

CHARLES UNIVERSITY IN PRAGUE
FACULTY OF LAW

**THE CZECH LEGAL SYSTEM
IN EUROPEAN CONTEXT**

Prague 2004/2005

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Czech Republic

is a wonderful country in the very heart of Europe. Czechoslovakia was founded in 1918, after the collapse of the Austrian-Hungarian Monarchy. After World War II, Czechoslovakia fell within the Soviet sphere of influence. In 1968, an invasion by Warsaw Pact troops ended the efforts of the country's leaders to liberalize party rule and create socialism with a human face. Anti-Soviet demonstrations the following year ushered in a period of harsh repression. With the collapse of Soviet authority in 1989, Czechoslovakia regained its freedom through a peaceful Velvet Revolution. On 1st January 1993, the country underwent a velvet divorce into its two national components, the Czech Republic and Slovakia. Since 1999 a member of NATO, the Czech Republic has moved towards integration in world markets, a development that poses both opportunities and risks. On 1st May 2004 the Czech Republic became the member of the EU together with other 9 countries in CEE.

Geographic details about the Czech Republic

Location: Central Europe, southeast of Germany

Geographic coordinates: 49 45 N, 15 30 E

Area: total: 78,866 sq. km

Climate: temperate; cool summers; cold, cloudy, humid winters

Terrain: Bohemia in the west consists of rolling plains, hills, and plateaus surrounded by low mountains; Moravia in the east consists of very hilly country

Population: 10,272,179 (July 2000 est.)

Prague

is pretty unique as a major city. It has avoided the ravages of two world wars and, at least until 1989, became a sort of living museum exhibit due to a regime that was neither interested in its welfare or its development. The positive result of this inactivity is that Prague is now a virtually unspoiled cultural masterpiece. Prague has presently the largest preserved city centre, enrolled in the UNESCO world cultural heritage list.

When in 1918 the new independent Czechoslovak State was created, Prague was chosen as its capital. Prague's power and wealth grew until the Munich agreement allowed the Germans to occupy the country. Prague had survived the 2nd World War virtually intact.

In the early 60s, during the Prague Spring, liberalisation blossomed under Dubcek. This was crushed in 1968 when the armies of the Warsaw Pact invaded the country.

When the Berlin Wall came down, floods of East German refugees poured into the West German Embassy in Prague, causing the initial spark that was to ignite the Velvet Revolution. The communist government resigned 10 days later and the new Civic Forum party was created under the reluctant leadership of Vaclav Havel.

Since then, Slovakia has broken away from the Federation, the Czech economy has stabilised, the Czech Crown has become a strong, convertible currency and Prague, once again, is rising as major European Centre.

Some facts about Prague:

Average July temperature: 29.9 degrees C. (86 degrees F.)

Average January temperature: 8 degrees C. (17.5 degrees F.)

The population is about 1,200,000. (of which about 50,000 are foreigners living and working in the City.)

The University

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

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

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

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

The Faculty of Law

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

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

Since 1998/99 the Faculty has gradually been involved, together with universities in Germany, France, the United Kingdom, Ireland, Austria, Switzerland, Greece, Italy, Spain, Portugal, Belgium, the Netherlands, Denmark, Finland and Sweden, in the student and teaching staff mobility scheme within the ERASMUS programme of the European Union. Courses offered in English have been covered by the European Credit Transfer System (ECTS). The Faculty also admits students under the exchange programmes of inter-governmental cultural agreements and inter-university agreements. Each academic year, about 50 law students from the Member States of the European Union can spend one or two terms in Prague, while the equivalent number of Czech law students from Charles University go abroad for a comparable period.

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

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

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

Objectives of the Programme

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

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

- to explain the procedure of, and prospects for, law approximation which accompanies the integration of the Czech Republic and other CEECs within the EU law.

The CLS Programme is a nine-month programme done on a full-time basis. Limited admission guarantees that each student receives optimal attention and has every opportunity to participate actively in the class. The postgraduate students who successfully complete the CLS Programme will be awarded a certificate. Undergraduate students will obtain at the end an official Transcript of records for their home university.

Job Opportunities in Prague

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

Programme Structure

The Programme is composed of 20 courses.

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

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

Participants of the nine compulsory courses meet for a total of 24 hours of each, the twelve optional courses last as a rule from between 20 and 24 hours each. Student performance is evaluated in each course and credits are awarded on the basis of contact hours and classes successfully completed.

The total credit requirement is 60 credits, of which 48 credits in mandatory courses and a minimum of 12 credits in optional courses must be obtained. Course attendance (lectures and tutorials) amounts to approximately a half of the workload, the other part consists of home preparation and background reading. Exams are both in written and oral forms.

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

Academic Calendar

The Programme runs through the autumn term for 12 weeks. Classes start the first week of October (4th October 2004) with an introduction-providing seminar on the October 4th 2004 and finish before Christmas (17th December), followed by a break for the 6-week examination session, courses finished earlier in the autumn term might be followed by the exams successively. There is public holiday in the Czech Republic on 28th October, 17th November and the Christmas Holiday (18.12. – 2.1.) during the last week of December and the 1st January.

The duration of the spring term is 13 weeks. Classes start again in the middle of February (14th February 2005) and finish in the middle of May (13th May 2005) at the latest, followed by another 6-weeks examination session. There is public Easter holiday, Labour Day on 1st May and public holiday on 8th May.

Facilities

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

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

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

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

Tuition Fee

Tuition fee amounts to **Euro 3.000** for the courses and includes the teaching material. Successful applicants are required to secure their admission with an advance payment of **Euro 2000 by 31 August 2004**, the remaining **Euro 1000** are due at **31 December 2004**.

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

Admission Requirements

Candidates who wish to enrol in the CLS Postgraduate Programme must have a recognised law degree from a foreign academic institution, proven by the respective Diploma (LL.B., LL.M., Erstes Staatsexamen, licentiaat, J. D. or any equivalent). If the degree has not been awarded to the candidate by the application deadline (see below), the official transcript of records justifying the expected awarding of the degree by the Programmes start (with above-average grades) could be accepted as well.

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

Admission is limited to 15 students which guarantees that each student will receive individual attention and have an opportunity to participate actively in the class.

All candidates will be considered on the basis of their completed Application form and accompanying documents, including a detailed

ACADEMIC PROGRAMME

Autumn Term

I. Compulsory Courses

CONSTITUTIONAL LAW

Vojtěch Cegl

Outline of the Course

1. Introduction Historical and Geopolitical Overview
2. The Collapse of Communism-Theories of Transformation
3. Natural Law Theory versus Legal Positivism in the Context of the Transition to Democracy
4. The New Czech Constitution
5. The Concept of Constitutionalism.
6. Legislative and Executive Power
7. Continental and Anglo-American Legal System
 - Sources of Law
 - Comparative Legal Science
8. Judiciary in Transition
9. Legal Profession
 - Law Schools
 - Advocacy
 - State and Local Administration
10. Constitutional Courts in Post-Communist Countries
11. Lustration Law
12. Revival of Civil Society

Reading List

- Chapter 1: Historical Background of the Czech Republic, Regional Map
- Chapter 2: Richard A. Epstein, All Quiet on the Eastern Front, University of Chicago Law Review, 1991
Vojtěch Cegl: A Note on the Restitution of Property in Post-Communist Czechoslovakia. The Journal of Communist Studies, Vol. 7, No. 3, 1991

curriculum vitae, a cover letter explaining the candidates' professional goals, expectations concerning the Programme and his/her personal interests in the relevant field of studies, a letter of recommendation from an academician or a respected personality as well as a declaration of the means of financing the study in Prague.

The application deadline for admission to the CLS Postgraduate Programme is 30th June 2003.

Late applications may be considered in September for places not taken up by admitted candidates. Repeated failure to comply with the formal requirements listed above will result in the application being inadmissible. Selections will be made until the end of June. The candidates will be notified of the decision on admission without delay. Decisions on admission cannot be appealed.

Visa, Accommodation and Insurance

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

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

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

- Chapter 3: Vojtěch Cepl, The Road out of Serfdom, *Vera lex*, Vol. XII, No. 1, 1992
- Chapter 4: Vojtěch Cepl, Constitutional Reform in the Czech Republic, *University of San Francisco Law Review*, Vol. 28, 1993
Constitutional Act of the Czech National Council, December 16, 1992 (Chapter One Fundamental Provisions)
- Chapter 5: Jon Elster, On Majoritarianism and Rights, *East European Constitutional Review*.
Fareed Zakaria, *The Rise of Illiberal Democracy*, Foreign Affairs 1997
- Chapter 6: Vojtěch Cepl, Senate, Anyone? *East European Constitutional Review*, Chicago, 1993
Vojtěch Cepl, Mark Gillis, The Presidency in the 1993 Czech Constitution, *East European Constitutional Review*, Chicago 1994
Constitution: Chapter Two Legislative Power, Chapter Three Executive Power
- Chapter 7: John H. Merryman, The French Deviation, *The American Journal of Comparative Law*, 1996
- Chapter 8: Constitution: Chapter Four Judicial Power
Act on the Constitutional Court of June 16, 1993
- Chapter 9: Constitution: Chapter Seven Territorial Self-Government
- Chapter 10: Charter of Fundamental Rights and Freedoms of January 9, 1991
A Dissenting Opinion in the Czech Constitutional Court, *Parker School Journal of Eastern European Law*, 1994
- Chapter 11: Resolution of the Federal Parliament No. 204
Vojtěch Cepl, Ritual Sacrifices, *East European Constitutional Review*, Chicago 1992
Vojtěch Cepl, Retribution and Restitution in Czechoslovakia (Part I), *Archive for European Sociology and Political Science*, 1992
Vojtěch Cepl, The Transformation of Hearts and Minds in Eastern Europe, *CATO Journal*, 1997
- Chapter 12: Robert D. Putnam, The Prosperous Community: Social Capital and Public Life *The American Prospect* no. 13, 1993
Vojtěch Cepl, Bottlenecks in the Transformation of Eastern Europe, *Washington University Public Interest Law Speakers Lecture*, St. Louis 1999

ECONOMIC TRANSFORMATION IN THE CZECH REPUBLIC AND CENTRAL EUROPE

Jan Urban

Course Description

The aim of the course is to describe, analyse and explain the process of economic transition in the Czech Republic and Central Europe: its goals, logic, main steps, results as well as problems, open questions and expected next steps. Special emphasis is laid on institutional and legislative issues of the transition process, on the comparison of the effectiveness and results of different approaches to economic transformation and on the clarification of alternative policy standpoints and recommendations. The purpose of the course is also to provide broad overview of the recent economic developments in Central European countries and status of their accession process to the EU.

Outline of the Course

1. Introduction to the subject.
 - Economics in brief: main economic concepts and principles
 - Czech economic history in brief
2. The Economic Transition Agenda
 - Economic, price and foreign trade liberalisation
 - Privatisation
 - Financial stabilisation
 - Transformation of financial and labour markets
 - Creating the legislative and institutional framework for market economy.
 - Industrial policy programs, social policy
 - Alternatives of goals and policy approaches, problem of transformation steps sequencing
 - Differences in transformation approaches in individual countries,
 - Alternative political views on transformation steps
 - Problems of transformation at the microeconomic level
 - Institutional shortcomings and barriers to transformation
 - Problem of diminishing transformation determination, socio-political barriers to transformation
3. Accession of Transition Economies to the EU
 - Overall preparedness for EU accession
 - Implications, costs and benefits of accession

Reading List

1. Bastian, J., ed.: The Political Economy of Transition in Central and Eastern Europe: The Light(s) at the End of the Tunnel. Aldershot, U: K: Brookfield, Vt. and Sydney: Ashgate, 1998, p. xii, 194
2. Brada, J., C.: Singh, I., edc.: Corporate Governance in Central Europe: Case Studies of Firms Transition. Microeconomics of transition economics series, Armonk, N. Y. and London: Sharpe, 1999, p. xii, 339
3. Anderson, R., W.; Kegels, C.: Transition Banking: Financial Development of Central and Eastern Europe. Oxford and New York: Oxford University Press, Claredon Press, 1998, p. xv, 300
4. Janacek, K. et-al.: Czech Economy in 1998: Risks and Challenges. In: Prague Economic Papers, 7 (2), June 1998, p. 94139
5. The Vienna Institute for Comparative Studies: Countries in Transition 1998: Bulgaria: Croatia: Czech Republic: Hungary: Poland: Romania: Russia: Slovenia: Slovakia: Ukraine. Vienna, AT: Vienna Institute for International Economic Studies, 1998, 469 p.
6. Machonin, Mlčoch, Sojka: Economic and Social Changes

PRIVATE LAW

Jiří Švestka
Alena Macková

Other Lecturers: *Jana Hrstková*

Course Description

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

Outline of the Course

1. Introduction to the Private Law System
History of civil law
Basic principles of private law
System of private law
2. Fundamental Institutions of the Private Law System
Subjects of rights and duties
Property rights
Law of obligations etc.
3. Property Law
System of rights to things
Ownership
Lien (pledge, mortgage), easements, rights of retention
4. Contracts
Fundamental principles
Formation of contracts
Types of contracts
5. Torts
General and special liability for damage
Compensation of damage
Unjust enrichment
6. Law of Succession
Concept and function
Testamentary succession
Intestate (statutory) succession
7. Family Law
Features of the Family Law
Comparative insight into several institutes
Present codification and the future of the Family Law
8. Labour Law
Fundamental legislative changes
Provision of Employment
Collective Labour Law
Labour Dispute
9. Protection of Intellectual Property
Copyright Law
Industrial Property Rights
Trade Mark Law

10. Judiciary System
 - Overview of the History
 - Elements of the Judiciary system
 - Role of the Supreme court
11. Courts, Judges and Legal Aid System
 - Independence of the judge
 - Position and the liability of the judge
 - Attorneys, access to profession etc.
12. Civil Litigation
 - Basic principles of civil litigation
 - Role of the court and parties
 - Rules of evidence, judgement, costs, review

Reading List

1. Excerpts from the textbook of Civil Law, Codex, 1995, Vol. 1
2. The Civil Code, Trade Links, 1997
3. 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
4. International copyright law and practice, yearbook, Mathew Bender
5. Civil Procedure Code, Trade Links, Prague, 1999
6. The Act on Arbitral Proceedings and Enforcement of Arbitral Awards

ADMINISTRATIVE LAW I, II

Taisia Čebišová
Richard Pomahač

Course Description

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

The course focuses on modernization of public administration and administrative law. Recently many questions concerning *ius publicum*

commune have arisen as a result of EU enlargement effort. This aspect will hopefully provide a framework for reflection on of European Community of Law and European Administrative Space.

Outline of the Course

Administrative Law I (Administrative Law in Comparative and European Perspective)

Richard Pomahač

1. Introduction to Administrative Law
 - Origin of contemporary systems of Administrative Law in Europe
 - Concept of European Administrative Law
 - Sources of Administrative Law
2. Substantive Principles
 - Legality and Restricted Discretion
 - Equality
 - Transparency
 - Proportionality
 - Legitimate Expectations
3. Procedural Principles
 - Right to Hearing
 - Equality of Arms
 - Due Care
4. Public Liability and Personal Data Protection
 - State Liability
 - Responsibility of Civil Servants
 - Data Security
5. Administrative Justice
 - Judicial Review of Administrative Action
 - Judge-made Law and Leading Cases
 - Alternative (non-judicial) Adjudication and Control
6. European Administrative Space
 - Supranational, National, Regional and Local Administration;
 - Intergovernmental co-operation
 - Are there universal principles of good administration?

Administrative Law II

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

Taisia Čebišová

7. Reform of Public Administration and Administrative Law
 - Supporting the Process of Change
 - Main Stages of the Reform
 - Strategy of the Reform
 - EU Accession Process Impact
8. Organization of the Public Administration
 - Central Government
 - Local and Regional Government
 - Relations between State and Self-governmental Authorities
9. Administrative Procedures
 - Administrative Procedure Act
 - Execution of Administrative Acts, Expediency
 - Internal Review
10. Judicial Control of Administrative Acts
 - Scope and General Principles
 - Main Problems (Structures, Protection of Public Interest, Compliance with ECHR)
11. Public Administration Accountability
 - Parliamentary Control
 - Ombudsman
12. Public Service Reform
 - Status of Public Officials
 - Professionalization of Public Service
 - Training of Officials

Reading List

Pomahač, R.: Czech Administrative Law, Charles University, Prague 2004
Administrative transformation in Central and Eastern Europe (ed. J.J. Hesse), Blackwell, Oxford 1993
Principles of Administrative Law Concerning the relations between Administrative Authorities and Private Persons, Council of Europe – Directorate of Legal Affairs 1996
Czech Administrative Law, Law Faculty, 2004

II. Optional Courses

FINANCIAL LAW

Petr Kotáb

Course Description

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

Outline of the Course

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

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

Reading List

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

INTRODUCTION TO PUBLIC INTERNATIONAL LAW IN THE CZECH LEGAL CONTEXT

Pavel Šturma

Course Description

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

Outline of the Course

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

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

Reading List

Geistlinger Konjecic (ed.): *Public International Law at Central European Universities*. Casebook, Karolinum, Praha, 2000
 P. Šturma (ed.): *Implementation of Human Rights and International Control Mechanism*, PF UK, Praha, 1999
 P. Šturma: *The European Convention on Human Rights and the Role of National Constitutional Courts*, in: *Verfassung, Rechtsstaat und Demokratie im europäischen Umfeld*. Seminar, PF UK, Praha, 1999
 P. Šturma: *Poverty and International Instruments on Economic and Social Rights*, in: *Hofmann et al., Armut und Verfassung. Sozialstaatlichkeit im europäischen Vergleich*, Verlag Österreich, Wien, 1998

COMMUNITY EUROPEAN CIVIL LAW

Ulrich Magnus

Luboš Tichý

Course Description

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

Part I

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

Part II

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

Part III

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

Outline of the Course

1. Differences
Short introduction to comparative law
Law families in Europe
The main differences in contract, tort and property law between European Countries and the reasons for their existence

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

Reading List

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

AMERICAN LEGAL HISTORY

Radim Seltenreich

Course Description

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

Outline of the Course

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

Reading List

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

CZECH LEGAL HISTORY

Jan Kuklík

Other lecturers:

Karolína Adamová

Petr Bělovský

Course Description

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

Outline of the Course

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

Reading List

- A history of the Czechoslovak Republic 1918–1948*, V. Mamatey / R. Lua (Princeton, 1973)
- Pursued by a Bear: the Making of Eastern Europe*, Z. A. B. Zeman, (London, 1989)
- History of Czechoslovakia in Outline*, J. Polienský (Praha, 1991)
- The Recognition of Czechoslovak Government in Exile and its International Status 1939/1941*, J. Kuklík, in: *Prague Papers on History of International Relations*, (vol. 1, 1997)
- Czechoslovak democracy at work*, E. Taborsky (Londýn 1945)

AN INTRODUCTION TO THE CENTRAL EUROPEAN JUDICIAL CULTURE

Zdeněk Kühn

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.

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.
4. The Practice in the 1970's and 1980's: Communist Post-Stalinist Judicial Culture in Central Europe. Making a Post-Stalinist Ultra-Positivism.
5. The Basic Problems of Post-Communist Legal Culture. The Transformation of Post-Communist Judiciary.
6. The Post-Communist Formalism: Where to Find its Origins?
7. The Judicial Application of European Law before the Enlargement. Explaining the Failures.
8. Facing a New European Legal and Judicial Culture: Are Central European Judges Different?
9. European Union and its Judiciary in the Next Decade: How European Post-Communist Newcomers Might Respond to the Challenges Relating to the EU Enlargement?

Readings is based on the coursepack, including:

- 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
- Attila Harmathy, *Codification In a Period of Transition?*, *U.C. Davis Law Review* 783, 791 (1998).
- 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, *The Application of European Law in Central European Candidate Countries*, *European Law Review* 2003
- Zdeněk Kühn, *Worlds Apart*. *American Journal of Comparative Law*, forthcoming in 2004.
- Milan Kundera, *Joke*, MacDonald, London 1969
- Milan Kundera, *The Tragedy of Central Europe*, *The New York Review of Books*, April 26, 1984, pp. 33–38
- Lenin V.I., *State and Revolution*. <http://www.marxists.org> (excerpts)
- Jiří Pelikán /ed./, *The Czechoslovak Political Trials, 1950–1954. The Suppressed Report of the Dubček Government's Commission of Inquiry*, 1968, London: MacDonald 1971
- Jiří Přibáň, *Dissidents of Law, On the 1989 velvet revolutions, legitimations, fictions of legality and contemporary version of social contract*, Ashgate, Dartmouth 2002.
- Wojciech Sadurski, *Marxism and legal positivism*, in: *Essays In Legal Theory* (Galligan D.J. /ed./), Melbourne University Press, Victoria 1984
- Stein Eric, *Czecho-Slovakia, Ethnic Conflict, Constitutional Fissure, Negotiated Breakup*, Ann Arbor: The University of Michigan Press 1997.
- Larry Wolff, *Inventing Eastern Europe*, Stanford 1994
- The selected case law and statutes.

ACADEMIC PROGRAMME

Spring Term

I. Compulsory Courses

THEORY AND SOCIAL CONTEXT OF HUMAN RIGHTS: CZECH EXPERIENCES

Jiří Přibáň

Course description

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

Lecture I: Introduction

Lecture II: Human Rights Between Past and Future

1. History of Dissident Movements and Human Rights Activists in the Czechoslovak Communist Regime
2. The Charta 77 Petition and Its Role Within the Context of European Politics
3. The Fall of the Berlin Wall; Liberal Aspects of the 1989 Revolutions
4. Human Rights as a Revolutionary Strategy
5. In the Wake of Constitutional Changes
6. Is There Anything Natural About Human Rights?

Lecture III: Human Rights Legislation and the European Convention

1. The Czechoslovak Charter of Fundamental Rights and Freedoms
A Matter of Political Principles, Moral Virtues and Legal Rights
2. The Position of the Charter Within the Czechoslovak and Czech Constitutional Order

3. The Structure of the Charter: Different Kinds of Human Rights
4. Influences of the European Convention on Human Rights on the Post-Communist Legal Systems
5. Making Human Rights Naturally: Elements of Natural Law in the Charter
6. Human Rights and New Legal Culture

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

1. Freedom of Thought and Its Codification in the European Convention on Human Rights
2. Freedom of Expression as a Bridge Between Fundamental Human and Political Rights
3. The End of Ideocracy and Umma
4. The Index on Censorship
5. Hate Speech and Its Criminal Law Regulations
6. Politics of Tolerance and Its Limits

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

1. What Concerns Public Morality?
2. Pornography
3. Images of Violence
4. Press and Media Legislation
5. Regulatory Media Boards
6. Freedom of Expression and Advertisement Business

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

1. Private Ownership and the Communist Past
2. Inequality Between State and Private Property
3. The Reconstruction of Property Rights after 1989
4. Civil Law Culture and Property Rights Codifications
5. The Process of Privatisation Management Privatisations, Public Coupons, or Restitutions?
6. Political Benefits and Legal Mistakes of the Coupon Privatisation

Lecture VII: Property Restitutions and the Matter of Justice

1. Restitutions and Historical Justice
2. Economic Benefits of Restitutions
3. Arguments Against Restitutions Historical Discrimination; Everybody, or Nobody
4. Outsiders of the Restitution Legislation
5. Jewish Property Restitutions
6. Restitutions and the Decision-Making of Constitutional Courts

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

1. The Concept of Social Rights, Its Constitutional Definition and Legal Protection
2. Social Welfare State after Communism
3. Social Rights and Changes in a Structure of Post-Communist State Budgets
4. How Extensive Should the System of Social Benefits Be?
5. Health Care and Its Transformation
6. Education Your Right or Privilege?

Lecture IX: Post-Communist Social Welfare and Gender Equality

1. Double Social Role of a Socialist Woman
2. The Status of Women after the 1989 Revolutions
3. Feminist Pressure Groups and Their Programmes
4. Legal Rights, Benefits and Motherhood
5. Equal Treatment, Jobs and Labour Law
6. Western Standards and Eastern Experiences

Lecture X: Multiethnic Conditions of Central Europe

1. Central/Eastern Europe History of Ethnic and National Minorities
2. Nation States and Their Minorities History of Loyalty and Rebellion
3. Jewish Community and Antisemitism
4. The Concept of Minority Rights and Its Constitutional Protection
5. Ethnic Minority Rights Culture and Politics of Identity and Alterity
6. The European Council Documents on Ethnic Minority Rights

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

1. Gypsy/Roma Community and Its European History
2. Legal Discrimination Against Gypsies and Their Life-Style Before 1989
3. Economic Corruption and Social Ignorance of Gypsy Community
4. Racism, Xenophobia and Their Victims
5. Citizenship Legislation and Gypsy Community
6. Affirmative Action in the Post-Communist Societies

Lecture XII: Conclusions

Reading List

The Course Book:

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

General Literature on Central and Eastern Europe History and Post-Communist Transition:

- Berglund, S. and J.A. Dellenbrant. *The Breakdown of Authoritarianism in Eastern Europe*. in Berglund, S. and J.A. Dellenbrant (editors). *The New Democracies in Eastern Europe: Party Systems and Political Cleavages*. 1991. Aldershot, Edward Elgar Publishing, p. 112
- Dahrendorf, R. *Reflections on the Revolution in Europe*. 1990. London
- East, R. and J. Pontin. *Revolution and Change in Central and Eastern Europe*. 1997. London, Pinter Publishers
- Elster, J. *The Round Table Talks in Eastern Europe*. 1995. Chicago, University of Chicago Press
- Funk, N. and M. Mueller (editors). *Gender Politics and Post-Communism: Reflections from Eastern Europe and the Former Soviet Union*. 1993. London, Routledge Publishers
- Garton Ash, T. *We the People*. 1990. London, Granta
- Glenny, M. *The Rebirth of History*. 1993 London, Penguin
- Havel, V. *Summer Meditations*. 1993. New York, Vintage Books
- Keanne, J. (editor). *The Power of the Powerless: Citizens against the State in Central-Eastern Europe*. 1985. London, Hutchinson Press
- Kiraly, B.K. and A. Bozoki (editors). *Lawful Revolutions in Hungary 1989–94* 1995. Colorado, Atlantic Research and Publications
- Lewis, P.G. *Central Europe since 1945*. 1994. Harlow, Longman House
- Prins, G. (editor). *Spring in Winter: The 1989 Revolutions*. Manchester, Manchester University Press
- Skalnik Leff, C. *National Conflict in Czechoslovakia*. 1988. Princeton University Press
- Skilling, H.G. *The Governments of the Communist East Europe*. 1966. New York, Crowell
- Stokes, G. *The Walls Came Tumbling Down*. 1993. Oxford, Oxford University Press
- Wandycz, P.S. *The Price of Freedom*. 1992. London, Routledge

Literature on Constitutional and Human Rights Transformation:

- Agh, A. *The Permanent Constitutional Crisis in the Democratic Transition: The Case of Hungary*. in Hesse, J.J. and N. Johnson. *Constitutional Policy and Change in Europe*. 1995. Oxford, Oxford University Press, p. 296326
- Brzezinski, M. and L. Garlicki. *Judicial Review in Post-Communist Poland: The Emergence of a Rechtsstaat?* (1995) 31 *Stanford Journal of International Law*

Butorova, Z. A deliberate Yes to the dissolution of CSFR?. In *Czech Sociological Review* I. (1993), p. 5872

Cotterrell, R. Some Aspects of the Communication of Constitutional Authority in Nelken, D. (editor). *Law as Communication*. 1997. Aldershot, Dartmouth Publishers, p. 129151

Elster, J. Constitution-Making in Eastern Europe: Rebuilding the Boat in the Open Sea, in *71 Public Administration* 12 (1993), p. 169217

Elster, J. Transition, constitution-making and separation in Czechoslovakia. In *European Journal of Sociology* 36 (1), p. 105134

Finer, S.E. *Comparing Constitutions*. 1995. Oxford, Clarendon Press
Hollander, P. The new Slovak constitution: a critique. in *East European Constitutional Review*, 1992

Kurczewski, J. *The Resurrection of Rights in Poland*. 1993. Oxford, Clarendon Press

Laciak, B. Family Benefits and Social Policy in Poland in Maclean M. and J. Kurczewski (editors). *Families, Politics and the Law: Perspectives for East and West Europe*. 1994. Oxford, Clarendon Press, p. 277288

Pogany, I. *Human Rights in Eastern Europe*. 1995. Aldershot, Edward Elgar Publishers

Pogany, I. *Righting Wrongs*. 1998. Manchester, Manchester University Press

Rosenberg, T. *The Haunted Land: Facing Europe's Ghosts after Communism*. 1995. New York, Vintage

Sajo, A. (editor). *Western Rights? Post-Communist Application*. 1996. London, Kluwer

Sajo, A. Reading the Invisible Constitution: Judicial Review in Hungary, (1995) 15 *Oxford Journal of Legal Studies*
Schwarz, H. Lustration in Eastern Europe (1994) 1 *Parker School Journal of East European Law*, 141

Skilling, H.G. *Charter 77 and Human Rights in Czechoslovakia*. 1981. London, Allen & Unwin

Sokolewicz, W. The Relevance of Western Models for Constitution-Building in Poland in Hesse, J.J. and N. Johnson. *Constitutional Policy and Change in Europe*. 1995. Oxford, Oxford University Press, p. 243277

Stein, E. Post-communist constitution-making. *New Europe Law Review* I. (1993), p. 421475

Stein, E. The New East European Constitutional Courts 13 *Michigan Journal of International Law* 1992

EUROPEAN LAW IN THE CZECH-EU ACCESSION CONTEXT

Jiří Zemánek

Richard Král

In collaboration with *Manfred A. Dausies*

Course description

First, basics of the institutional and legal system of the European Union and fundamental principles of its operation are presented. On this background institutional and legal aspects of Czech EU membership shall be introduced. The reforms made to meet the requirements of EU membership and challenges of enlargement by the acceding countries and by the European Union, will be briefly reviewed. Special attention shall be paid to the analysis of the Treaty on Accession and transitional measures concerning Czech Republic. Then, the effects of EU law within the Czech legal and judicial system will be analysed. The recent developments concerning the draft treaty on European constitution will be discussed, too. The students should be given an impetus for their own judgements, opinions and approach; therefore, the discussion in the class is welcome.

Outline of the course

1. The evolution of EC/EU
 - Community pillar
 - Common Foreign and Security Policy
 - Police and Judicial Cooperation in Criminal Matters
2. Basic methods and principles of EU system of governance
 - Intergovernmentalism
 - Supranationalism
 - Division of powers
3. The EU and its Member States
 - Becoming a Member State
 - The membership's rights and duties
 - Enhanced co-operation
4. The system of EU law
 - Definition
 - Sources
 - General principles

5. The decision-making process
 - Institutions and their powers
 - Community method
 - Role of national Parliaments
6. The law of Internal Market
 - Four freedoms
 - Free movement of goods
 - Free movement of workers
7. The EU competition law and policy
 - Cartels
 - Abuse of dominant position
 - Enforcement
8. The Harmonization of Member States law
 - Implications of Cassis de Dijon case for approximation
 - Models of so called partial or core harmonization
 - The new approach to harmonization
 - Illustrative examples of new approach
9. The Court of Justice
 - Jurisdiction
 - Position (in the EU-institutional balance and vis-à-vis the Member States)
 - Procedures and rules
10. The Court of Justice and national courts
 - Preliminary ruling procedure
 - Cases
11. The application and enforcement of the EC law by the national courts and administrations
 - Direct applicability of EC law
 - Supremacy of EC law
 - Principles of loyalty and effect utile
12. The Community Directives
 - Structure
 - Proper transposition
 - Consequences of improper transposition
 - Transposition of Community Directives in the Czech Republic

13. The EU-citizenship
 - An individual in the focus of the EU-law
 - The legal substance of the EU-citizenship
 - Protection of fundamental rights
14. Making the European Constitution
 - The need for a Constitution for the EU
 - Principles
 - Charter of fundamental rights
15. Effects of EU law in the Czech Republic
 - The general approach to international law obligations
 - The attribution of powers
 - The enforcement of the EU law in the Czech Republic
16. The Czech-EU Treaty on Accession
 - The history of Czech-EU accession negotiations
 - The analysis of the Czech – EU Treaty on Accession

Reading list

Dausen Manfred, Concepts of “Harmonization within the EU Internal Market”,
 Zemánek Jiří, The Amendments of the Czech Constitution for the Accession to the European Union
 Král Richard, Approximation of Czech laws with EC and EU laws
 Steiner Josephine, Woods Lorna, Textbook on EC Law, Blackstone 1999
 The (Czech-EU) Treaty on Accession (excerpt)
 The Draft Treaty of Constitution for Europe

COMMERCIAL LAW AND INTERNATIONAL TRANSACTIONS

Monika Pauknerová

Other lecturers: *Alena Bányaiová*

Course Description

The course consists of two parts. The first part focuses on the general principles of Czech commercial law, in particular the legal status of entrepreneurs and the essentials of Czech company law as well as the main issues

of competition law. Special attention will be paid to the latest developments in regulations regarding entrepreneurial activities and company law. The course will deal with the law of commercial contracts including security obligations, breach of contracts, liability for damages and other types of remedies.

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

Outline of the Course

I. Commercial Law

1. Essentials of Czech Commercial Law, business activities of foreigners in the Czech Republic,
2. Legal status of entrepreneurs, essentials of Czech company law, types of business entities
3. General partnership, limited partnership
4. Limited liability company
5. Joint stock company
6. Principles of minority shareholders protection
7. Rights and duties of company bodies
8. Competition law, control
9. General principles of commercial obligations, classification of commercial obligations, law of contracts
10. Breach of contracts, liability for damages and other types of remedies, statutes of limitations
11. Sales contract, contract of sale of an enterprise

II. Private International Law and International Transactions

1. General Introduction and Special Characteristics of the Czech Private International Law, Conflict of Laws and Substantive Rules
2. Conflict Rules – continued; Sources of Czech PIL, European PIL, Selected Problems
3. General Problems of PIL (selected topics)
4. Direct Substantive Rules in Czech PIL and Rules of Immediate Application

5. Persons in Czech Private International Law
6. Contract and Tort in Czech PIL
7. International Commercial Contracts and Czech Law – General Climate, Sources of Law and Other Formulations
8. Settlement of Disputes and Commercial Arbitration in the Czech Republic

Reading List

Doing Business in the Czech Republic, editor Monika Pauknerová, Juris Publishing, New York 1999 (Contributors: A. Banayiová, D. Falada, A. Kerner, P. Kotáb, L. Neustupná, M. Pauknerová, J. Zemánek, V. Zunt)
Pauknerová, M., Private International Law, Czech Republic in: International Encyclopedia of Laws, Kluwer Law International, The Hague 2002
Private international law in Czechoslovakia, Zdeněk Kučera, in: Bulletin of Czechoslovak Law, vol. 23, No. 24, Prague, 1985
The Commercial Code, Commentary, Trade Links, Prague
Czech Business Law, Z. Slováková, foreword by M. Pauknerová, UK PF, Prague 2001

CZECH CRIMINAL LAW

Coordinator

Zdeněk Kühn

Lecturers

Zdeněk Kühn

Jaroslav Fenyk

Robert Fremr

Libor Grygárek

Zdeněk Karabec

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. The third part of the course will give attention to some most interesting question of criminality in the Czech Republic after the fall of communism and the Czech prison service and system.

Outline of the Course

1. Criminal Law during Communism.
2. Basic Topics of Criminal Law.
3. Crimes against Health, Life and Crimes against Freedom.
4. The Issue of Abortion – Central European Experience.
5. Property and Economic Crimes. Specifics of Post-Communist Situation
6. The EU and European Criminal Law
7. Procedure Law I.
8. Procedure Law II.
9. The need for the reform of Procedure Law.
10. Criminal Law in European and the United States: What We might Get from the Americans.
11. Sentencing Structure, Sentencing Guidelines
12. Development and Structure of Criminality in Czech Republic during Communism and in the First Post-Communist Decade
13. Czech Prison Service and System

Readings will be based on the Reader, which will include excerpts from

Criminal code, Trade Links, Praha 1999

Criminal justice in Europe: a comparative study, Clarendon Press, Oxford 1995

Criminal law reform in the Czech Republic in the interdisciplinary perspective: contributions of the Intensive Lehrgang within the frame work of TEMPUS – Programme in Brno, 14.–21. March 1993, MU Brno, PF, Brno 1997

John H. Langbein, The origins of adversary criminal trial, Oxford 2003

Victims and criminal justice: particular groups of victims. Freiburg 2001

Selected Case Law of the Czech courts, the European Court of Justice, European Court of Human Rights and the US Supreme Court

II. Optional Courses

CZECH AND EUROPEAN ENVIRONMENTAL LAW AND POLICY

Milan Damohorský

Michal Sobotka

Course Description

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

Outline of the Course

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

Reading List

- Damohorský, M.: Czech Environmental Law, Charles University, Prague 2003
- Kiss, A. Shelton, D.: Manual of European Environmental Law, Cambridge University Press 1993
- Kraemer, L.: European Environmental Law Casebook, Sweet and Maxwell, London, 1993
- Environmental Laws of the Czech Republic Volume one till five, Ministry of Environment 1993–1999
- State Environmental Policy, Ministry of the Environment of the Czech Republic, Prague 2001

CZECH CONSTITUTIONAL COURT (Major Decisions and Tendencies)

Mark Gillis

Course Description

This course is a general survey of the Czech Constitutional Court, its institutional structure, procedures, important decisions, and settled doctrines. It is intended to provide students with an introduction to the functioning of a continental or Kelsenian system for judicial review while at the same time, by taking the Czech Court as the subject of investigation, view its functioning against the backdrop of the issues and problems endemic to the transition process in post-communist states.

This course examines the institution of the Czech Constitutional Court from various perspectives. First, institutional.: The class will place the Court into the context of the Czech constitutional system to ascertain the role it plays therein. This requires a brief survey of relevant constitutional provisions, both institutional provisions concerning the function of the Court and those substantive provisions which lay down the criteria for its decision-making. Second internal processes: The types of proceedings which can be brought before it and the range of legal issues that might be covered in such proceedings. For this we will briefly survey the Courts jurisdictional act. Third historical: Consider the Courts creation and early doctrinal and decisional directions as evidenced by a selection of its ground breaking decisions. Lastly decisional: to briefly cover some of the important constitutional principles as established

in judgments of the Court. For the last two points, the class will be considering the Courts cases (in translation) and articles concerning them. Throughout the course, reference shall be made to basic principles and practices in other countries systems, both continental and Anglo-American.

Outline of the Course

1. The Constitution, the Constitutional Court Act and Functioning of the Court
2. The Early Decisions establishing the Courts Approach to Constitutional Jurisprudence and its Efforts to Come to Terms with the Past Lawlessness, Screening/ Lustrace, Bene
3. Juridical Restraint and the Initial Focus on Restitution and Procedural Issues
4. Electoral Decisions Security Deposits, the 5% Threshold Rule Principle, Coalitions, Senate Candidates Cases ensuring the protection of Free Competition
5. The Court Embarks on More Substantive Decision-making Double Jeopardy for Conscientious Objection; Criminal Procedure Cases
6. War of the Courts and the Binding Nature of Constitutional Court Decisions

Reading List

- Constitutional Courts in Central and Eastern European Countries in the Period of Transformation, Papers of the International Conference, Helsinki Foundation for Human Rights, (Warsaw, 1995)
- Making Amends After Communism, V. Cepl, M. Gillis, The Journal of Democracy, Vol. 7, no. 4 (October 1996)
- East European Case Reporter of Constitutional Law, Vol. 4, nos. 12 (1997) (translations of several decisions of the Czech Constitutional Court)

COMPARATIVE CONSTITUTIONAL LAW IN THE CEEC

Mahulena Hofmann

Course Description

The course gives an overview of the constitutional systems of selected CEECs focusing on the role of international law. First, various constitutional

traditions of the CEEC are analysed taking into specific consideration the impact of the previous Soviet-law system. Secondly, the constitutional systems of the groups of states are described. The first group consists of the states with whom the European Commission started negotiations on their accession to the European Union in 1998. To the second group belong the systems of Slovakia, Bulgaria and Rumania as examples of states wishing to engage in such negotiations with the EU. At the end of the course, the constitutional system of the Russian Federation is analysed. The course concentrates primarily on the character of the respective constitutions, main state organs, the role of the constitutional courts, the position of international law in the respective constitutional systems, and the application of international legal norms in the jurisprudence of the Constitutional Courts of the States concerned.

Outline of the Course

1. Introduction
the variety of legal traditions of the constitutional systems of the CEEC, the unifying role of Soviet law, and the return to the traditional legal systems after 1989.
2. The Constitutional Systems of the Czech Republic, Estonia, Hungary, Poland and Slovenia
the character of the Constitutions, main state organs, and the role of the Constitutional Courts
the position of international law in the constitutional systems
international law in the jurisprudence of the Constitutional Courts
the process of amending the constitutions with the regard to the envisaged membership in the European Union
3. The Constitutional Systems of Slovakia, Bulgaria and Romania
the character of the Constitutions, the position of the main state organs, and the role of the Constitutional Courts
the position of international law in the constitutional systems
international law in the jurisprudence of the Constitutional Courts
4. The Constitutional System of the Russian Federation
the character of the Constitution, the position of the main state organs, and the role of the Constitutional Court
the position of international law in the constitutional system
international law in the jurisprudence of the Constitutional Court
legal relations with Byelorussia and other member-states of the CIS

Reading List

- The Constitutions of New Democracies in Europe, P. Raina(ed.), Merlin Books, 1995
- Legal Reform in Post-Communist Europe, S. Frankowski, P. B. Stephan (eds.), Kluwer Law International, 1995
- Constitutional Reform and International Law in Central and Eastern Europe, R. Müllerson, M. Fitzmaurice, M. Andenas (eds.), Kluwer Law International, 1998
- Russia's Constitutional Court: A Decade of Legal Reforms, W. B. Simons, Kluwer Law International, 2003

For texts of the Constitutions of the CEEC see:
<http://www.prf.cuni.cz/katedry/mezinarodni-pravo/prameny/index.html>

CONTRACTS AND TORTS

Jana Hrstková

Course Description

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

COURSE OUTLINE:

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

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

Reading List

Civil Code, Trade Links, Prague 1998

INSTITUTIONAL ECONOMICS AND ECONOMICS OF THE PUBLIC SECTOR

Jan Urban

Course description

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

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

Outline of the course

PART I

1. Institutional Economics: Basic Premises and Concepts
2. Theory of Ownership Rights
3. Theory of Contractual Relations
4. Markets and Hierarchies: Theory of Vertical Organization
5. Modern Corporation as a Organizational Form
6. Theory of Corporate Governance
7. Theory of Government in Institutional Economics
8. Institutions and Economic Transformation

PART 2

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

Reading List

1. Structure and Change in Economic History, D.C. North, 1981
2. Institutions, Institutional Change and Economic Performance, D.C. North, 1991
3. Economics of the Public Sector, J. E. Stiglitz, 1988

INTERNATIONAL AND EUROPEAN PROTECTION OF HUMAN RIGHTS

Stanislava Hýbnerová
Harald Christian Scheu

Course Description

What are present international standards in the domain of human rights protection? Are the rights of minorities and in particular rights of specifically vulnerable groups of persons sufficiently protected? The course intends to provide the students with basic knowledge in this field and pays particular attention to the Czech laws on this subject matter.

Outline of the Course

1. Universal and regional instruments of international human rights protection
2. Non-discrimination as basic principle for human rights conception and its reflection in legal documents
3. Special mechanism for the protection of women's rights
4. Measures against racial discrimination
5. Children's rights and cultural conflict
6. The protection of national minorities in the light of international law
7. Current aspects of international humanitarian law
8. Asylum and refugees in international law

Reading List

Stanislava Hýbnerová and Harald Scheu: Legal Study on the Combat of Trafficking in Women and Forced Prostitution in the Czech Republic. Prague, September 1999, Published in Vienna 1999 By the Ludwig Boltzmann Institute of Human Rights

Gisbert H. Flanz: Comparative Women's Rights and Political Participation in Europe. Transnational Publishers, Inc. 1993

Geraldine Van Bueren: The International Law on the Rights of the Child. Martinus Nijhoff Publishers, 1998

Hélène Lambert: Seeking Asylum. Martinus Nijhoff Publishers 1997

Stanislava Hýbnerová: A More Effective Guarantee of Women's Rights in Pavel Šturma ed: Implementation of Human Rights and International Control Mechanism, Prague 1999

Harald Scheu: The Implementation of the United Nations Convention on the Rights of Child. In Implementation of Human Rights and International Control Mechanism. Prague 1999.

Geistlinger, M., Konjecic, E. (ed.), Public International Law at Central European Universities, Vienna 2000

Sassóli, M., Bouvier, A. (ed.), How does law protect in war, ICRL, 1999

ACADEMIC STAFF AND OTHER LECTURERS PROFILES

Karolína Adamová, Doc. JUDr. et PhDr., CSc., associate professor at the Law Faculty, Charles University, Prague and a scientific researcher at the Institute of State and Law (Academy of Science). In the late seventies she studied art history at the Faculty of Arts of Charles University. She has published a number of books and articles on history of state and law and on political science.

Alena Bányaiová, JUDr., CSc, practising lawyer with more than 20 years experience in economic and commercial law. Received her doctoral degree (JUDr.) from Charles University in 1973; 1988 candidatum of Sciences (CSc. – PhD equivalent) at 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, 1988–89 research scholar at the Institution of State and Laws of the Czechoslovak Academy of Sciences and since 1991 in private practice. A Member of the Legislative Commission for Administrative Law of the Czech Government. A Member of the Czech Bar and the International Bar Association. Author of about 30 articles. Since 2001 arbitrator at the Arbitration Court in Prague.

Petr Bělovský, JUDr., Dr., graduated from the Law Faculty of Charles University in 1996 and continued his studies as postgraduate student at the Department of Legal History at the same faculty. After having completed his thesis on Roman Jurisprudence and finishing his doctoral studies, he continued with research in the area of Roman Law, especially in Roman contract law and law of obligations. He teaches Roman Law at the Faculty of Law of Charles University since 1997. Last year he undertook research in Catania (Italy) on the usucapio of a stolen thing.

Vojtěch Cepl, Professor of Civil Law, JUDr., CSc.; graduated from Charles University (1961); advanced studies of sociology at Oxford University (1967–9); research fellowship at University of Michigan (1969). Assistant lecturer at the Department of Jurisprudence CUNI (1970), then at the Civil Law (till 1989). Appointed: Head of the Dept. of Civil Law, Vice Dean of the Faculty of Law CUNI, Vice-Chairman of the Legislative Advisory Group of the Ministry of Finance Václav Klaus, Member of the

Legislative Committee of the Federal Government, Head of the Drafting Group of the Civil Code (1990); Co-President of the British-Czech Law Society (1991); Member of the Government Drafting Committee for the Czech Constitution (1992); appointed by President Václav Havel to be a Justice of the Constitutional Court of the Czech Republic (1993). The Awards and the Visiting Professorships: Wiegand Distinguished Visitor, University of San Francisco (1992); Visiting Professor, University of Chicago (1993); Distinguished Visiting Professor of Democratization, Georgetown University (1995); Visiting Professor, University of Georgia – Athens (1996); Visiting Professor, University of San Francisco (1998); Jurist in Residence, Washington University School of Law (1999); Distinguished Global Fellow, New York University (2001); Herzog Lecturer, John Marshall School of Law, Chicago (2002); Member of the US Government William Eagleton Mission in Iraq (2003); Visiting Professor, University of Michigan, Ann Arbor (2003). Author of more than one hundred publications.

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

Milan Damohorský, Doc., JUDr., DrSc., graduated from the Faculty of Law in 1985. Before becoming Associate Professor of Environmental Law at Charles University in 1998, 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 member of the Commission of Environmental Law of the International Union for Nature Conservation (from 1994) and European Council of Agricultural Law (from 1999), president of the Czech

Society for Environmental Law (from 2001). His main publications comprise monograph on environmental law liability and nature conservation. Author or co-author of one hundred of books, commentaries, textbooks and articles on the environmental law issues.

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

Mark Gordon Gillis, LL.M., Ph.D., B. A. from Stanford University in 1985, with an emphasis on German and East European history. J. D. from University of California at Berkeley, 1988. While at Berkeley, editor-in-chief of *International Tax and Business Lawyer* (1987/88); instructor of a legal research and writing course (1987); final research paper on contempt of court before the International Court of Justice. Doctoral work on the Binding Effect of Decisions by the Czech Constitutional Court completed at the Law Faculty in Prague, November, 1997. Clerkship in Sydney, trainee at the Commission of the European Community. Admitted to the Bar in the states of New York and California; associate of the Corporate Department at a law office; expert advisor to the Dept. of Foreign Relations at the Law Faculty. Since 1993 advisor to the Dept. of Foreign Relations at the Constitutional Court of the Czech Republic.

Mahulena Hofmann, JUDr., CSc., graduated at the Law Faculty of Charles University in Prague in 1980. In 1984 she defended her post-graduate (doctoral) thesis. During 1984–1990, she was a research fellow at the Institute of State and Law of the Czechoslovak Academy of Sciences, Prague, where she dealt mainly with general international law, law of mass media, space and telecommunications law. In 1990, she was awarded a scholarship of the Alexander von Humboldt foundation to spend two years of research at the Max Planck Institute of Comparative Public Law

and International Law in Heidelberg, Germany. In 1992 – senior research fellow at this Institute. Since 1996 is a member of the Space Law Committee and the Human Rights and Practice Committee of the International Law Association. She also teaches international and constitutional law at the Law Faculty of Charles University and is preparing habilitation thesis to be submitted to the Faculty of Law at the University of Cologne, Germany.

Jana Hrstková, JUDr., Ph.D., LL.M., graduated from the Faculty of Law of Charles University in Prague where she received her Magister of Laws (Mgr.), Doctor of Laws (JUDr.) and Philosophiae Doctor (PhD.) degrees. In addition, she also holds a Master of Laws (LL.M.) degree from Harvard Law School, where she was a recipient of the Fullbright Scholarship. Ms. Hrstkova is an attorney-at-law, specialising on investment and restructuring projects in the region of Central and Eastern Europe. She has been involved in a number of international business transactions providing legal assistance to foreign investors in the Czech Republic and Slovakia. Since 1997 she teaches course on contracts and torts as a visiting lecturer at the Faculty of Law of Charles University. Since September 2000, she has been as Secretary of the Information Technologies Law Commission of the Legislation Council of the Czech Government, and she is a member of the Advisory Board to the Chairman of the Personal Data Protection Office. In December 2000, she was awarded the Bolzano Prize for her doctoral thesis on Legal Aspects of Protection of Privacy on Internet. Ms Hrstkova is a member of the Bar of the State of New York in the United States and the Czech Chamber of Advocates.

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

Petr Kotáb, JUDr., graduated 1985. He is a member of the Department of Financial Law of Charles University Faculty of Law in Prague; visiting lecturer at the University of Economics in Prague and formerly visiting professor at the University of Connecticut and the Central European University. Previously, he was a member of several expert commissions of the Czech Government and a member of supervisory boards of several major financial institutions. Currently, he serves as the Chairman of the Appellate Committee of the Czech Securities Commission. He is an author or co-author of several university textbooks on financial law and other publications. He is a member of the Czech Chamber of Advocates, the International Bar Association and the International Fiscal Association.

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

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

Zdeněk Kühn, JUDr., PhD., LL.M., S.J.D. candidate; graduated from the Faculty of Law of Charles University in Prague where he received his Magister of Laws (Mgr.), Doctor of Laws (JUDr.) and Philosophiae Doctor (PhD.) degrees. He also holds a Master of Laws (LL.M.) degree from the University of Michigan Law School (a recipient of the Fulbright Scholarship 2001/2002); in 2003 he received an S.J.D. candidacy at the same school (a recipient of the University of Michigan Václav Havel Graduate Fellowship 2002/2003). Mr. Kühn teaches legal theory at the Faculty of Law of Charles University. He has been awarded several

prizes including the Bolzano Prize, the Hlávka Foundation Prize for the best university graduates, and numerous fellowships (Michigan Grotius Fellowship (2003) for Summer 2004, University of Michigan Center for Russian and Eastern European Studies Mellon Fellowship (2003) etc.). He widely publishes in the Czech Republic as well as abroad. The Bar Exam at the Czech Chamber of Advocates in 2000; now an advisor to the Czech Constitutional Court Justice.

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

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

Monika Pauknerová, Prof., JUDr. CSc., graduated from Charles University in 1975; 1975–1979 postgraduate study at the Institute of State and Law at the Czechoslovak Academy of Sciences in Prague and since 1980 research fellow there. Since 1993 lecturer, since 1997 Associate Professor, and since 2002 Professor in Private International Law and International Trade Law at the Faculty of Law. More than 20 years experience in this field. President of the Czech National Committee of the International Association of Legal Sciences, since 2003 member of the International Committee of Comparative Law of the IALS. Since 1990 member of the Czech National Committee of the International Law Association. Since 1985 arbitrator at the Arbitration Court in Prague. Author of more than 100 publications.

Richard Pomahač, Doc., JUDr., CSc., studied at Charles University in Prague at the Faculties of Law and Philosophy and at FIDC in Strasbourg. Associate Professor of Administrative Law at Charles University. Specializes in comparative public administration and European administrative law;

teaching activities comprise training for officials in EU affairs. Publications include *Evropské správní soudnictví* [European Administrative Justice] (C.H. Beck, 1998), *Veřejná správa* [Public Administration] (C.H.Beck, 2002), and *Evropské právo* [European Law] (Karolinum, 2003).

Jiří Příbáň, Prof., JUDr., DrSc., Faculty of Law. Professor of Legal Philosophy and Legal Theory at the Law Faculty, Charles University, Prague. Lecturer of Cardiff Law School, University of Wales. Member of the Editorial Board of the *Journal of Law and Society*. Author of *Dissidents of Law* (2002, Ashgate), *The Rule of Law in Central Europe* (with J. Young, 1999, Ashgate), *Laws New Boundaries* (with D. Nelken, 2001, Ashgate). Books published in Czech: *Sociologie práva* (The Sociology of Law), Praha 1996, *Hranice práva a tolerance* (Limits of Law and Toleration), Praha 1997, *Suverenita, právo a jeho legitimita* (Sovereignty, Law and its Legitimacy), Praha 1997. He also contributed to the books *Nationalism, Racism and Rule of Law* (ed. Peter Fitzpatrick, 1995) and *Human Rights in Eastern Europe* (ed. Istvan Pogany, 1995). He publishes widely in Czech and English legal and sociological journals.

Harald Christian Scheu, Mag. phil. Dr. iur. Ph.D., Educated at the University of Salzburg (Dr.iur., 1995, Mag.phil., 1996) and the University of Prague (Ph.D., 1997). Since 1997 at the Department of International Law at the Law Faculty of Charles University. Teaches and conducts research in issues concerning International Law and Human Rights Law.

Radim Seltenreich, Doc., JUDr., graduated from Charles University in 1988. Lecturer in European Legal History since 1990, he has held scholarships at the Charles Ruprecht University in Heidelberg and the University of Toledo (U.S.A.) where he was mainly engaged in the study of American constitutional legal development. Books published in Czech: *Právní humanismus jako výraz evropského právního vývoje* (Legal Humanism as an Expression of European Legal Development), Praha, 1996, *Dějiny vědy soukromého práva v Německu* (The History of the Science of Private Law in Germany), Praha, 1998. In the year 2003 he spent also a semester at the University of Granada in Spain.

Michal Sobotka, JUDr., Ph.D., graduated from the Faculty of Law in 1996. At present he is an assistant specialist in the Department of Environmental Law and tutor of the CLS Programme. He cooperates intensively with the Czech Ministry for Environment. Specialization in water and waste management law. Contributions in some environmental law books and journals.

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. He is also (co-) author of several books, including *Introduction to the European Law of Human Rights Protection* (Praha 1994), *Asylum and Refugees in International Law* (Brno 1997), *Course in International Economic Law* (Praha 1997), *International and European Control Mechanisms in the Field of Human Rights* (Praha 1999, 2003), *International Criminal Court* (Praha 2002), *International Responsibility* (Brno 2003), as well as many articles published in Czech reviews and partly abroad (in English or French). Member of the Legislative Council of the Czech Government, member of the Permanent Court of Arbitration (The Hague) and of several academic and professional associations, visiting professorship at the University Paris XI (2001).

Jiří Švestka, Prof., JUDr., DrSc., Professor of Civil Law at the Faculty of Law, the member of its Scientific Council. He is the author of 10 monographs, textbooks, commentaries on the Civil Code as well as many treatises and articles in various fields of Civil Law, such as Liability and the System of Damages, Liability for Defects of Things Sold, Protection of Personhood in Civil Law, Adoption, and so on. After 1989 appointed member of governmental draft commissions for the Civil Code, the Commercial Code and the new Civil Code. One of two chief editors of a recent textbook on Civil Law (three volumes, 2002) and of the Commentary on Civil Code (2003, 8th ed. C. H. Beck). He works in collaboration with the Centre du droit de la Consomation (Louvain-la Neuve).

Luboš Tichý, Prof., JUDr., CSc., retains his position at the Faculty of Law, Charles University as the head of the European Community Law Department and has taught commercial and anti-trust law since 1990. He has held fellowships at the University of Michigan Law School, the Swiss Institute of Comparative Law in Lausanne and the Max-Planck-Institute for Foreign and International Private Law in Hamburg. Member of Board of Directors of the Czech Bar Association (1990/1997), President in 1996. Legal Advisor to Federal Minister of Foreign Affairs (1990/1992), Member and Secretary of the Legislative Committee on Constitution, (1991), advisor to the President of the Czech Parliament (1990). Publications: *Evropské právo* (European

Law, editor and co-author, Praha 1999), Private Law Obligations in Conflicts of Laws (co-author, Praha 1989, 2 vol.), Commentary on Czechoslovak Law on Conflicts of Laws (co-author, Praha 1988)

Jan Urban, Doc. Dr., obtained degree in economics from The Prague School of Economics and doctorate in philosophy from Charles University. Prior to becoming Head of Department of National Economy at the Charles University School of Law, worked as an economic advisor at the Prime Minister office and for several years in the Economic and Forecasting institutes of the Czech Academy of Sciences. Founded and for two years edited the leading Czech economic magazine „Ekonom“, lectured at universities in Western Europe and USA. As a free-lance consultant supported change strategy in several important companies. His main areas of specialisation cover impact of institutional framework on economic performance and change management.

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

Addresses:

For further information please contact:

Charles University in Prague
Faculty of Law
nám. Curieových 7
116 40 Praha 1
Czech Republic
e-mail: Socrates@prf.cuni.cz

Director of the Pregraduate CLS Programme and Erasmus/Socrates Coordinator

Doc. JUDr. Milan Damohorský, DrSc.
Vice-Dean for Foreign Affairs
Phone: ++420 221 005 370
e-mail: Damohors@prf.cuni.cz

Director of the Postgraduate CLS Programme

Doc. JUDr. Jan Kuklík, DrSc.
Vice-Dean for Students Affairs
Phone: ++420 221 005 414
e-mail: Kuklik@prf.cuni.cz

Tutor of the Programmes

JUDr. Michal Sobotka, PhD.
Phone ++420 221 005 232
e-mail: Sobotka@prf.cuni.cz

Secretariat of the CLS Programme

Ms. Marie Konečná
Phone: ++420 221 005 478
++420 221 005 305
Fax: ++420 224 810 472
e-mail: Konecna@prf.cuni.cz

Please visit our web-site

<http://www.prf.cuni.cz/veda/erasmusmain.php>

