

Czech Constitutional Law and Political System - syllabus

This is a survey course providing a brief introduction to foreign students of the main features of the Czech Constitutional order and several major topics of constitutional law. This allows students the opportunity to understand the unique historical that went into making up the present order, the current outlines and main sources of constitutional rules. It also examines the main constitutional institutions and organs (legislative, executive, judicial, and independent bodies such as the Czech National Bank and the Ombudsman). The course also examines the new institution of the Constitutional Court, certain of the obstacles it has encountered in providing protection to the constitutional order, and certain of the fundamental rights whose protection is has provided in its developing case law.

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1. Introductory lesson – conception and syllabi of the course, materials, papers, exam, library of the Faculty of law in Brno, other sources. Personal projects of students.
2. Czech Constitutional Law – notion, essence, object, content, form and function. Constitutional law as a branch of the Czech system of law and its relations to political science, theory of state (Staatslehre). Constitutional law and state law. Structural components of the Czech conception of constitutional law (substantive, organizational, procedural and penal. Internal and external constitutional law)
3. A brief introduction to the Czech constitutional development 1918 – 2005.
4. Theory and practice of the constitution-making in the Czech Republic. Content and *material constitutionis*. Typology of constitutions – constitution in legal and sociological sense, constitution in material, formal and ideological sense, written constitution and unwritten rules. Rigid constitution in the Czech Republic. Procedure of the constitutional change. Informal changes in the Czech Constitution. Dynamism and stability of the Czech Constitution. Concept of the constitutional order – rarity of the constitutional development.
5. Constitutional foundations of the Czech Republic's form. Territory, population and form of government. Parliamentary form of government in the Czech Republic. Unitary form of the state organization, administrative and self-governing division of the territory. Frontiers and capital. Hierarchical structure of the Czech legal order. Publication of the legal regulations – Collection of laws and its functions (normative, informative and evidential). The Czech Republic and the European Union – current problems.
6. Position of an individual. State regime. Citizenship, statelessness in the Czech Republic.
7. Charter of fundamental rights and freedoms. Foundations, content, conception, embodiment with natural rights conception, judicative of the Constitutional Court.
8. Freedom of thought, conscience, and religious conviction.
9. State power in the Czech Constitution. Distribution of powers – substantive, formal, subjective and legal approaches to the distribution. Legal status of state organ.
10. Legislative power in the Czech Republic. Bicameral structure of the Parliament. Legislative procedure. Constitutional status of the Czech Senate. Electoral law and electoral system of the Czech Republic.
11. Executive power in the Czech Republic – Head of state and the government. Dualism of the Czech executive power.
12. Judicial power in the Czech Republic. Constitutional principles of the court's organization and activities. Constitutional Court – starting points of position, composition and jurisdiction.
13. Written exam – paper and multiple-choice test.

I. Legal materials for study. Red volume (Constitution and its history in the Czech Republic):

1. Czech Constitution 1992 Updated
2. Charter of Fundamental Rights and Freedoms 1991
3. Constitutional Act on the Creation of Higher Territorial Self-Governing Units 1997
4. Constitutional Act on the Security of the Czech Republic 1998
5. The World Factbook: Czech Republic, 2005
6. Pavlíček, V.: Czechoslovakia in the Process of Constitutional Change from Dictatorship to Democracy, 2003
7. Filip, J.: The New Role of the Constitution of the Czech Republic – 10 Years After, 2000
8. Filip, J., Gillis, M.: The Hierarchy of Legal Norms in the Czech Republic, 1998
9. Constitutional Charter of the Czecho-Slovak Republic 1920
10. Constitutional Act on the Principles of Language Rights within the Czecho-Slovak Republic 1920
11. Czech Constitution 1960
12. Constitutional Act on the Czechoslovak Federation 1968
13. Constitutional Act on the Status of Ethnic Groups in the Czechoslovak Socialist Republic 1968
14. Constitutional Act on the Division of Property of the Czech and Slovak Federal Republic, 1992
15. Constitutional Act on the extinction of the Czech and Slovak Federal Republic 1992
16. On the Independence of the Judiciary, Pl. ÚS 7/02, 349/2002 Sb.
17. Schwarz, H.: The Czech Constitutional Court. Decision on the Illegitimacy of the Communist Regime

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II. Legal materials for study. Yellow volume (Constitutional Court in the Czech Republic):

1. Act on the Constitutional Court 1993 Updated
2. Klokočka, V.: The Role of the Constitutional Court in the Control of the Constitutionality of Judicial Activities, 1998
3. Filip, J.: The Czech Constitutional Judiciary in the Period of Transition, 2003
4. The Election Act – Principles of Proportional Representation, Pl. ÚS 42/2000, 64/2001 Sb.
5. On the Independence of the Judiciary, Pl. ÚS 7/02, 349/2002
6. On the Appointment of the Governor of the Czech National Bank, Pl. ÚS 14/01, 285/2001 Sb.
7. Lacking Parliament's Authority to Annul a Municipal Decision, Pl. Ú 1/2000, č. 107/2000 Sb.
8. Power to Issue Derived Secondary legislation, Pl. ÚS 52/93, 668/2004 Sb.
9. Lustration Case I, 1992
10. Election Campaign, I. ÚS 526/98, 70/1999 Sb.
11. Financing of Political Parties and Inspections of the Management, Pl. ÚS 26/94, 296/1995 Sb.
12. Five Percent Electoral Threshold, Pl. ÚS 25/96, 88/1997 Sb.
13. Election Contribution Conditioned on Obtaining Three Per Cent of the Vote, Pl. Ú 30/98, 243/1999 Sb.
14. Senate Elections 1996 – Right to Stand for Election, IV. ÚS 275/96

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II. Legal materials for study. Blue volume (Fundamental Rights and Form of Government):

1. Filip, J., Gillis, M.: Fundamental Rights in the Czech Republic. General Part. 1997
2. Act No. 40/1993 on gaining and losing citizenship of the Czech Republic, dated December 29th, 1992 (with amendments)
3. Law of the 8th December 1999 on the Public Defender of Rights
4. Act No. 85/1990 on the Petition Right
5. Act on the Elections to the Parliament (updated to 2002)
6. Act on the Elections to the Czech National Council, 1990
7. Novák, M.: The Czech Party System. 1992-1998, 2003
8. Šimíček, V.: Funding of Political Parties, 2003
9. Filip, J.: Electoral Legislation in the Years 1992 to 1996: Transitional Legislature and Electoral Results, 2003
10. Jičínský, Z., Reschová, J.: What Is to Be Done with the Senate? 2003
11. Svatoň, J.: The Status of the President in the System of Government in the Czech Republic, 2000
12. Novák, M.: Governments in the Czech Republic During the 1992-1996 and 1996-1998 Legislative Terms, 2003
13. Act on the Rules of Procedure of the Chamber of Deputies (updated to 2002)

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Moje materialy

1. Schwartz, H.: The New East European Constitutional Courts. In Constitution Making in Eastern Europe
2. Klokočka, V.: New Concepts in the Czech Constitution, 1994
3. Pavlíček, V.: The Foundation of the Czech Republic and the Czechoslovak Continuity
4. Hoetzel, J.: The Definitive Constitution of the Czecho-Slovak Republic
5. Joachim, V.: Rules of Franchise: the Constitutional Court
6. Hungary Constitution
7. Austria Constitution
8. Austria Basic Law 142/1867+Law on Protection of the Right of the Home 1862 + Constitutional Law on the Protection of Personal Liberty 1988
9. German Basic Law 2000
10. Latvia Constitution 1922, 1998