



Comparative Constitutional and Criminal Law
Winter 2023/2024

Evaluation:

Participation in Discussion: The students are expected to read assigned readings and to participate actively in every session, especially during the parts dedicated to analysis of presented case studies.

Presentations: The students are required to prepare a short presentation that would serve as a springboard to the following discussion. In order to allow all students to actively participate in discussions after presentations, each student prepares a written handout beforehand and sends it to students' email account at least two days before seminar.

Evaluation: The final grade will be based on participation in class discussion (20%), presentation in the field of constitutional law (40%) and presentation in the field of criminal law (40%).

Curriculum:

Students will get deeper knowledge from the philosophical and judicial issues implicated by the study of differing constitutional regimes and regimes of criminal law. The course is organized around themes which are important in all jurisdictions: legitimacy, the role of the courts and the aims of constitutional democracy or impact of globalization. The main aim is to introduce key debates in constitutional theory and theory of criminal law.

Syllabus:

1. Introduction and basic instructions, concept and importance of comparative constitutional law. Nature, development and concept of constitutionalism, the process of amending the constitution, principle of legitimacy (20.09.2023)

Reading: V. Perju: Constitutional Transplants, Borrowing and Migrations. In ROSENFELD, M., SAJÓ, A. (eds.): Comparative Constitutional Law. Oxford : Oxford University Press, 2012, p. 1301-1327.

2. Referendum as a form of direct democracy, pros and cons (27.09.2023)

Reading: GIBA, M., BUJŇÁK, V.: Referendum on early elections: the case of Slovakia in the European context. In European studies: The review of European law, economics and politics: Vol. 8., Issue 1. Prague: Wolters Kluwer, 2021, p. 39 – 66.

3. Legislative power in comparative perspective (04.10.2023)

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Reading: BRADLEY, A. W., PINELLI, C.: Parliamentarism. In ROSENFELD, M., SAJÓ, A. (eds.): Comparative Constitutional Law. Oxford: Oxford University Press, 2012, p. 650-670.

4. Constitutional courts in comparative perspective (11.10. 2023)

Reading: FELDMAN, S. M.: Pack the court! A Defense of Supreme Court Expansion. Philadelphia: Temple University Press, 2021, chapter 5

5. Executive power and head of state in comparative perspective (18.10.2023)

Reading: FIX-FIERRO, H., SALAZAR-UGARTE, P.: Presidentialism. In ROSENFELD, M., SAJÓ, A. (eds.): Comparative Constitutional Law. Oxford : Oxford University Press, 2012, p. 609-627.

6. Role of political parties, political extremism (25.10.2023)

Reading: Backes, U.: Banning political parties in a democratic constitutional state: The second NPD ban proceedings in a comparative perspective. In Patterns of Prejudice, Volume 53, 2019 - Issue 2, p. 136-151.

7. Basic principles of criminal law as a field of public law (08.11.2023)

8. State criminal policy and tools of its implementation, criminal offense - offender - state, Basic principles of criminal liability (15.11.2023)

9. Criminal Code as a basic source of criminal law, its scope and systematics (22.11.2023)

10. Crime and its definition (29.11.2023)

11. The system of sanctions in criminal law (06.12.2023)

12. Special Part of the Criminal Code, protection of individual interests, general interests and protection of state (13.12.2023)

Recommended literature:

1. Vicki C. Jackson, Mark V. Tushnet: Comparative Constitutional Law, 2nd ed. (University Casebook Series), Foundation Press, 2006
2. Aalt Willem Heringa, Philipp Kiiver: Constitutions Compared: An Introduction to Comparative Constitutional Law (Ius Commune Europaeum), 3rd ed. Intersentia; 2012
3. Michel Rosenfeld and András Sajó (edt.): The Oxford Handbook of Comparative Constitutional Law, Oxford, U.K.: Oxford University Press, 2012

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4. Joakim Nergelius: Constitutional Law in Sweden, Aspen Publishers, 2011
5. Erwin Chemerinsky: Constitutional Law Third Edition (Kindle Edition), 3rd revised ed. Aspen Publishers, 2009
6. Matt Qvortrup (edt.): Referendums Around the World. The Continued Growth of Direct Democracy. London: Palgrave Macmillan, 2014
7. Tom Ginsburg, Rosalind Dixon (edt.): Comparative Constitutional Law; Research Handbooks in Comparative Law Series, Cheltenham, UK; Northampton, Edward Elgar Publishing, 2011
8. European Constitutional Law review (Journal)
<https://www.cambridge.org/core/journals/european-constitutional-law-review>
9. Baláž, P., Vráblová M., a kol.: Introduction to Slovak Substantive Criminal Law. Aleš Čenek : Praha, 2011
10. R. A. Duff, Stuart Green: Philosophical Foundations of Criminal Law, Oxford University Press, 2013
11. Raymond Wacks: Understanding Jurisprudence: An Introduction to Legal Theory, 2nd edition. Oxford University Press, 2014
12. Steven P. Lab, Marian R. Williams, Jefferson E. Holcomb, Melissa W. Burek, William R. King, Michael E. Buerger: Criminal Justice: The Essentials, 3rd edition, Oxford University Press, 2014
13. Andrew Ashworth: Sentencing and Criminal Justice, Cambridge University Press, 2010
14. Penal Code, Praha : Wolters Kluwer, 2011
15. Penal Code, Bratislava : Iura Edition, 2012

Language:

English

Lecturers:

doc. JUDr. Lívia Trellová, PhD., Mgr. Vincent Bujňák, PhD., prof. JUDr. Tomáš Strémy, PhD.

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