The collapse of socialist regimes in East and Central Europe at the end of the 20th century led to the foundation of basic democratic institutions and the acceptance of new constitutional acts based on the ideas of civil society and rule of law. The period of transition from totalitarianism to democracy caused functional chaos, a crisis of legitimacy, and the deinstitutionalization and subordination of public power. Twenty years later, this special course, “Comparative Constitutionalism in Post-Socialist Countries,” for 3rd year students of Law School, investigates the building of democratic states in the post-socialist space.

The central objective of the course is to examine the constitutional changes of East and Central European post-socialist states. The stability of regimes and their constitutional foundation provides legitimacy, which in turn derives mainly from culture, constitution-making, and effectiveness. The relationships between constitutional changes and consolidation of democracy are also crucial to understand.

Constitutionalism is generally understood as a political-legal doctrine which claims primacy of individual liberty. It is a political arrangement based upon a body of fundamental laws that define basic rights, establish governmental authority, and identify limits to its operation. Firstly, the course begins with an analysis of the understanding of constitutionalism and rights in post-socialist Eastern and Central Europe. The first task is to define and understand the constructions “constitution” and “constitutionalism” and their
relationship. Then we can ask how they are related to the rule of law (from the view of democracy). To answer these questions, we read and analyze post-socialist constitutional documents to learn the different constitutional models, the forms of communication between state and society on the way from totalitarian regime to democracy, and the different types of combinations of global humanistic values and national interests in the state-building process. For future lawyers, it is particularly important to define and understand the different legal norms which underpin democratic and legal society.

Furthermore, the development of democratic and effective government at the subnational levels remains one of the central tasks of transition countries in East and Central Europe and the former Soviet Union. The sharing of expertise between countries can contribute significantly to the reform process in the region.

While debating the fundamental questions of constitutional structure, we will also consider institutional arrangements at different levels of new democratic societies. In particular, the second part of the course is dedicated to the challenges at the federal, regional and municipal levels. In this regard, the separation of powers, the role of constitutions and the rules for its adoption and amendment, as well as the protection of constitutions by judicial review, are the most important themes.

The research in this segment focuses on the problems and perspectives of building complex and effective systems of state and local government in post-socialist countries. The goals are:

- To learn conditions under which effective and conflict-free state institutions can be established (within a system of division of power on the different levels) as countries democratize and modernize in the political-legal realm;
- To uncover the mechanisms of institutionalization of the political-legal system, both by investigating the trends towards centralization and de-centralization of government (federal-regional-local);
- To research the individual components of the modern electoral systems in East and Central European countries and compare methods of calculating the results of voting, focusing on evaluating the level of democratization of the electoral law of transforming states;
- To define the place and the role of the municipal self-government in the political-legal structure of the state.

In former socialist countries, one of the most difficult and important aspects of the transition to democracy is the establishment of constitutional justice and the rule of law. Challenging the conventional wisdom that constitutional courts are the best device which democratic systems have for the protection of individual rights, we can investigate closely the most recent wave of active constitutional courts (those that have emerged after the fall of communism). In contrast to most other analysts and scholars, we do not take for granted that they are a “force for the good;” instead, we subject them to critical scrutiny against the background of a wide-ranging comparative and theoretical analysis of constitutional judicial review in the modern world. In the region of East and Central Europe, their record in protecting constitutional rights has been mixed, and their impact upon the vibrancy of democratic participation and public discourse on controversial issues has often been negative. We need to reconsider the frequently assumed enthusiasm for the imposition of judicial limits upon constitutional democracy.
The third section of our course is about the specific organization and activity of post-socialist constitutional court systems on the way to modernization. In this section of the course, we consider the following themes:

- The different court systems, the specifics of their post-socialist evolution, and the trends and potential for reformation and modernization (comparatively);
- The legislative base of court procedures that guarantee the protection and access of human justice;
- The reasons for the ineffectiveness of post-socialist court systems and their dependence on political power structures;
- The problems of access, openness and purity of justice, increasing the trust of people to the formal justice system, and political independence of judges;
- The complex of problems concerning constitutional control by special courts.

In the end, our reflections strike to the core of the fundamental dilemma of constitutionalism and political theory: how can we arrive at the best balance between constitutionalism and democracy? The lively, if imperfect, democracies in East and Central Europe provide a fascinating terrain for raising this question, and testing traditional answers. This innovative, wide-ranging, and thought-provoking course will be essential for scholars and students alike in the fields of comparative constitutionalism and political theory, particularly for those with an interest in legal and political developments in the post-socialist world.