
Report on the Environment of the Czech Republic 2009 (Ministry of the Environment)

## EUROPEAN LAW IN THE CZECH-EU CONTEXT

RICHARD KRÁL · JIŘÍ ZEMÁNEK · MICHAL TOMÁŠEK

## 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. Towards this background the institutional and legal aspects of the Czech EU membership shall be introduced. The course will focus also on the role of the ECJ and the effects of EU law within legal and judicial systems of the EU Member States. In this respect special attention shall also be paid to relevant Czech case law. The changes introduced by the Treaty of Lisbon will be discussed, too. The students shall be invited to reflect on their EU citizenship status and on the impact of EU law on the legal systems of their countries of origin. Therefore, the discussion in the class is welcome.

## OUTLINE OF THE COURSE

### 1. The evolution of EC/EU

- Evolution of three Communities
- Evolution of the EU
- Structure of the EU after Lisbon Treaty

### 2. Basic methods and principles of EU system of governance

- Supranationalism
- Intergovernmentalism
- 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
- The EU Charter of fundamental rights

### 5. The system of EU law

- Definition, Autonomy
- Sources
- General principles

### 6. The decision-making process

- Institutions and their powers
- Ordinary legislative procedure
- Issue of democratic deficit
- Role of National Parliaments

### 7. The law of Internal Market

- Main principles
- Free movement of goods, capital and payments
- Free movement of workers and students
- Free movement of services and right of establishment

### 8. The EU competition law and policy

- Cartels
- Abuse of dominant position
- Merger control
- State aids
- Enforcement

### 9. The Economic and monetary union and single currency

- Historical outline
- Monetary policy
- Budgetary policy
- Single currency - EURO
- Convergence criteria
- European Central Bank

### 10. The EU budget and selected EU policies

- EU budget – sources and spending
- EU budgetary procedure
- Common agriculture policy

### 11. The Area of freedom, security and justice

- Border controls, asylum and immigration
- Judicial cooperation in civil matters
- Police and judicial cooperation in criminal matters

### 12. The European judicial system - The Court of Justice

- Structure, tasks and jurisdiction
- Position in the EU institutional balance
- Procedures and rules

### 13. The European judicial system and national courts

- Dialogue through Preliminary ruling procedure
- Methods of interpretation of EU law
- Cases

### 14. The application and enforcement of the EU law by the national courts and administrations

- Direct applicability of EU law
- Supremacy of EU law
- Principles of loyalty and effect utile

### 15. The EU Directives

- Structure
- Transposition
- Consequences of improper transposition

### 16. The constitutional dimension of EU law

- The process of constitutionalisation
- The failed institutional reform under the Treaty on Constitution for Europe
- The Treaty of Lisbon

### 17. The accession of the Czech Republic to the EU

- The European clause of the Constitution
- The Treaty on Accession
- The leading "European" cases of the Czech courts

#### READING LIST

ZEMÁNEK Jiří, KRÁL Richard, TOMÁŠEK Michal *Course planner and materials*

[www.europa.eu](http://www.europa.eu) (Selected documents)

J. STEINER, L. WOODS, *EU Law*, 10th edition, Oxford University Press, 2009

## COMMERCIAL LAW AND INTERNATIONAL TRANSACTIONS

MONIKA PAUKNEROVÁ • ALENA BÁNYAIOVÁ

### COURSE DESCRIPTION

The course consists of two parts. The first part focuses on the general principles of Czech commercial law, including various aspects of business conduct in the Czech Republic such as the legal status of entrepreneurs and their commercial activities as individuals, the essentials of Czech company law and law of commercial contracts. Special attention will also be paid to the impact of the European legislation on this area of Czech law. Further, the course will deal in more detail with Czech competition law, both anti-trust as well as unfair competition, and will provide background of certain particulars of commercial contracts, security obligations, breach of contracts, liability for damages and other types of remedies.

The second part of the course is oriented directly to the regulation of civil and commercial relations with an international element, as well as to some practical implications. Special regard will be paid to conflict rules and rules of international civil procedure in Europe and in the Czech Republic, to European Private International Law and Czech Private International Law. Further parts concern international commercial transactions, in particular commercial contracts and other formulations. Attention will also be drawn to the settlement of civil and commercial disputes.

### 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 – General, Unfair Competition**

- general overview of protection of competition
- unfair competition - general clause
- unfair competition - individual breaches and relevant case law

#### **6. Competition Law - Antitrust**

- cartel regulation
- abuse of dominant position
- other means of public law protection of competition - merger control,
- public procurement, state aid

#### **7. Commercial Obligations**

- general principles
- law of contracts
- typical commercial contracts

#### **8. Commercial Obligations**

- breach of contracts
- security obligations
- liability for damages

### **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. General introduction (continued), 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. Private international law rules and related rules**

- Conflict rules – selected topics
- Application of foreign law
- Public policy
- Mandatory rules and overriding mandatory rules

#### **4. 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 and Czech law

#### **5. Contractual and non-contractual obligations in Czech and European private international law**

- Determination of the proper law of contracts and torts
- Law applicable to contractual obligations in Czech and European private international law
- Law applicable to non-contractual obligations in Czech and European private international law

#### **6. International commercial contracts and Czech law - general climate, sources of law and other formulations**

- International commercial contracts
- Sources of law
- Conflict rules and direct substantive rules in Czech private international law
- Other formulations - *lex mercatoria* under Czech and European law

#### **7. Settlement of disputes in the Czech Republic and in Europe**

- Introduction
- International civil procedure under Czech law
- Regulation Brussels I (Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters)
- Other European instruments (European enforcement order for uncontested claims, European order for payment procedure, European small claims procedure)

#### **8. International commercial arbitration in the Czech Republic as compared to other selected countries**

- Introduction – the options for international dispute resolution
- Litigation or alternative dispute resolution
- Arbitration in the Czech Republic
- Arbitration rules in other selected countries

#### **READING LIST**

Monika PAUKNEROVÁ, *Private International Law, Czech Republic* in: International Encyclopaedia of Laws, Kluwer Law International, The Hague 2011 Zuzana SLOVÁKOVÁ, *Czech Business Law*, Introduction: Monika Pauknerová, Charles University in Prague, Faculty of Law 2007 The Commercial Code, Commentary, Trade links, Prague *The Civil Code*, Commentary, Trade links, Prague Lucie BÁNYAIOVÁ, *Private Antitrust Litigation-Czech Republic*, in: Getting the Deal Through, Global Competition Review, 2007

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

M. BOGDAN, *Concise Introduction to EU Private International Law*, Europa Law Publishing, Groningen 2007

Study on the conditions of claims for damages in case of infringement of EC competition rules – National Report – Czech Republic in: [http://ec.europa.eu/comm/competition/antitrust/others/actions\\_for\\_damages/national\\_reports/czech\\_republic\\_en.pdf](http://ec.europa.eu/comm/competition/antitrust/others/actions_for_damages/national_reports/czech_republic_en.pdf)

## CRIMINAL LAW

ZDENĚK KÜHN · JAROSLAV FENYK · TOMÁŠ GRŮVNA

### 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**
8. **Criminal Law and the EU: European Arrest Warrant**
9. **Criminal Law and the EU**

## 10. Theorizing Criminal Law: a Feminist Challenge

## 11. TBA

## 12. Conclusions

### 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:

COULLLOUDON V.: *Crime and Corruption after Communism*.

*The Criminalization of Russia's Political Elite*, East Eur. Constitutional Rev., 1997

MUNGIU-PIPIDI 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*

PIZZI William T., MONTAGNA Mariangela: *The Battle to Establish an Adversarial Trial System in Italy*, excerpts, 2004

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: PIZZI William T., MONTAGNA Mariangela: *The Battle to Establish an Adversarial Trial System in Italy*, excerpts, 2004

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

### CONTRACTS AND TORTS

DAVID ELISCHER • ONDŘEJ FRINTA • 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. Students will have an opportunity to discuss current topics related to contracts and torts with practical examples from the legal practice and court decisions.

#### OUTLINE OF THE COURSE

##### 1. Contracts A.

- Concept of Obligation • Historical and Modern Development • Decisive Features of Obligations • Principles of Obligations • Sources of Obligations • Types of Obligations • Origination of Obligations

##### 2. Contracts B.

- Concept of Contract • Foundations of the Binding Force of Contract (Lex Contractus) • Types of Contract • Parties to a Contract • Content of Contract • Origination of Contract • Harmonisation of European Contract Law (Principles of European Contract Law) • Principle of Good Faith in European Contract Law

##### 3. Contracts C.

- 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

##### 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. Contract E.

- Recent Development • Consumer Contracts • Consideration of Cases and Examples from Legal Practice

##### 6. Contracts F.

- Contracts in Family Law (in general) • Marriage as a contract • Cohabitation as a contract

- Joint consent over child's fatherhood – a contract or not?
- Contracts related with the joint property of spouses • Contracts related with the alimony

##### 7. Torts A.

- Introduction to Torts • Principal Sources • Civil liability • Prerequisites
- Fault as a Prerequisite of General Liability for Damage • Comparative Overview • Case law

##### 8. Torts B.

- Wrongfulness /Unlawfulness as a Prerequisite of Liability for Damage
- Comparative Overview • Case law

##### 9. Torts C.

- Damages • Manner and Scope of Compensation for Damage • Joint Liability
- Comparative Overview • Case law

##### 10. Torts D.

- Causality as a Prerequisite of Liability for Damage • Different types of Special liability for Damage • Prescription in Tort Law • Comparative Overview • Case law

#### 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

HELENA CHYTILOVÁ

#### 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” (formal and informal norms, values and habits) and how institutions vary widely in their impacts on economic performance. While some societies and/or economies develop institutions that produce growth and development, other develop institutions leading to high transaction 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.



## MAIN TOPICS OF THE COURSE:

### Part I

Institutional Economics: Basic Premises and Concepts, Transaction Costs Economic Theory of Ownership Rights  
Economic Theory of Contractual Relations  
Economic Theory of Corporate Governance  
Institutions and Economic Change

### Part II

Economic Reasons of Government  
Theory of Public Choice  
Public Sector and Bureaucracy  
Economic Theory of Taxation  
Public Social and Health Care Systems: Costs and Benefits

## SELECTED READING

Peter G. KLEIN: *New Institutional Economics, Encyclopedia of Law and Economics*, 1998  
Douglas C. NORTH: *Understanding Economic Change*, 2005  
Douglas C. NORTH: *Economic Performance through Time*, Nobel Prize Lecture, 1993  
Stiglitz, J.E.: *Economics of the Public Sector*, Stanford University, 2000  
URBAN, J.: *Privatization and Institutional Reforms in Czech Republic*, 2004  
URBAN, J.: *Brief Glossary for New Institutional Economics*, 2007

## LABOUR LAW AND SOCIAL SECURITY LAW

MARTIN ŠTEFKO · KRISTINA KOLDINSKÁ

## COURSE DESCRIPTION:

The course examines and compares the history, structure and regulations of both employment law (labour law) and social security law in Central Europe (mainly the Czech Republic, Austria, Germany, Poland and Slovakia).

After a definition of general terms and a brief review of both legal theory and history, the course focuses principally on social risks covered by the said branches of law (for example pregnancy, maternity, sickness, disability to work, unemployment, invalidity or death of a breadwinner). The course provides a comprehensive study of current EC law, international law, and Czech labour and social security law including case law. If appropriate, there will be comparisons with other Central European countries. Special attention is devoted to the Posted Workers Directive, and pension and health care reforms in Central Europe.

## OUTLINE OF THE COURSE

### 1. Law of Social Protection and its History in Europe

- History of Social Protection
- Development of the Welfare State, Types of Welfare State, the Crisis of the Welfare State
- Sources of Law (international and EC law)
- Social Welfare Rights, Functions and Aims of Labour Law and Social Security Law

### 2. The outline of the course, information about Exam

#### Employment Relationship, Definitions

- Employee, EC Worker, Dependent Work
- Employer's Risks
- General Principles
- Other Types of Employment Relationships

### 3. Protection of Work, Liberalisation of Employment Law (Flexicurity)

- Choice of Law Rules
- Non Competition Covenants

### 4. Contract of Employment, Employment Relationship, Establishment, Changes and Termination

### 5. Working Time, Rest Periods, Payments

### 6. Social Law and Social Rights

### 7. Pregnancy, Maternity, Working Conditions of Parents

### 8. Sickness, Invalidity, Aging, Poverty and Social Exclusion

### 9. Posting of Workers

- Working Conditions in Central and Eastern Europe

### 10. Coordination of Social Security Laws

## READING LIST (OPTIONAL LITERATURE)

PICHRT, J.; ŠTEFKO, M.: *Labour Law, Kluwer Law International*, The Hague 2009

ŠTEFKO, M.: *Czech Labour Law in European Context*, Charles University Press, Prague 2007

TRÖSTER, P., VYSOKAJOVÁ, M.: *International Encyclopaedia of Social Security Law - Czech Republic, Suppl. 57, Kluwer Law International*, The Hague 2006.

KOLDINSKÁ, K., ŠTEFKO, M.: *Sociální vývoj a sociální situace v České republice v roce 2008, Die soziale Entwicklung und soziale Lage in der Tschechischen Republik im Jahr 2008*, Friedrich Ebert Stiftung Prag Analyse aus der Tschechischen Republik 1/2009, available at <http://www.fesprag.cz/cs/system/files/books/2009-1-cz.pdf>  
<http://www.fesprag.cz/cs/system/files/books/2009-1.pdf>

KOLDINSKÁ, K.: *Czech and Slovak Labour Law – Protective or liberal?*

In: The International Journal of Comparative Labour Law and Industrial Relations, Kluwer Law International No. 24/3 2008

KOLDINSKÁ, K.: *Soziales Europa? Testfall Tschechien*. In: Collegium Europaeum Jenense (Hg.): *Sociales Europa Testfall Polen und Tschechien* (Tagung vom 15. Juni 2007).

- Edition Paideia - Jena - Verlag IKS Garamond - 2008

KOLDINSKÁ, K.: *Gender Equality: Before and After the Enlargement of EU: The Case of the Czech Republic*

In: European Law Journal, No. 2, 2007, Blackwell Publishing Ltd, Oxford

## OUT-OF-COURT DISPUTE RESOLUTION

ZBYŠEK KORDAČ

### COURSE DESCRIPTION

The aim of the course is to present different methods of dispute resolution.

Litigating before national courts is not always the best method how to deal with the dispute which has arisen. Parties can employ number of other dispute resolution techniques and methods. First part of the course will deal with arbitration. Especially in the area of international commerce, arbitration became the preferred method of resolving disputes. After introducing features of international commercial arbitration, the course will focus on the differences which can be found in the area of investment arbitration. The classes on mediation will be divided between legal aspects of mediation and techniques and approaches used by mediators.

The course will conclude with an overview of other dispute resolution methods.

### OUTLINE OF THE COURSE:

#### 1. General Introduction into Arbitration

- What is Arbitration?
- Arbitration's Advantages
- Limits of Arbitration
- Regulatory Framework

#### 2. Arbitration Agreement

- Validity of Arbitration Agreement
- Arbitrability
- Drafting the Arbitration Agreement

#### 3. The Tribunal

- Appointment of Arbitrators
- Duties of Arbitrators
- Challenge to Arbitrators

#### 4. Applicable Law and Rules

- Delocalisation v. Territoriality
- Law Applicable to Arbitration Agreement
- Rules and Law Applicable to the Arbitral Proceedings
- Law Applicable to Merits of the Case

#### 5. The Arbitral Proceedings and Judicial Assistance

- Taking of Evidence
- Interim Measures
- Anti-suit Injunctions

#### 6. The Award

- Different Types of Awards
- Challenges to the Award
- Enforcement of the Award

#### 7. Investment Arbitration

- Special Features of Investment Arbitration
- Washington Convention
- Bilateral Investments Treaties
- Standards of Protection

#### 8. Legal Aspects of Mediation

- Nature of Mediation
- Duties of Mediator
- Confidentiality
- Legal Nature of Settlement

#### 9. Methods Used by Mediators

- Facilitative Mediation
- Evaluative Mediation
- Collaborative Mediation

#### 10. Other ADR Methods

- Med-arb
- Arb-med
- Adjudication
- Dispute Resolution Boards
- Last Offer Arbitration

## READING LIST

### Mandatory Reading

MOSES, Margaret L.: *The Principles and Practice of International Commercial Arbitration*. 2nd Edition. Cambridge University Press. 2012.

KORDAČ, Zbyšek ADR: Non-judicial adventures, *Common Law Review*, Prague, Issue 10, Spring 2009.

RŮŽIČKA, K.: *Rozhodčí řízení před Rozhodčím soudem při Hospodářské komoře ČR a Agrární komoře ČR*, 2. rozšířené vydání.

Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, s.r.o., 2005, p. 199 -204.

### Recommended reading

Lew, Julian D. M., MISTELIS, LOUKAS A., KRÖLL Stefan M.: *Comparative International Commercial Arbitration*. Wolters Kluwer. 2003.

BORN, Gary B. *International Commercial Arbitration*. Alphen aan den Rijn: Kluwer Law International, 2009. , BLACKABY, N., PARTASIDES, C., REDFERN, A., HUNTER, M.: *Redfern and Hunter on International Arbitration*. 5th ed. (Student version) Oxford: Oxford University Press, 2009 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

BĚLOHLÁVEK, Alexander J.: *Arbitration Law and Practice in the Czech Republic* (with Regard to the Arbitration Law in Slovakia). Volume I. Linde. Prague, 2009, First edition.

## U.S. FIRST AMENDMENT FREE EXPRESSION ISSUES

SEAN DAVIDSON

### COURSE DESCRIPTION

This course focuses on judicial decisions in various cases involving the First Amendment to the U.S. Constitution, which protects freedom of expression, freedom of the press, and freedom of religion. Students will be required to analyse U.S. Supreme Court decisions and form legal arguments in both class discussions and formal moot court debate exercises. This course concerns the following issues, among others, relating to the First Amendment: presence of religious symbols in public places; obscene and indecent expression; commercial speech; religious and political expression in the workplace; and freedom of the press.

The objectives of this course are: **1)** to deepen students' understanding of U.S. interpretation of freedom of expression; **2)** to provide students the context to compare and assess various approaches to such issues; **3)** to provide the framework for students to determine the appropriate boundaries of individual freedoms; and **4)** to aid students in acquiring and using sophisticated legal English vocabulary and grammar.

This course is designed as a follow-up to the winter semester course titled "Legal Reasoning: First Amendment Case Law", yet naturally this course covers different topics and entirely new cases and principles that are not covered in the winter semester course. Prospective students who wish to register for "Legal Argumentation and Debate: First Amendment Issues in Context" without having taken the winter semester course are recommended to have knowledge of fundamental First Amendment principles, or corresponding European law principles on freedom of expression and religion. The instructor is prepared to provide any consultation necessary in that regard.

The instructor prepares the materials for the course from the selected bibliography below, along with other supplementary materials from the U.S. Supreme Court's database.

### SELECTED BIBLIOGRAPHY:

IRONS, Peter (Editor, 1997). *May it Please the Court: The First Amendment*. The New Press.  
POST, Robert C. (2012). *Democracy, Expertise, and Academic Freedom: A First Amendment Jurisprudence for the Modern State*. Yale University Press.

STONE, Geoffrey (et al.) (2008). *The First Amendment*. Aspen Publishers.

SULLIVAN, Kathleen M. and GUNTHER, Gerald (2010). *The First Amendment Law*, 4th edition. Foundation Press.

## COMPARATIVE CONSTITUTIONAL LAW

MAREK ANTOŠ

### COURSE DESCRIPTION

The course is dedicated to the most important institutions („Rechtsinstitut“) of constitutional law which are discussed in comparative perspective. Its aim is to support contacts and cooperation between Erasmus and Czech students who are enrolled on parity. Therefore also the capacity for Erasmus students is restricted to 15 participants. Drawing on wide legal and linguistic background of the students, the course consists of a series of workshops on specific constitutional institutions analyzed and presented by groups of students from various countries. Active participation and attendance of all participants is therefore essential and required.

The first lesson is a brief introduction to the comparative law methodology and to the course requirements. Also the final list of topics (constitutional institutions) will be set here, reflecting preferences expressed by the students in class. Once the schedule is set, groups of 5-6 students, internationally composed, will be formed and assigned with specific topics to prepare a comparative presentation. Each student is supposed to take part in two presentations throughout the course.



The task of the presenting group is to prepare a collective presentation (approx. 45 minutes) providing: a) a short theoretical introduction of the institution; b) a description how the institution is differently implemented in 4-5 countries; c) a comparison (preferably with an analysis how and why is the implementation different).

One of the countries described should always be the Czech Republic; the rest of the selection is up to the group, as long as different approaches to the institution are represented. The second half of each lesson is reserved for general discussion and reflection of the presentation by other students. In order to allow them to prepare in advance, the presenting group is expected to prepare a written handout (either in form of a Powerpoint presentation or a text in PDF) which will be distributed to all course participants in advance. References to relevant legal sources, court cases and literature are warmly recommended.

#### PRELIMINARY LIST OF TOPICS:

- constitutional status and powers of the head of state
- rules of the legislative procedure
- supervisory powers of parliament
- parliamentary minority rights
- courts administration
- constitutional amendment process
- models of judicial review of laws
- second chambers of parliament
- relationship between the government and parliament
- models of federalism
- constitutions and international (and European) law
- budgetary powers of parliaments and their limits (e.g. „debt brakes“)
- forms of direct democracy
- parliamentary immunity
- funding of political parties and election campaigns

#### BASIC REFERENCE LITERATURE (AVAILABLE IN THE FACULTY LIBRARY):

- Rosenfeld and Sajó (ed.): *The Oxford Handbook of Comparative Constitutional Law*. Oxford: Oxford University Press, 2012.
- Dorsen, Rosenfeld, Sajó and Baer: *Comparative Constitutionalism: Cases and Materials*. St. Paul: Thomson Reuters, 2010.
- Ginsburg and Dixon (ed.): *Comparative Constitutional Law*. Cheltenham: Edward Elgar, 2011.
- Ginsburg (ed.): *Comparative Constitutional Design*. Cambridge: Cambridge University Press, 2012.
- Prakke and Kortmann (ed.): *Constitutional Law of 15 EU Member States*. Deventer: Kluwer, 2004.
- Kortmann, Fleuren and Voermans (ed.): *Constitutional Law of 10 EU Member States: The 2004 Enlargement*. Deventer: Kluwer, 2006.
- Tushnet, Fleiner and Saunders (ed.): *Routledge Handbook of Constitutional Law*. London: Routledge, 2013.

# ACADEMIC STAFF

AND OTHER LECTURERS PROFILES





**MAREK ANTOŠ, JUDr., PhDr., Ph.D.,** graduated from the Charles University in Prague, Faculty of Law and Faculty of Social Sciences, where he received his Doctor of Laws (JUDr.) and Doctor of Philosophy (PhDr.). At the Faculty of Law he received his Philosophiae Doctor (Ph.D., 2008) degree. During academic year 2006/2007 he studied at Stockholm University in Sweden. In 2005 he was awarded Bolzano Prize for the best final thesis „U.S. Presidential Election System and its Impacts on Voter Turnout and Elections Results“, in 2006 he won Sasakawa Young Leaders Fellowship Fund scholarship. He is a member of the Department of the Constitutional Law at the Charles University, his research is focused mainly on elections and electoral law.

**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 Committee for Private Law 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, Doc., 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.

**VERONIKA BÍLKOVÁ, Doc., PhDr., JUDr., Ph.D., E.MA,** graduated from the Law Faculty of Charles University (Mgr. 2001, Ph.D. 2006, JUDr. 2007, specialization: international law), the Philosophical Faculty of Charles University (Mgr. 2003, PhDr. 2004, specialization: political science and French philology) and the European Master Program in Human Rights and Democratization (E.MA 2004). Research fellow at the Institute of International Relations in Prague (since 2001). Internship at the International Commission of Jurists in Geneva (2005). Awarded several prizes (Hlávka Prize 2001, Gilbert Apollis Prize 2001, Bolzano Prize 2006) and scholarships (Sasakawa 2003, Hus Foundation 2005). Publications in Czech, English and French mainly on terrorism, the use of force, international humanitarian law, international criminal law, human rights and the UN reform.

**RADIM BOHÁČ, Doc., JUDr., Ph.D.,** graduated 2005. He is a member of the Department of Financial Law and Financial Science of Charles University School of Law in Prague and a visiting lecturer at the Metropolitan University in Prague. He is a Deputy Department Director of Tax Legislation Department of Ministry of Finance of the Czech Republic. He is a member of the Working Commission on Public Law II – Financial Law of the Legislative Council of the Government of the Czech Republic. He is a co-author of a university textbook on Budgetary Law and other publications and papers.

**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 is a member of the Commission of Environmental Law of the International Union for Nature Conservation and a member of European Council of Agricultural Law (from 1997), president of the Czech Society for Environmental Law (from 2001). His main publications comprise monographs on environmental law liability and nature conservation. Author or co-author of more than of books, commentaries, textbooks and articles on the environmental law issues. Damohorský, M., Drobník, J., Smolek, M., Sobotka, M., Stejskal, V.: Environmental Law. 1st and 2nd editions. Publishing house C. H. Beck 2003, 2007; Damohorský, M.: Czech Environmental Law, Textbook, Czech Law and the European Union, Volume 2, Charles University, Prague 2003 and 2006.

**DAVID ELISCHER, Doc., JUDr., PhDr., Ph.D.,** member of the Civil Law Department, graduated at the Law Faculty of Charles University in 2005, received his doctoral degree (JUDr.) in 2006 and Philosophiae Doctor (Ph.D.) in 2009 from Charles University. He wrote his dissertation thesis on Wrongfulness and damage as prerequisites of civil responsibility in European legal context. Within the Civil Law Department where he works as an assistant professor he deals with the law of obligations, particularly with its general part, contracts and civil responsibility (torts). He also concentrates on family law, namely on so-called alternative ways of cohabitation such as registered partnership, unmarried cohabitation, PACS etc. Within the family law, he focuses on the social and legal protection of children in a comparative way. In 2008-2009 he was a member of a working group on new Czech civil code by the Legislation Council of the Czech Government.

**ONDŘEJ FRINTA, Doc., JUDr., Ph.D.,** 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 and Philosophiae Doctor (Ph.D.) in 2008. As a postgraduate student at the Department of Civil Law at the same faculty, he was focused on issues concerning the legal regulation of subjects, namely of those with artificial nature, their le-



gal personality, etc. He is also interested in new reproductive techniques and concerning legal issues such as the establishment of parental relationships, surrogate motherhood, etc.

**TOMÁŠ GRÍVNA, Doc., JUDr., Bc., Ph.D.,** 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 (Ph.D.) degrees. In 1998 he graduated at the Police Academy of the Czech republic. Dr. Grívna teaches criminal law at the Faculty of Law of Charles University. He has been awarded the Bolzano Prize for his doctoral thesis. He is also practising lawyer (a member of the Czech Bar Association).

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**ZÁBOJ HORÁK, Doc., JUDr., Ph.D., LL.M., JLic.,** studied at the Law Faculty of Charles University in 1993–1998 and awarded there the Master Degree in 1998. In the academic year 1999/2000 he studied civil, commercial and comparative law at the Law Faculty of Münster University in Germany, where in 2001 was awarded an LL.M. degree. In 1999–2002 he studied in the doctoral program at the Law School of the Charles University, from 2000 in a residential form, and awarded the doctorate in legal history and theory in 2002 together with the JUDr. degree. From 2002 till today he has worked as an assistant (senior lecturer) in the legal history department of the Law Faculty of Charles University, and from the following year also as a secretary of this department. He specializes in Roman law, legal history, church law and state law on churches. Since 1995 he has been a member of the operational committee of the Church Law Society in Prague and of the Church Law Review (Revue církevního práva) editorial board. In 2002–2006 he studied canon law at the Faculty of Law, Canon Law and Administration of the Catholic John Paul II University in Lublin in Poland and in 2006 was awarded the degrees of Master and Licentiate of Canon Law there.

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an exceptional or rather common matter?; *European Law Review*, 2/2008.

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**JAN KUKLÍK, Prof., JUDr., DrSc.,** the present Dean 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*.

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**LENKA PÍTROVÁ, Doc., JUDr., CSc.,** studied at Charles University in Prague at the Faculty of Law, at Czechoslovak Academy of Sciences and at FIDC in Strasbourg. Legal expert in public law and EC law. Teaching at the Law Faculty of Charles University in Prague, teaching EC law officials of central public administration. Vice-director of the Parliamentary Institute of the Czech Parliament, head of the EU Department of the Parliamentary Institute. Member of the Legislative Council of the Government. Author and co-author of many publications on Constitution, EU Law themes 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, 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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