UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	**Alternativno reševanje sporov**
Course title:	**Alternative Dispute Resolution**

Študijski program in stopnja **Study programme and level**	**Študijska smer** **Study field**	**Letnik** **Academic year**	**Semester** **Semester**
Pravo in management infrastrukture in nepremičnin – 1. stopnja		3	2
Law and Management of Infrastructure and Real Estate – 1st degree		3	2

Vrsta predmeta / Course type:	izbirni / elective
Koda predmeta /Course code:	

Predavanja **Lectures**	**Seminar** **Seminar**	**Vaje** **Tutorial**	**Druge oblike študija** **Other type study**	**Samost. delo** **Individual work**	**ECTS**
35		30		85	6

Nosilec predmeta / Lecturer:		izr. prof. dr. Maja Ovčak Kos, prof. dr. Peter Jambrek/ Assoc. Prof. Maja Ovčak Kos, PhD, prof. Peter Jambrek, PhD
Jeziki/Languages:	Predavanja / Lectures:	slovenski jezik / Slovenian
	Seminar / Seminar:	slovenski jezik / Slovenian

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:

Izpolnjevanje pogojev za vpis v 3. letnik.
Zahteva se vsaj 80 % prisotnost na predavanjih.

Prerequisites:

Fulfilment of the requirements for enrolment in the third year of study.
At least 80% attendance at lectures is required.

Vsebina:

- pojem konflikta oziroma spora;
- zgodovina in razvoj alternativnega reševanja spora;
- pomen, prednosti in slabosti alternativnega reševanja sporov (ARS);
- postopki ARS;
- ARS v Sloveniji ter primerjalno-pravni pregled ARS v Evropi, ZDA;
- pojem mediacije, temeljna načela mediacije ter postopek mediacije;
- pojem arbitraže, arbitražni postopek ter arbitražni sporazum;
- pravni viri s področja ARS, mediacije in arbitraže.

Content (Syllabus outline):

– the concept of conflict or dispute;
– history of the alternative dispute resolution and its development (ADR);
– meaning, advantages and disadvantages of ADR;
– ADR procedures;
– ADR in Slovenia and comparative legal review of ADR in Europe, USA;
– the concept of mediation, the fundamental principles of mediation and the mediation procedure;
– the concept of arbitration, arbitration procedure and arbitration agreement;
– sources of law in the field of ADR, mediation and arbitration.

Temeljna literatura in viri / Readings:

Obvezna literatura:

1. Ristin, G., et. al. (2011). Mediacija v teoriji in praksi. Ljubljana: Društvo mediatorjev Slovenije.
2. Ude, L. (2004). Arbitražno pravo. Ljubljana: GV založba.
3. Temeljna zakonodaja s področja ARS:

a. Zakon o arbitraži (Uradni list RS, št. 45/2008)

b. Zakon o mediaciji v civilnih in gospodarskih zadevah (Uradni list RS, št. 56/2008)
c. Zakon o alternativnem reševanju sodnih sporov (Uradni list RS, št. 97/2009)
d. Družinski zakonik (Uradni list RS, št. 15/17 in 21/18)
e. Pravilnik o izvajanju mediacije po Družinskem zakoniku (Uradni list RS, št. 76/19)
f. Zakon o izvensodnem reševanju potrošniških sporov (Uradni list RS, št. 81/15)
g. Direktiva o nekaterih vidikih mediacije v civilnih in gospodarskih zadevah 2008/52/ES Pravila UNCITRAL za modelni Zakon o konciliaciji

Priporočljiva literatura:

4. Barrett, J. T., Barrett J. (2004). A History of Alternative Dispute Resolution, The Story of a Political, Social and Cultural Movement. San Francisco: Jossey-Bass.
5. Fisher R. and Ury W. (2012). Getting to yes: Negotiating Agreement without giving in. London: Random House.
6. Iršič, M. (2004). Umetnost obvladovanja konfliktov. Ljubljana: Rakmo.
7. Jambrek, E. (2021). Participacija otrok v razvezni mediaciji po Družinskem zakoniku: od koncepta do implementacije. Revija Socialno delo, let. 60, št. 1, str. 37–54.
8. Menkel-Meadow, C., Porter-Love, L. and Kupfer-Schneider, Andrea. (2013) Mediation: Practice, Policy, and Ethics, Second Edition. New York: Aspen Publishers - Wolters Kluwer Law & Business.
9. Metelko, T.P. (2018). Mediacijske tehnike in veščine: 1-50: priročnik za učinkovito preprečevanje in reševanje konfliktov ter osebno rast v komuniciranju. Ljubljana: Pro Creathor.
10. Merrills, J. G. (2011). International Dispute Settlement – Fifth Edition. Cambridge: Cambridge University Press.
11. Moore, C. W. (2014). The Mediation Process: Practical Strategies for Resolving Conflict. Forth Edition. San Francisco: Jossey-Bass & Pfeiffer Imprints.
12. Nolan- Haley, J.M. (2013). Alternative Dispute Resolution in a Nutshell. St. Paul MN: West Publishing Company.
13. Penko Natlačen, M., et. al. (2010). Alternativno reševanje delavnopravnih sporov s podporo socialnega dialoga, študija. Ljubljana: GZS.
14. Randolph P. and Strasser F. (2004). Mediation – A Psychological Insight into Conflict Resolution. New York: Bloomsbury Academic New York.
15. SANDOLE, J.D., et al. (2011). Handbook of conflict analysis and resolution. Routledge, New York.
16. Sourdin, T. (2002). Alternative Dispute Resolution. Sydney: Lawbook Company.
17. Šetinc Tekavc M. (2002). Sporazumno reševanje sporov v teoriji in praksi. Tržič: Učila.
18. Waldman, E. (2011). Mediation Ethics: Cases and Commentaries. San Francisco: Jossey-Bass.

Cilji in kompetence:

Študentje bodo razvili **splošne kompetence**: /
Študentje bodo razvili **predmetno-specifične kompetence**: - razumevanje procesa alternativnega načina razreševanja sporov - se seznanili s postopki sporazumnega reševanja sporov, ki predstavljajo alternativo sodnemu sistemu; - razumevanje prednosti in slabosti ARS; - razumevanje in poznavanje različnih metod ARS - razumevanje in poznavanje postopka mediacije in arbitraže; - poznavanje normativne urejenosti ARS v Sloveniji ter drugod po svetu.

Objectives and competences:

Students will develop the following **general competences**: /
Students will develop the following **course-specific competences:** - understanding the process of an alternative dispute resolution - understand the amicable settlement of disputes as an alternative to the judicial system; - know the advantages and disadvantages of ADR; - know the various methdos of ADR; - be familiar with the process of mediation and arbitration; - gain knowledge about the regulation of ADR in Slovenia and worldwide.

Predvideni študijski rezultati:
Znanje in razumevanje:

Intended learning outcomes:
Knowledge and understanding:

Študent bo:
- seznanitev študentov z osnovnim pojmom in razvojem alternativnega reševanja sporov ter njegovimi temeljnimi inštituti;
- razvije kritično razumevanje metod alternativnega reševanja sporov (poznavanje prednosti in slabosti ARS)
- sposoben je kritično obravnavati različne pojavne oblike ARS in možnost njihove uporabe v praktičnih primerih;
- sposoben kritičnega presojati, analizirati in razlagati pojme, povezane z vidiki alternativnega reševanje sporov v sodobnem obdobju, s posebnim poudarkom na mediaciji in arbitraži
- pridobil bo znanje o urejenosti ARS v Sloveniji ter drugod po svetu;
- pridobil bo znanje na kakšen način in na katerih segmentih v sistemu javne uprave, je mogoče uporabiti postopke mediacije in arbitraže.

Students will:
- to introduce students to the fundamental concept of alternative dispute resolution and specific perspectives and its development, and to its basic principles;
- develop a critical understanding of alternative dispute resolution methods (adventages and disadvantages of ADR);
- is able to critically address various forms of ADR and the possibility of their use in practical cases;
- Able to the critical judge, analyse and concepts related to ADR – specific perspectives in the modern period, with special emphasis on mediation and arbitration
- will be familiar with the process of mediation and arbitration;
- will gain knowledge about the regulation of ADR in Slovenia and worldwide;
- acquired the knowledge about the application of the process of mediation and arbitration in the system of public administration.

Metode poučevanja in učenja:

Oblike dela:
☒ Frontalna oblika poučevanja
☒ Delo v manjših skupinah oz. individualno
☒ Samostojno delo študentov
☒ Študij s pomočjo IKT tehnologij
☐ drugo (vpišite) _____

Metode (načini) dela:
☒ Razlaga
☒ Razgovor/ diskusija/debata
☒ Delo z besedilom
☒ Proučevanje primerov raziskav
☒ Igra vlog
☐ Druge vrste nastopov študentov
☒ Reševanje nalog/vaje
☐ Študijski obiski podjetij ipd.)
☐ Vključevanje gostov iz prakse
☐ Udeležba na okrogli mizi, na konferenci

Learning and teaching methods:

Types of learning/teaching:
☒ Frontal teaching
☒ Work in smaller groups or individual work
☒ Independent students work
☒ Study with the help of ICT technologies
☐ other _____

Teaching methods:
☒ Explanation
☒ Conversation/discussion/debate
☒ Work with texts
☒ Research case studies
☒ Role-play
☐ Different presentation
☒ Solving exercises/study exercises
☐ Field work (e.g. company visits)
☐ Inviting guests from companies
☐ Attending round table and conference

Načini ocenjevanja: **Način (pisni izpit, ustno izpraševanje, naloge, projekt)**	**Teža (v %) / Weight (in %)**	**Assessment:** **Type (examination, oral, coursework, project)**
Končni pisni izpit	**80 %**	Final examination (written)

Reference nosilca / Lecture's references:

Peter Jambrek, rojen 1940, je diplomiral na Pravni fakulteti Univerze v Ljubljani in doktoriral na sociološkem oddelku Univerze v Chicagu (ZDA). Trenutno je profesor ustavnega prava in prava človekovih pravic na Fakulteti za državne in evropske študije in na Evropski pravni fakulteti v Sloveniji. Svojo akademsko kariero je začel na Pravni fakulteti Univerze v Ljubljani, kjer je predaval v letih 1965 - 2000. Kot gostujoči profesor je predaval na

Univerzi v Pittsburghu (Pittsburgh, ZDA, 1989), Univerzi v Virginiji (Charlottesville, ZDA, 1982),Univerzi v Zambiji (Lusaka, Zambija, 1973-1975), v poletnem semestru leta 1976 pa je bil raziskovalec na Centru za mednarodne zadeve, Harvard University (Boston, ZDA). Bil je član znanstvenega odbora Agencije Evropske unije za temeljne pravice in član Evropske komisije za demokracijo skozi pravo ("Beneška komisija") od 1991 do 2008. Bil je sodnik (1990-1998) in predsednik (1991-1993) Ustavnega sodišča Republike Slovenije in sodnik Evropskega sodišča za človekove pravice (1993-1998). Je avtor in urednik številnih knjig, monografij in člankov s področja človekovih pravic in evropskega prava, kot tudi s področja sociologije. Opravljal je številne funkcije v mednarodnih in v slovenskih znanstvenih in univerzitetnih združenjih. Med letoma 1987-1991 je prispeval k osamosvojitvi Slovenije in k razvoju njene ustavne demokracije kot eden od avtorjev slovenskega nacionalnega programa (Nova revija, št. 57) leta 1987, kot urednik in soavtor prvi osnutkov slovenske ustave (1988-1991), in kot eden od ključnih pobudnikov za plebiscit o osamosvojitvi Slovenije (1990).
Bibliografija: http://splet02.izum.si/cobiss/bibliography?code=01327.

Peter Jambrek, born 1940, graduated from the University of Chicago, where he was awarded a Ph.D. from the Department of Sociology in 1971. He is currently Professor of Constitutional and Human Rights Law at the Graduate School of Government and European Studies and at the European Faculty of Law, Slovenia. He began his academic career at the Law Faculty of the University of Ljubljana in 1965, where he also obtained the Bachelor of Law degree in 1962, and lectured there until 2000. His visiting professorships and scholarships encompass the following institutions: the University of Pittsburgh (Pittsburgh, USA), 1989; the University of Virginia (Charlottesville, USA), 1982; the University of Zambia (Lusaka, Zambia), 1973-1975; and the Center for International Affairs, Harvard University (Boston), 1976. He was a member of the Scientific Committee of the European Union Agency for Fundamental Rights, and a member of the European Commission for Democracy through Law ("the Venice Commission"), 1991-2008. He was Judge (1990-1998) and President (1991-1993) of the Constitutional Court of the Republic of Slovenia, and Judge of the European Court of Human Rights (1993-1998). He authored and edited numerous books, monographs, and articles in the fields of human rights and European law, as well as in sociology, and has held a number of international and Slovenian academic positions. He contributed to Slovenian independence and to the inauguration of its constitutional democracy during 1987-1991 when he coauthored the Slovenian National Programme (Nova revija, No. 57) in 1987. He edited and coauthoredthe first drafts of the Slovenian Constitution (1988-1991), and was one of the key initiators of the plebiscite on Slovenian independence in 1990.
Bibliography: http://splet02.izum.si/cobiss/bibliography?code=01327.

Dr. Maja Ovčak Kos, izredna profesorica za področje civilno in gospodarsko pravo, je v letu 2003 cum laude diplomirala na Pravni fakulteti Univerze v Ljubljani. Za diplomsko delo je prejela nagrado dr. Slavka Zoreta. Na Pravni fakulteti Univerze v Ljubljani je v letu 2008 končala znanstveni magistrski študij civilnega in gospodarskega prava. V letu 2013 je na isti fakulteti doktorirala z doktorsko disertacijo Pogodbena svoboda in njene omejitve v avtorskem pravu. S področja (evropskega) civilnega prava, prava intelektualne lastnine in alternativnega reševanja sporov se je med leti 2003 in 2017 večkrat usposabljala in izobraževala tudi v tujini. Je izredna profesorica za civilno in gospodarsko pravo in avtorica več strokovnih pravnih študij, npr. Analiza ključnih odločb slovenskih sodišč v zvezi z uveljavljanjem pravic intelektualne lastnine (Urad za intelektualno lastnino RS), Consumer market study on the functioning of the real estate services for consumers in the European Union (Evropska komisija in Pravna fakulteta Univerze v Bremenu) itd. Od leta 2017 opravlja tudi delo odvetnice, kjer se ukvarja predvsem s pravom intelektualne lastnine, civilnim (npr. odškodninskim, medijskim pravom idr.) in gospodarskim pravom. Odvetniška zbornica Slovenije ji je v marcu 2017 podelila naziv odvetnica specialistka za civilno in gospodarsko pravo. Sicer ima v pravosodju, zlasti na Višjem sodišču v Ljubljani in na Vrhovnem sodišče RS, več kot 15 let delovnih izkušenj. Je tudi izkušena mediatorka v programih sodišču pridružene mediacije in trenerka za izobraževanje novih mediatorjev.

Dr. Maja Ovčak Kos, Associate Professor in the field of civil and commercial law, graduated cum laude from the Faculty of Law at the University of Ljubljana in 2003. She was awarded the Dr. Slavko Zore Prize for her undergraduate thesis. In 2008, she completed her scientific master's studies in civil and commercial law at the Faculty of Law, University of Ljubljana. In 2013, she earned her doctoral degree at the same faculty with a dissertation on Contractual Freedom and its Limitations in Copyright Law. Between 2003 and 2017, she underwent several training sessions and educational programs abroad in the field of (European) civil law, intellectual property law, and alternative dispute resolution. She holds the position of Associate Professor of Civil and Commercial Law and has authored numerous professional legal studies, such as the Analysis of Key Decisions of Slovenian Courts Regarding the Enforcement of Intellectual Property Rights (Intellectual Property Office of the Republic of Slovenia), and the Consumer Market Study on the Functioning of Real Estate Services for Consumers in the European Union (European Commission and Faculty of Law, University of Bremen). Since 2017, she has also been practicing as a lawyer, specializing in intellectual property law, civil law (e.g., tort, media law, etc.), and commercial law. In March 2017, the Slovenian Bar Association conferred upon her the title of Specialist Lawyer in Civil and Commercial Law. With over 15 years of professional experience, she has worked

extensively in the judiciary, particularly at the Higher Court in Ljubljana and the Supreme Court of the Republic of Slovenia. Additionally, she is an experienced mediator in court-annexed mediation programs and a trainer for the education of new mediators.