**Class code**
SOC-UA9413001

**Instructor Details**
Zdenek Kühn
zdenku@seznam.cz
Charles University Law School
Namesti Curieovych 7
116 40 PRAHA 1
Office 242 (3rd floor)
Office hours Monday 10 AM – 12 PM

**Class Details**
Monday, 4.30 PM – 7.20 PM
Location to be confirmed.

**Prerequisites**
None

**Class Description**
This course explores the development of the rule of law and human rights issues in post-communist Central Europe. We will also refer to transitional systems outside the post-communist region. Although dealing with Central European region, we will often talk about American situation as well.

First, we will face a short introduction into the history of the Central European region and its culture of human rights, and try to delineate this region. Next, we will examine the historical, national and international context of making constitutionalism and the rule of law in Central Europe. We will try to understand what human rights actually mean. We will face the debates that occurred when emerging democracies dealt with the former communist regimes. On several case studies, we will explain several basic attitudes towards the former communist regimes, its apparatchiks, its agents, and collaborators (lustration laws and dealing with the communist crimes). We will compare these approaches with those found elsewhere (South Africa, Latin America). Furthermore, we will examine contemporary human rights debates surrounding abortion, freedom of speech, social rights, the relation between religion and the state, the discrimination against minorities, gay rights, gender discrimination, affirmative action etc.

We will also analyze the Western legal transplants in Central Europe and the post-communist application of basic rights. Finally, we will deal with the European Union and the legal dimension of the European Enlargement of 2004.

Lectures combined with class discussion, one field trip to the Brno high court will be organized as well.

**Desired Outcomes**
Students shall get basic orientation in the problems of human rights in post-communist Europe, shall get basic info about the legal and constitutional systems in the region, shall become more familiar with the region’s past problems vis-à-vis human rights.

**Assessment Components**

**Class participation** 15 %

**Midterm presentation** 25 % (students will join two teams proposing to ban a far extreme political party or defending the party, the exam is made as moot court) – up to 2 hours in total, each presentation approx. 30 minutes

**Final in class essay** 30 % (80 minutes, open book, choice of five topics)

**Final research paper** (12 pages, Times New Roman, 1.5 paragraph, including footnotes plus a list of literature) – students must consult the topic with a professor before starting to write it

Failure to submit or fulfill any required course component results in failure of the class.
Assessment Expectations

**Grade A:** a student will score well on all exams, will be ready for classes, very good analytical skills

**Grade B:** some parts of the exam will be good, some weaker (falling short of highest level); students able to answer my questions during classes

**Grade C:** all papers will be weaker, but still satisfactory; students mostly passive during classes

**Grade D:** papers weak but still passable, students often unprepared for the classes

**Grade F:** students will deliver unsatisfactory papers, confused writings etc.

Grade conversion

A=94-100
A-=90-93
B+=87-89
B=84-86
B-=80-83
C+=77-79
C=74-76
C-=70-73
D+=67-69
D=65-66
F=below 65

Absences only for medical reasons and for religious observance will be excused. To obtain an excused absence, you are obliged to supply either a doctor’s note or corroboration of your illness by a member of the housing staff (either an RA or a Building Manager). To be excused for religious observance, you must contact the instructor and the Associate Director via e-mail one week in advance of the holiday. Your absence is excused for the holiday only and does not include days of travel associated with the holiday. Unexcused absences will be penalized with a two percent deduction from your final course grade for every week of classes missed.
**Plagiarism Policy**

According to the Liberal Studies Program Student Handbook, plagiarism is defined as follows:

Plagiarism is presenting someone else’s work as though it were one’s own. More specifically plagiarism is to present as one’s own a sequence of words quoted without quotation marks from another writer, a paraphrased passage from another writer’s work; facts or ideas gathered, organized and reported by someone else, orally and/or in writing. Since plagiarism is a matter of fact, not of the student’s intention, it is crucial that acknowledgment of the sources be accurate and complete. Even where there is no conscious intention to deceive, the failure to make appropriate acknowledgment constitutes plagiarism.

The College of Arts and Science’s Academic Handbook defines plagiarism similarly and also specifies the following:

“presenting an oral report drawn without attribution from other sources (oral or written), writing a paragraph which, despite being in different words, expresses someone else’s idea without a reference to the source of the idea, or submitting essentially the same paper in two different courses (unless both teachers have given their permission in advance).

Receiving help on a take-home examination or quiz is also cheating – and so is giving that help – unless expressly permitted by the teacher (as in collaborative projects). While all this looks like a lot to remember, all you need to do is give credit where it is due, take credit only for original ideas, and ask your teacher or advisor when in doubt.”

“Penalties for plagiarism range from failure for a paper, failure for the course or dismissal from the university.” *(Liberal Studies Program Student Handbook)*

<table>
<thead>
<tr>
<th>Required Text(s)</th>
<th>Course pack found in the NYUP library</th>
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<tbody>
<tr>
<td>Supplemental Text(s) (not required to purchase as copies are in NYU-P Library)</td>
<td>none</td>
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<tr>
<td>Internet Research Guidelines</td>
<td>none</td>
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<td>Additional Required Equipment</td>
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**Session 1**

Monday, Feb 2

**Overview of the course**

**The Human Rights Development and Human Rights Traditions in Central Europe**

Larry Wolff, Inventing Eastern Europe, Stanford 1994 (excerpts)

**Session 2**

Monday, Feb 9

**Communist Law: Theory and Practice**

Vladimir I. Lenin, State and Revolution. [http://www.marxists.org](http://www.marxists.org) (excerpts)

**Communist Law: 1970’s and 1980’s in Central Europe**

Session 3
Monday, Feb 16

**The 1989 Revolutions, Their Constitutional Meaning**


*Optional:*


**Drafting New Constitutions after the Fall of Communism**


The Hungarian and Czech constitutions (excerpts)

US Bill of Rights

Session 4
Monday, Feb 23

**Watching movie Lives of Others**

Session 5
Monday, March 2

**Lustration**


**Communist Crimes and Punishment**

Shootings on the Berlin Wall Case


Session 6
Monday, March 9

**Dealing with the Past: Analogous Cases and Varying Approaches**

Spanish Judge Sends Argentine to Prison on Genocide Charge (NYTimes, June 30, 2003).

*Alexis Holyweek Sarei, et al. vs. Rio Tinto Plc and Rio Tinto Ltd.* (the island of Bougainville case)


**The Concept of Human Rights in the Post-Communist Legal Systems and the US**

The Czech and Polish constitutions (excerpts).


*Roper v. Simmons* 543 U.S. 551 (US Supreme Court 2005) - juvenile death penalty case
Human Rights and the Role of Religion in the Legal System. The Case of Abortion
Preamble to the Polish Constitution

The Judiciary

Separation of Powers. Presidential vs. Parliamentarian Systems

Constitutional Courts and Constitutional Review

Midterm – mootcourt based on the fact scenario given to the students

Free Speech: Comparing the United States and Europe
Hate Speech in Germany and Central Europe
Legal Transformation of Social Rights and the Social Welfare State
Wojciech Sadurski, Rights before Courts, Springer 2005, 171-194
Session 11
Monday, April 20

Gender Equality in a Post-Communist Situation. Sex Harassment

Speeches from the Czech Senate

Gay Rights

Session 12
Monday, April 27

Affirmative Action - Case Study

University of Michigan Law School Case (2003)


The European Union and its Constitutional Meaning (two hours)
The European Constitutional Treaty (2004) - excerpts

Session 13
Monday, May 4

Field trip to Brno high court

Session 14
Monday, May 11 (last day of classes)

Freedom of religion in Europe
Leyla Şahin v. Turkey (ECHR, 10 November 2005)

Conclusions
Final exam (in-class essay, open book, choice of one of five topics offered)
Final paper due the same day

Classroom Etiquette
none

Required Co-curricular Activities
none

Suggested Co-curricular Activities
none