



Auswärtiges Amt



Syllabus

Title of the Course:

Law in a Lawless State: Features of Russia

Course Breakdown:

14 Lectures (28 Academic Hours) from 20/10/2022 to 16/02/2023

Main Organiser:

Elena Lukyanova

Weekly class time:

Thursdays, 16:00 – 18:00 CET

Language:

8 Lectures in English / 8 Lectures in Russian with simultaneous translation

Hosted by:

Humboldt University

Certificate issued by:

Humboldt University

min. number of participants:

5

max. number of participants

300

Lecturers:

Elena Lukyanova
Ilya Shablinsky
Ekaterina Mishina
Gleb Bogush
Dmitry Dubrovsky
Maria Voskobitova
Dmitry Oreshkin
Olga Romanova
Elena Panfilova



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Description of the Course

In just 20 years, the Russian Federation has gone from a state with gradually consolidating institutions of democracy and civil society to an imitative model reminiscent of Soviet models still to be forgotten. This is not a unique case: since the Bolshevik Revolution of 1917, the collapse of the state has been faster and more tragic. But the era of Putin's institutional degradation, despite its gradual nature, is comparable to the events of that time both in the scale of change and in the catastrophic consequences, including the Ukrainian war.

This series of lectures describes the most important features of this process, from the degradation of legal culture, constitutional foundations, and education to the destruction of freedom of speech, the independent judiciary, and the entire system of separation of powers. Imitation of elections, destruction of federalism, expansion of repressive apparatus, toughening of the penitentiary system, and increasing international isolation - these destructive phenomena are seen as facets of the general process of the largest country in the world rolling back into the authoritarian past. With predictable negative consequences both for Russia itself and for its neighbours.

Learning Aims

To provide a general understanding about:

- Transformation of Soviet constitution to the modern constitution of Russia
- Rights of media and press in modern Russia
- Russian judicial system and court reforms
- Concept of the “enemy of the state” and laws about “foreign agents” and “undesired organisation”
- Evolution of prison system in Russia

Upon the successful completion of the course students will be able to:

- Understand how human rights work in Russia and what influence the ECHR had on the rule of law and what happens to it after Russia was expelled out of it
- Understand the system of election in Russia and what function they still play
- Understand the correlation and conflict between domestic and international law in Russia



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- Understand what “freedom of word” means in Russia and how independent media work in the light of new laws regarding “foreign agents”

Course requirements

Course components include:

- Attendance
- Reading materials

The final grade for the course will be based on the following:

- Course attendance
- Participation in the final round table

Organisation of the course

The language of the lectures is English. Those lectures, which will be originally held in Russian, will be simultaneously translated into English. Zoom platform will be used for the lectures with the simultaneous translations.

The overall description of the course input, lecturers as well as technical side will be discussed during the first introductory lecture.

Outline of the Course Schedule

Week 1, 20.10.2022	Introduction to the course Features of post-Soviet legal education in Russia. The rule of law and a legal state. <i>Lecturer: Elena Lukyanova D.Sc. (Law)</i>
Week 2, 27.10.2022	Limiting «freedom of word» and expression and media rights. <i>Lecturer: Ilya Shablinsky D.Sc. (Law)</i>
Week 3, 03.11.2022	Constitutional transformation - from Soviet constitution to 2020 constitutional model. <i>Lecturer: Elena Lukyanova D.Sc. (Law)</i>

Week 4, 10.11.2022	Transformation of legislation on political parties, elections, referendum and freedom of assembly. <i>Lecturer: Elena Lukyanova D.Sc. (Law)</i>
Week 5, 17.11.2022	Anticorruption (The final name of the lecture is to be confirmed by the lecturer) <i>Lecturer: Elena Panfilova, D.Sc. (Law)</i>
Week 6, 24.11.2022	Transforming the system of separation of powers. <i>Lecturer: Ilya Shablinsky D.Sc. (Law)</i>
Week 7, 01.12.2022	Transforming constitutional justice. <i>Lecturer: Ilya Shablinsky D.Sc. (Law)</i>
Week 8, 08.12.2022	Russian Judicial System: post-Soviet transformation. <i>Lecturer: Ekaterina Mishina Cand. Sc. (Law)</i>
Week 9, 15.12.2022	“Foreign agents” and “undesired organizations” as internal and external enemies of Putin’s Russia. <i>Lecturer: Ekaterina Mishina Cand. Sc. (Law)</i>
Week 10, 05.01.2023	The Conflict of Domestic and International Law in Russia. <i>Lecturer: Gleb Bogush Cand. Sc. (Law)</i>
Week 11, 12.01.2023	Evolution of Human Rights in Post-Soviet Russia. <i>Lecturer: Dmitry Dubrovsky Cand. Sc. (History)</i>
Week 12, 19.01.2023	Russia and the European Court of Human Rights. <i>Lecturer: Maria Voskobitova , Cand. Sc. (Law)</i>
Week 13, 26.01.2023	Destiny of Russian federalism. <i>Lecturer: Dmitry Oreshkin Cand. Sc. (Geography)</i>
Week 14, 02.02.2023	Elections without a choice. <i>Lecturer: Dmitry Oreshkin Cand. Sc. (Geography)</i>
Week 15, 09.02.2023	Specific features of the Russian prison system

	<i>Lecturer: Olga Romanova, head and founder of "Russia behind bars", professor at the Free University</i>
Week 16, 16.02.2023	Final round table

Week 1, 20.10.2022: Introduction to the course. Features of post-Soviet legal education in Russia. The rule of law and a legal state.

Lecturer: Elena Lukyanova D.Sc. (Law)

Note: lecture will be in Russian with a simultaneous translation

In 2014, commenting on Vladimir Putin's remarks on Ukraine, Barack Obama said: "President Putin apparently has a different set of lawyers. Maybe he has a different set of interpretations". Angela Merkel was harsher: "Russia acted according to the law of the jungle during the crisis in Ukraine. Both Merkel and Obama were right - Russia does have a different set of lawyers, many of whom act according to the law of the jungle. Why was this the case? The real problem is the peculiarities of Russian legal education and the peculiarities of Russian legal science, which were isolated from the world during the 70 years of Soviet rule. In addition, the interpretation of the terms "rule of law" and "state of law" in Russia is very different from their international interpretation. This lecture is about the state of Russian legal education and science, about the difference in the understanding of legal meanings and what can be done about it.

Week 2, 27.10.2022: Limiting «freedom of word» and expression and media rights.

Lecturer: Ilya Shablinsky D.Sc. (Law)

Note: lecture will be in Russian with a simultaneous translation

The narrowing of the corridor of media freedom, and its eventual elimination, has taken place in Russia due to a step-by-step tightening of information and media legislation, as well as informal practices. The course will look at both the legislative and administrative and enforcement aspects of this process.

Week 3, 03.11.2022: Constitutional transformation - from Soviet constitution to 2020 constitutional model.

Lecturer: Elena Lukyanova D.Sc. (Law)

Note: lecture will be in Russian with a simultaneous translation

At the beginning of the 20th century, only two European states - Turkey and Russia - did not have constitutions. In the 20th century, however, it surpassed them all - 5 constitutions in 75 years, i.e. an average of one constitution per 15 years. What kind of constitutions were those? What were the stages of constitutional development? How did the shortcomings of Russia's 1993 constitution lead Russia to war in the middle of Europe, and why is the constitutional reform of 2020 called a constitutional revolt? Another question is how to correct the constitutional defects to prevent a repeat of authoritarianism in Russia in the future.



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Week 4, 10.11.2022: Transformation of legislation on political parties, elections, referendum and freedom of assembly.

Lecturer: Elena Lukyanova D.Sc. (Law)

Note: lecture will be in Russian with a simultaneous translation

The transformation of legislation on political parties, elections, referendum, and freedom of assembly. It is not difficult to explain how Russian elections became "non-elections». For this purpose, it is only necessary to trace how the legislation determining the possibilities of political competition and participation of citizens in the government of the state was changed. Another question is why and for what reason this has been done. Shortly before the Russian aggression in Ukraine, scholars from the Free University completed a special study on this issue. We argue that the transformation of political and electoral systems and the restriction of political competition organically corresponded to the changing goals and objectives of Russian power. The goal of seizing power has been transformed into the goal of retaining it at all costs. From this point of view, all legislative changes become understandable and logical.

Week 5, 17.11.2022: Fata Morgana of Russian Anti-Corruption 2022: Instruments, Actors, Perspectives

Lecturer: Elena Panfilova, D.Sc. (Law)

The lecture will provide the audience an overview of the current state of Russian anti-corruption system, its legal background, major instruments as well as actors of its implementation and non-implementation.

Week 6, 24.11.2022: Transforming the system of separation of powers.

Lecturer: Ilya Shablinsky D.Sc. (Law)

The principle of separation of powers in the Russian Federation was to some extent implemented in the 1990s, when there were large and influential fractions in both houses of parliament opposing the former president at the time. The erosion of this principle should be seen as a correlate of the minimisation and elimination of political competition. The normative aspect of this process will be considered along with the historical and legal

Week 7, 01.12.2022: Transforming constitutional justice.

Lecturer: Ilya Shablinsky D.Sc. (Law)

Note: lecture will be in Russian with a simultaneous translation

The dynamics of the status and role of the Constitutional Court between 1991 and 2021 will be examined in the context of the evolution of the political regime. The most important legal positions of the Constitutional Court, which have influenced the development of the various branches of legislation, should be considered.

Week 8, 08.12.2022: Russian Judicial System: post-Soviet transformation.

Lecturer: Ekaterina Mishina Cand. Sc. (Law)

De- Sovietization and transformation of Soviet courts began in 1991 with creation of the system of arbitrazh courts (brand new courts specifically designed for handling economic disputes) and the Constitutional Court of Russia. The cornerstone of judicial reform in post-Soviet Russia was the 1991 Concept of Judicial Reform (1991) - a manifesto for change in

the judicial system. New Russian Constitution of 1993 envisaged, inter alia, the principle of separation of powers and made the Russian judiciary an independent branch of power. Russian judicial reform peaked in the 1990s, then plateaued and on the turn of the millennium started to display negative developments. Signs of judicial counter-reform included attacks on judicial independence, gradual politicization of courts, elimination of the Higher Court of Arbitration etc. The Constitutional Court of Russia, a judicial body that is presumed to be neutral and stay away from politics, transformed into a political actor, which repeatedly confirmed constitutionality of the most dangerous pieces of Russian legislation, (inclusive of the 2014 Crimea Treaty and Putin's 2020 amendments to the 1993 Russian Constitution). These amendments ruined the remainings of independence of Russian courts and decisional independence of Russian judges.

Week 9, 15.12.2022: “Foreign agents” and “undesired organisations” as internal and external enemies of Putin’s Russia.

Lecturer: Ekaterina Mishina Cand. Sc. (Law)

2010s saw re-birth of a number of old Soviet practices, including witch-hunts and the concept of enemy. The concept of enemy was an inalienable part of ideology of the first decades of Bolshevik rule. The statement, that the young Soviet republic was surrounded by “the circle of enemies” and, at the same time, had to fight against internal enemies, justified harsh measures, escalation of criminal repression and political purges. Sadly, this concept is back after almost one hundred years. In 2012, a number of amendments to Russian federal laws on NGOs and public associations (usually referred to as “foreign agents legislation”) envisaged that Russian NGOs that receive financing or other property from foreign sources and engage in political activities on the territory of Russia are considered foreign agents. Russian propaganda was actively promoting the idea that “foreign agents legislation” is a Russian version of the 1938 US Foreign Agents Registration Act despite the striking difference between these two laws. In 2017, amendments to federal laws on information and mass media introduced a notion of a media outlet – foreign agent. Since 2018, individuals can also be recognized “foreign agents”. The notion of an “undesirable organization” was specifically designed for labelling and blocking activities of foreign and international NGOs, which the Russian government doesn't like for various reasons. Legislation on “undesirable organizations” was adopted in 2015. Russian Criminal Code envisages severe punishment for participation, financing and management of activities of an undesirable organization – up to six years in prison. “Foreign agents” and “undesirable organizations” case law will be discussed in the course of the presentation.

Week 10, 05.01.2023: The Conflict of Domestic and International Law in Russia.

Lecturer: Gleb Bogush Cand. Sc. (Law)

Today's Russia's international isolation and disengagement are the result of a long process of undermining the authority of international law in the Russian legal system. The lecture addresses the history of this process, which transformed the Russian Federation, a State open to international law and integration, into a force openly hostile to rules-based international order. Particular attention will be paid to the alleged “conflict” between international and Russian domestic law and the use of this discourse to cement the political regime in Russia. The prospects for Russia's future role in the international legal order will also be touched upon.

Week 11, 12.01.2023: Evolution of Human Rights in Post-Soviet Russia.

Lecturer: Dmitry Dubrovsky, Cand. Sc. (History)

It is traditionally assumed that the collapse of the USSR, in particular, was related to the demands for democracy and human rights on the part of the Soviet people. It seems that dissatisfaction with the ideological monopoly of the CPSU, repression, and the low standard of living was a demand for "negative", in Isaiah Berlin's terms, freedom. Immediately after the collapse of the USSR, this demand was replaced by a demand for "positive" freedom, understood primarily as social and economic guarantees caused by economic collapse and political instability. As a result, human rights in Russia did not become part of the social contract, but was replaced in the late 1990s by a demand for "stability and prosperity" to replace the freedoms of the "wild nineties. At the same time, the attempt by democratic countries to "export" the language and practice of human rights without regard for the socio-economic and political context has been a failure. Finally, in a situation of instability the Russian elite has chosen undemocratic ways out of conflicts. As a result, the rejection of human rights, documented by a number of sociological surveys as early as the late 1990s, has prompted a rise in electoral authoritarianism. The materials of several sociological studies of the 1990s-2000s show how the idea of human rights was transformed, what the key actors were, who formed the idea of human rights, and how human rights are currently understood in the Russian Federation.

Week 12, 19.01.2023: Russia and the European Court of Human Rights.

Lecturer: Maria Voskobitova, Cand. Sc. (Law)

Influence of the European Court of Human Rights to Russian Legal System

Russia was under jurisdiction of the European Court of Human Rights almost 24 years and it significantly changed the legal system in the country. Although these changes were slow and inconsistent, essential legal safeguards became a part of the domestic legal system. During the presentation we will talk about the biggest human rights problems in Russian legal system that were considered by the European Court of Human Rights. Also we will talk about the most influential strategic cases that effected and amended the legal system. Finally, we will talk about consequences of the expulsion of Russia from the Council of Europe to Russia and ECtHR.

Week 13, 26.01.2023: Destiny of Russian federalism.

Lecturer: Dmitry Oreshkin, Cand. Sc. (Geography)

Note: lecture will be in Russian with a simultaneous translation

Law and territory: evolution of meanings and words. Subject and object of ownership of country and land: hospodar- sovereign-lord-state; authority-ownership-overlord. Political control and development of the territory. Interaction of sedentary and nomadic traditions of Europe and Asia. A directionally oscillating process of mastering, developing and optimising political space. Centralization/decentralisation; Unitarianism/federalism; domination/efficiency. Russian Europe and the "Asian mode of production". The boundaries of ethnicities and lands. Priorities of regional management in the pre-Soviet, Soviet and post-Soviet space. The Soviet empire inside out and "Russia's special way". The limits of the possible future.



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Week 14, 02.02.2023: Elections without a choice.

Lecturer: Dmitry Oreshkin, Cand. Sc. (Geography)

Note: lecture will be in Russian with a simultaneous translation

Elections and the balance of interests between the centre and the regions. The long memory of the territory. The concept of electoral culture and the metric of political freedoms. The geography of fraud, the asymmetry of democracy. Elections as an Innovation Wave Economy, Social Development, and Voting - a Reverse Perspective of Capitals and "Electoral Sultanates". The integrity of Russia's political space and mechanisms for ensuring it. An umbrella of electoral authoritarianism in the invisible hand of the market. Is there a rational way out?

Week 15, 09.02.2023: Specific features of the Russian prison system

Lecturer: Olga Romanova, head and founder of "Russia behind bars", professor at the Free University

Note: lecture will be in Russian with a simultaneous translation

How the modern Russian penitentiary system evolved, and what the Anglo-Boer War Campaign had to do with it. Why the prison in Russia has a sacred meaning and why Vladimir Putin speaks the language of the Russian prison.

The Russian penitentiary structure by 2022. Why the Russian authorities never wanted penitentiary reform. Why the use of torture has become common prison practice in Russia. The turning point in the history of the Russian penitentiary system - the summer of 2022. Mass recruitment of prisoners for the war with Ukraine by private military campaigns - mercenarism. How this became possible, who is behind it, and who will answer for it.

Week 16, 16.02.2023: Final round table

Discussion of the remaining questions, summary of the course

Lecturer: Gasan Gusseinov

(16:00 – 17:00)

Information about the lecturers

Elena Lukyanova, D.Sc. (Law) *Elena A. Lukyanova, Law Professor. 1984-2014 – Professor of Moscow State University/ Till august 2020 – Professor of Department of Constitutional and Municipal Law at the Faculty of Law of National Research University Higher School of Economics (Moscow). Now – Professor and co-rector of Free Moscow University (Brīvā Universitāte – Latvija). Director of the Agency of Law Enforcement Effectiveness Monitoring (Russia), Laureate of the Moscow Helsinki group prize for research in the field of human rights.*

Ilya Shablinsky, D.Sc. (Law), *member of the Moscow Helsinki Group*

Ekaterina Mishina, Cand. Sc. (Law)

Gleb Bogush, Cand. Sc. (Law)

Off-University firmly takes a stance against discrimination, harassment, exploitation, or intimidation.



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Dmitry Dubrovsky, *Cand. Sc. (History)*

Maria Voskobitova, *Cand. Sc. (Law)*

Dmitry Oreshkin, *Cand. Sc. (Geography)*

Olga Romanova, *Head and founder of "Russia behind bars", professor at the Free University*

Elena Panfilova, *D.Sc. (Law)*

Participants will have the opportunity to attend lectures by different professors on a weekly basis