



## Comparative Constitutional Law (summer 2023)

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**General comment:** The subject is aimed at discussion of some current problems in the field of comparative constitutional law. As the class is rather small and while discussion is essential to the subject, students are required to prepare for seminars. Participating students are expected to have basic knowledge of constitutional law of their nation states in order to discuss topics in comparative perspective. At the same time the subject serves as a platform to promote cooperation between Slovak and international students.

**Attendance:** According to the study programme regulation, the attendance is compulsory. However, students can take three absences. If absences exceed three, the fourth absence results in impossibility of taking the exam. In exceptional cases, the fourth absence can be remedied on individual basis (short/long paper, assignment etc.). Non-preparation for seminar (not reading a given article, not sending presentation on time, "no opinion" etc.) is considered as absence.

**Evaluation:** Final evaluation is composed of the following elements:

- a) 40% during semester for presentation (students must participate on at least two presentations, i.e. 2x20)
- b) 60% for written essay at the end of semester (students can choose one out of three topics based on the curriculum and discussions)

### 23. 2. 2023 Introduction to subject. The influence of Comparative constitutional law: A case study

- methodology of seminars, system of evaluation, distribution of topics, literature

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.](#)

### 2. 3. 2023 Comparative constitutional law: Beginning, status quo and challenges





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.](#)

### **9. 3. 2023      Creating a constitution, the problem of pouvoir constituant**

Presentation: TBD

Reading: [W. Partlett: The Dangers of Popular Constitution-Making. Brooklyn Journal of International Law, Vol. 38, 2012, p.193-238.](#)

### **16. 3. 2023      Amendments to constitutions**

Presentation: TBD

Reading: [Y. Roznai: Unconstitutional Constitutional Amendments—The Migration and Success of a Constitutional Idea. The American Journal of Comparative Law, Vol. 61, 2013, p. 657-719.](#)

### **23. 3. 2023      Direct democracy**

Presentation: TBD

Reading: [MOREL, L.: Types of referendums, provisions and practice at the national level worldwide. In MOREL, L., QVORTRUP, M. \(eds\) - The Routledge Handbook to referendums and direct democracy. New York: Routledge, 2018, p. 27-59.](#)

### **30. 3. 2023      Judicial review and constitutional interpretation**

Presentation: TBD

Reading: [SOLUM, L. B.: What is Originalism? The Evolution of Contemporary Originalist Theory. In: The Challenge of Originalism: Theories of Constitutional Interpretation. Cambridge: Cambridge University Press, 2011, p. 12-41.](#)

### **6. 4. 2023      The law-politics dynamics**

Presentation: TBD

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





### 13. 4. 2023      **Presidential powers**

Presentation: TBD

Reading: [FIX-FIERRO, H., SALAZAR-UGARTE, P.: Presidentialism. In ROSENFELD, M., SAJÓ, A. \(eds.\): The Oxford Handbook of Comparative Constitutional Law. Oxford : Oxford University Press, 2012, p. 628-649.](#)

### 20.4.2023      **Relationships between executive and legislative branch**

Presentation: TBD

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

### 27. 4. 2023      **Constitutional and International (European) Law**

Presentation: TBD

Reading: [Kowalik-Bańczyk, K.: Should We Polish It Up? The Polish Constitutional Tribunal and the Idea of Supremacy of EU Law. In German Law Journal, Volume 6 Issue 10, 2005, p. 1355-1366.](#)

### 4. 5. 2023      **Role of political parties and political extremism**

Presentation: TBD

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.](#)

### 11. 5. 2023      **Final exam (essay)**

**Presentation:** Students can choose a topic according to their preferences. A group delivering presentation should be as diverse as possible. Each presentation ought to be composed of 4-5 countries. The rest countries is up to students as long as countries differs in their approach to respective topic. A presentation should last approximately 40 minutes and it is advisable to have following structure:

- a) a short theoretical introduction into topic
- b) a description of how and why a topic has been regulated/applied/tackled in respective countries
- c) a comparison.





**Reading:** The aim of the added articles is to enhance discursive potential of a given topic. Students are obliged to read an article prior to a seminar and be ready to make statements or join discussion based on arguments presented in the paper and/or presentation. It does not necessarily follow that students must agree with arguments presented. All arguments of dissent are warmly welcomed. Papers will be sent to students' email as soon as this email will be created. Students are encouraged to read articles continuously as they may appear quite long and difficult for non-readers in English.

### **Literature (optional)**

BARBER, S. A., FLEMING, J. - Constitutional Interpretation: The Basic Questions. Oxford: Oxford University Press, 2007.

GINSBURG, T., DIXON, R. - Comparative Constitutional Law (Research Handbooks in Comparative Law Series), Edward Elgar Pub: 2013.

HERINGA, A., W., KIIVER, P. - Constitutions Compared: An Introduction to Comparative Constitutional Law (Third Edition), Intersentia: 2012.

HUSCROFT, G., MILLER, B. W. - The Challenge of Originalism: Theories of Constitutional Interpretation. Cambridge: Cambridge University Press, 2011.

JACKSON, V. C., TUSHNET, M. - Comparative Constitutional law, 2nd edition, Foundation Press: 2006.

MOREL, L., QVORTRUP, M. (eds) - The Routledge Handbook to referendums and direct democracy. New York: Routledge, 2018.

ROSENFELD, M., SAJÓ, A. - The Oxford Handbook of Comparative Constitutional Law, OUP Oxford: 2012.

QVORTRUP, M. (edt.) - Referendums Around the World. The Continued Growth of Direct Democracy. London: Palgrave Macmillan, 2014

