Introduction:

Course is planned for 44 academic hours including 30 lecture hours and 14 seminar hours.

This course “Comparative Constitutionalism in Post-Socialist Countries” is an elective course for the 3rd year students of Law School when students already had heard several theoretical subjects as Theory of State and Law and Foreign Legal History, which provide the necessary base for successful learning of our course. At the previous year students has studied course of Constitutional Law which had characterized constitutional system of Russia and was an essential stipulation for successful comparison between systems of constitutional sources, institutions and norms of Russia and foreign countries. The studies of Comparative Constitutionalism in Post-Socialist Countries are advanced by simultaneous studies of Politics subject.

Course Description:

The basic problem we shall be dealing with in this course is the constitutional changes and the prospect of the constitutionalism in East and Central European countries on the way from totalitarian regime to democracy. The stability of regimes and the constitutionalism could be research on the concept of the legitimacy deriving mainly from culture, constitutional making and the effectiveness. We can discuss the relationships between constitutional changes and consolidation of democracy.

The course begins from the analysis of the understanding of constitutionalism and rights in post-socialists Eastern and Central Europe. In first block we should think
about the relations between constructions “constitution” and “constitutionalism” and how they related to the rule of law (from the view of democracy). For the future lawyers one of the important thing is definition of the level of effectuality and the problem of realization if different legal norms which direct on the foundation of democratic and legal society.

The second part of the course is concerning the problem of foundation and function of state and municipal power. We should research the mechanism of institutionalization of political-legal system (inside system of the separation of power) democratization and modernization the separate elements of modern electoral system of these countries, the role of the municipal government in the state structure of power. The separation of powers, 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.

Constitutional courts are playing an increasingly important role in advanced democracies. In the third part of our course we will explore the role of constitutional courts in the democratization of post-socialist Europe, the interactions between constitutional courts and the elected branches. We will spend the bulk of the course analysing the origins and role of courts with constitutional review powers (we compare models of constitutional justice in western established democracies and in the Eastern and Central European transitional democracies and we close with reflections on the possibilities and limits of realizing democratic justice through the courts).

Course Requirements:

Students are expected to attend all course sessions and come prepared to discuss the materials (lectures and seminars). Seminars provide an opportunity to review materials covered in lecture and to explore variation and alternative views to those covered in lecture. Discussion sections are integral part of this course. For every seminar students have to choose 2-3 readings from the reading list.

Students are expected to complete one written assignment. Detailed research proposal (likely length of about 20 pages) is outlining a plan for dealing with one of the issues raised in the course. (It should be set out a problem to explore or a hypothesis to text, and in the process review the relevant literature, identify the central issues to be explored, locate the project in a larger theoretical context, and set out the expected findings. That research paper on a topic to be determined in the consultation with the lecturer. It should be typed up, submitted by) three weeks before the final exam, placed on the department of theory and history of state and law of Law School.

Grading will be broken down into the following components:

- class participation  30%
- final essay 30%
- final exam 40%

Section I: Democratization and Constitution-Making

Week one. Introduction lecture. Choices for the New Democracies: Constitutional view (4 hours)


Week two. Similar or different? Why did countries in Eastern Europe and the FSU adopt different constitutional pathways? (4 hours)

Week three. Does the declaration of the democratic principles in the constitutional acts mean the democratic reality? (4 hours)

Section 2. Institutional Design in Post-Socialist Societies

Week one. Separation of Power: Parliamentary v. Presidential Government?

Week two. Election: Democracy with (without) a Demos?


*Any other three newspaper’s articles about the elections of March, 2008*

**Week three. The Prospects for Federalism in Russian Constitutional Politics: Symmetry or Asymmetry?**

- C. Ross, “Putin’s Federal Reforms and the Consolidation of Federalism in Russia: One Step Forward, Two Steps Back!,” *Communist and post-Communist Studies* (36) 2003, pp. 29-47

**Section 3: Comparative Constitutional Justice**

**Week one. Constitutional Courts in Democratic Systems of Government: Speedy, Just and Fair?**

Week two. Shall We Go the Different Way? (Comparative Analysis of the East European Models of Constitutional Justice)


Week three. Legal or Political: The Relationship Between Independence and Judicial Review in Post-Socialist Courts