



# CONSTITUTIONAL LAW AND THE RIGHTS OF CITIZENS

English for Lawyers I.4

# HW: POWELL U17

Czech	English
opětovné zavedení poprav	<b>resumption of executions</b>
uplatňovat nárok	<b>pursue a claim</b>
uznán vinným a odsouzen	<b>convicted and sentenced</b>
všeobecné prohlášení	<b>general declaration</b>
zvláštní ustanovení	<b>specific provision</b>
dělba moci	<b>separation of powers</b>
předvídat narušení veřejného života	<b>anticipate disruption of community life</b>
soudní přezkum	<b>judicial review</b>
zacházení s občany podezřelých z trestných činů	<b>treatment of citizens suspected of crimes</b>



## HW: POWELL U17

- What is the plural form of the noun *referendum*?
  - **referenda**
  
- What is a **referendum**? Define it.
  1. the process by which the repeal or approval of an existing statute or state constitutional provision is voted upon
  2. the right reserved to the people to approve or reject an act of the legislature, or the right of the people to approve or reject legislation that has been referred to them by the legislature



# QUESTIONS

1. What branch of law does Constitutional law belong to?
2. What does Constitutional law regulate/establish/set up/lay down?
3. What is Constitution and what is its purpose?
4. Which of the following definitions mean „constitutional“ and which „unconstitutional“?
  - a. **in conformity with the constitution**
  - b. **in compliance with the constitution**
  - c. **in violation with the constitution**
  - d. **in accordance with the constitution**



# CONSTITUTIONAL LAW

- private law
- or*
- **public law**



# CONSTITUTIONAL LAW - DEFINITION

can be defined as

law that relates to the constitution, as a permanent system of political and juridical government, as distinguished from statutory and common law, which relate to matters subordinate to such constitution.

*<http://www.thefreedictionary.com/Constitutional+law>*



# CONSTITUTIONAL LAW - DEFINITION

may be understood as

the body or branch of law concerned with the study, interpretation, and application of a country or state's constitution, including the issues of governance, the powers of the branches and levels of government, civil liberties, and civil rights.

*<http://www.yourdictionary.com/constitutional-law>*



# CONSTITUTION

- Definition?
- the political and ideological structure within which a system of law operates
- laws under which a country is ruled
- a set of fundamental principles or established precedents according to which a state or other organization is governed. These rules together make up, i.e. \_\_\_\_\_ , what the entity is.





# CONSTITUTION

A **Constitution** is a system, often (1)..... in a written document, which (2)..... the fundamental rules and principles by which an organisation is (3)..... In the case of nation states, this term (4)..... specifically to a national constitution, which (5)..... its nation's fundamental political principles and (6)..... the power and duties of each government. Most national constitutions also (7)..... certain rights to the people. Historically, before the evolution of modern codified national constitutions, the term *constitution* could be (8)..... to any important law.

Constitutions usually explicitly (9)..... power between various branches of government. The standard model, (10)..... by the Baron de Montesquieu, (11) ..... three branches of government: **executive, legislative and judicial**.

<http://en.wikipedia.org/wiki/Constitution>



# CONSTITUTION - PURPOSE

- What is the purpose of a constitution?
- Text: **What is a constitution and what is its purpose?**



# WHAT IS A CONSTITUTION AND WHAT IS ITS PURPOSE?

1. osob, jednotlivců
2. založení
3. provádění, řízení
4. *democracy*
5. *sovereignty*
6. ustavující
7. *amending*
8. *rigid*
9. *consists of*
10. zákony, které prošly Parlamentem
11. *legislative*
12. *executive*
13. *judicial*
14. omezení
15. délka volebních období
16. povinnosti občanů
17. *subordinate governments*
18. pozdější zákony
19. stanoveny
20. *provisions*



# WHAT CAN BE FOUND IN A CONSTITUTION?

- separation of powers
  - **legislative power**
  - **executive power**
  - **judicial power (= judiciary)**
  - princip brzd a rovnováh
    - **system of checks and balances**
- legislative process
- term of office for the president
- (Czech) National Bank
- Supreme Audit Office
- ...



# DISCUSSION

- Directly elected president in the Czech Republic
- Time-limits in the constitution



# LZPS

- Listina základních práv a svobod
- **Charter of Fundamental Rights and Freedoms**
- What source of law is the Charter based on?
  - **natural law**



# CHARTER OF FUNDAMENTAL RIGHTS AND FREEDOMS

- Fundamental rights and freedoms are
  - nezadatelná
    - **inherent**
  - nezcizitelná
    - **inalienable**
  - nepromlčitelná
    - **unlimited by prescription / imprescriptible**
  - nezrušitelná
    - **irrepealable / not subject to repeal**

## Article 1

All people are free and equal in their dignity and in their rights. Their fundamental rights and freedoms are inherent, inalienable, unlimitable, and irrepealable.



# RIGHTS AND FREEDOMS

- What is the character of fundamental rights and freedoms?
  - public character
- What is the aim?
  - to protect the individual against the interference of public power
- The state is the **addressee** of these rights and an individual is the **bearer**.
- What is the content of fundamental rights and freedoms?
  - The mutual relations between the addressee and the bearer





# WHAT IS THE CONTENT OF FUNDAMENTAL RIGHTS AND FREEDOMS?

## ○ **negative status**

- obliges the public authorities not to interfere with the autonomous space of the individual

## ○ **active status**

- obliges the public authorities to enable the citizens to get involved into the administration of public affairs

## ○ **positive status**

- obliges the public authorities to perform something



# NEGATIVE STATUS

- život jednotlivce
  - **life of the individual**
- nedotknutelnost osoby a jejího soukromí
  - **inviolability of person and of privacy**
- ochrana lidské důstojnosti a dobré pověsti
  - **protection of human dignity and good reputation**



# ACTIVE STATUS

- petiční právo
  - **right of petition**
- sdružovat se v politických stranách
  - **associate in political parties**
- správa veřejných věcí
  - **administration of public affairs**
- volební právo
  - **right to vote**



# POSITIVE STATUS

- hmotné zajištění v nezaměstnanosti
  - **material security in the case of unemployment**
- hmotné zajištění ve stáří
  - **material security in old age**
- hmotné zajištění při ztrátě živitele
  - **material security in the case of loss of their provider**
- pomoc v hmotné nouzi
  - **assistance in the case of material need**
- právo na bezplatné vzdělání
  - **right to free education**



# WHAT MIGHT HAPPEN IF THE STATE FAILED TO GUARANTEE SUCH FUNDAMENTAL RIGHTS AND FREEDOMS?

## Čl.23

Občané mají právo postavit se na odpor proti každému, kdo by odstraňoval demokratický řád lidských práv a základních svobod, založený Listinou, jestliže činnost ústavních orgánů a účinné použití zákonných prostředků jsou znemožněny.

### *Článek 23*

*Občané* have *právo* to *postavit se na odpor* anybody who would do away with the democratic *řád* of *lidských práv* and fundamental freedoms, *založený* by the Charter, if the work of the constitutional organs and an effective use of legal *prostředků* are *znemožněny*.



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### *Article 23*

*Citizens* have *the right* to *resist* anybody who would do away with the democratic *order* of *human rights* and fundamental freedoms, *established* by the Charter, if the work of the constitutional organs and an effective use of legal *means* are *frustrated*.



# PRESENTATIONS NEXT WEEK



## REFERENCES

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