UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	**Gradbeno pravo**
Course title:	**Private building law**

Študijski program in stopnja **Study programme and level**	**Študijska smer** **Study field**	**Letnik** **Academic year**	**Semester** **Semester**
Pravo in management nepremičnin – 2. stopnja		1/2	2
Law and Management of Real Estate 2nd Degree		1/2	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**
30	0	0	0	120	6

Nosilec predmeta / Lecturer:		Izr. prof. dr. / Ass. Prof. Marko Brus, PhD
Jeziki/Languages:	Predavanja / Lectures:	slovenski jezik / Slovenian
	Seminar / Seminar:	slovenski jezik / Slovenian

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:	**Prerequisites:**
Zahteva se vsaj 80 % prisotnost na predavanjih.	At least 80% attendance at lectures is required.

Vsebina:	**Content (Syllabus outline):**
Predmet se nanaša predvsem na civilna pravna razmerja med naročnikom in izvajalcem naročila. V okviru predmeta bo pojasnjena razlika med javnim in zasebnim gradbenim pravom. Civilna gradbena pravna razmerja urejata v slovenskem pravu dve vrsti pogodb: podjemna pogodba in gradbena pogodba (členi 619 do 665 Obligacijskega zakonika). Ker je gradbena pogodba zgolj posebna vrsta podjemne pogodbe, bo več pozornosti posvečeno podjemni pogodbi. V okviru predmeta se bodo obravnavale naslednje teme: 1. opredelitev podjemne in gradbene pogodbe, 2. razmejitev podjemne pogodbe od prodajne pogodbe, 3. podjemnikove obveznosti, 4. podjemnikova odgovornost za napake, 5. naročnikove obveznosti do podjemnika, 6. zamuda ene in druge stranke in 7. nemožnost izpolnitve ene in druge pogodbene stranke. V predavanju posebej o gradbeni pogodbi bo posebna pozornost posvečena spremembi cene in odgovornosti za napake. Gre za posebne določbe gradbene	The subject matter mainly concerns civil legal relations between the principal and the contractor. The course will explain the difference between public and private construction law. Civil construction legal relations are governed by two types of contracts in Slovenian law: the contract for services and the construction contract (Articles 619 to 665 of the Civil Code). As the construction contract is only a special type of contract for services, more attention will be paid to the contract for services. The course will cover the following topics: 1. definition of contract for services and construction contract, 2. the distinction between a contract for services and a contract of sale, 3. the obligations of the contractor, 4. the contractor's liability for defects, 5. the principal's obligations towards the contractor, 6. delay of either party; and 7. impossibility of performance by either party. In the lectures specifically on the construction contract, special attention will be paid to price adjustment and liability for defects. These are specific provisions of the construction contract

pogodbe, ki se razlikujejo od določb o odgovornosti za napake, kakor so urejene v podjemni pogodbi.

V okviru predmeta bodo pojasnjeni tudi stvarnopravni učinki izvrševanja podjemne ali gradbene pogodbe.

Predmet se bo nanašal tudi na pogodbena pravna razmerja, ki ne nastajajo med naročnikom in izvajalcem, ki pa se pogosto pojavljajo pri gradnji.

Takšna pravna razmerja nastajajo med:
1. izvajalcem in podizvajalcem,
2. naročnikom in arhitektom,
3. naročnikom in drugim projektantom in
4. naročnikom in nadzornikom gradnje.

Pri gradnji je mogoč tudi nastanek pravnih razmerij, ki temeljijo na zakonu. Gre zlasti za odškodninsko odgovornost izvajalca in naročnika nasproti tretjim osebam.

V okviru predavanj bo zelo splošno opisano, kakšni so značilni sodni spori iz področja gradbenega prava.

which are different from the provisions on liability for defects as regulated in the contract for services.

The effects of the construction contract on the property law will be commented in the course of lectures, too.

The course will also explain the substantive effects of the performance of a contract for services or a construction contract.

The course will also deal with contractual legal relationships which do not arise between the principal and the contractor, but which frequently arise in construction.

Such legal relationships arise between:
1. the contractor and the subcontractor,
2. the principal and the architect,
3. the principal and structural engineer and
4. the principal and the supervisor of construction works.

In construction, legal relationships based directly on provisions of law may also arise. These include, in particular, the contractor's and the client's liability to third parties.

The lectures will describe, in very general terms, typical litigation in the field of construction law.

Temeljna literatura in viri / Readings:

1. Cigoj, Komentar obligacijskih razmerij, III. knjiga, 1985
2. Juhart in Plavšak (redaktorja), OZ s komentarjem, 3. zvezek, 2004

Dodatna literatura:
1. Brus, Podjemna pogodba, PB 2/2017, str. 93 in nasl.
2. Brus, Odgovornost za stvarne napake pri gradbeni pogodbi, PB 1/2023 (str. 9 in nasl.)
3. Cigoj, Institucije obligacij, 1989 (str. 102 in nasl. in 131 in nasl.)
4. Koršič Potočnik, Furlan in Sodja, Veliki gradbenopravni priročnik, 2019

V angleščini:
Brus, Construction contract, Dignitas št. 98, 2023, (str. 73 in nasl.)

V nemščini:
Messerschmidt/Voit, Privates Baurecht, 2. Auflage 2012 ali novejša izdaja.

Cilji in kompetence:	**Objectives and competences:**
Študentje bodo razvili **splošne kompetence**: - uporaba ustreznih metod pravnega raziskovanja, njihovih postopkov, osnov analize in sinteze; - razvoj etičnih sposobnosti pri uresničevanju načel in pravil gradbenega prava; - sposobnost skupinskega dela in pripravljenosti za sodelovanja pri reševanju konkretnih primerov s področja gradbenega prava; - razvoj komunikacijskih sposobnosti in veščin pri razumevanju in uresničevanju gradbenega prava.	Students will develop the following **general competences**: - the use of appropriate methods of legal research, their procedures, fundamentals of analysis and synthesis; - developing ethical skills in the implementation of the principles and rules of administrative law; - ability to work together and be willing to work together to solve specific cases in the field of administrative law; - development of communication skills and competences in the understanding and implementation of administrative law.
Študentje bodo razvili **predmetno-specifične kompetence**: - razumevanje pomena zasebnega in javnega gradbenega prava - poznavanje in razumevanje najpogosteje uporabljenih pogodb v zasebnem gradbenem pravu, - poznavanje in razumevanje najpomembnejših določb iz splošnega dela Obligacijskega zakonika, ki se uporabljajo v gradbenem pravu - poznavanje in razumevanje z gradbeništvom povezane ostale civilnopravne pravne ureditve, zlasti iz področja stvarnega prava - poznavanje najpomembnejše sodne prakse iz področja gradbenega prava - -posobnost za razumevanje in reševanje problemov iz področja gradbenega prava	Students will develop the following **course-specific competences:** - understanding the meaning of private and public construction law - knowledge and understanding of the most commonly used contracts in private construction law, - knowledge and understanding of the most important provisions of the general part of the Civil Code applicable to construction law - knowledge and understanding of other civil law rules relating to construction, in particular in the field of property law - knowledge of the most relevant case-law in the field of construction law - ability to understand and solve problems in the field of construction law

Predvideni študijski rezultati: **Znanje in razumevanje:**	**Intended learning outcomes:** **Knowledge and understanding:**
Študent naj: - pozna in uporablja temeljne metodološke pristope pri raziskovanju vprašanj gradbenega prava, - se seznani s temeljnimi pojmi gradbenega prava in jih razume, - poglobljeno spozna najbolj pomembne dele gradbenega prava, - razvije zanimanje za gradbeno pravo, - se usposobi za pripravo preprostega osnutka gradbene pogodbe, - usposobi za ravnanje, če pride do kršitve obveznosti katere od pogodbenih stranke med samo gradnjo, - se usposobi za ravnanje, če pride do kršitve obveznosti katere od pogodbenih stranke po gradnji.	**Students shall:** - become familiar with and apply fundamental methodological approaches to the study of construction law issues, - become familiar with and understand the fundamental concepts of construction law, - have an in-depth knowledge of the most relevant parts of construction law, - develop an interest in construction law, - be trained to draft a simple construction contract, - be trained to deal with the breach of the obligations of one of the parties during the construction itself, - be trained to deal with the event of a breach of the obligations of a party after construction.

Metode poučevanja in učenja:	**Learning and teaching methods:**
Oblike dela: ☒ Frontalna oblika poučevanja ☒ Delo v manjših skupinah oz. individualno	**Types of learning/teaching:** ☒Frontal teaching ☒Work in smaller groups or individual work

☒ 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	☒ 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 ustni izpit	**100 %**	Final examination (oral)

Reference nosilca / Lecture's references:

Izredni profesor dr. Marko Brus je višji sodnik na višjem sodišču v Ljubljani. Na Pravni fakulteti Univerze v Ljubljani je študiral v letih 1984 do 1989, na Ekonomski fakulteti s prekinitvami med leti 1985 in 1995. Magistrskega in doktorskega študija prava se lotil na Ruprecht-Karls-Universität v Heidelbergu (Zvezna republika Nemčija). Doktoriral je leta 1997.

Izredni profesor dr. Marko Brus je spisal več člankov s področja civilnega in gospodarskega prava, in je sodeloval pri izdaji različnih pravnih strokovnih knjig. Je tudi izključni pisec knjig Uvod v zasebno pravo, Splošni del civilnega prava, Ljubljana 2011 in Obveznostno pravo, Splošni del obligacij brez zakonskih obveznostnih razmerij, Ljubljana 2014.

Assistant professor doctor Marko Brus is judge at the Court of Appeal in Ljubljana. He studied at the Faculty of Law of University of Ljubljana between 1984 and 1989 and at the Faculty of Economics, with some interruptions, between 1985 and 1995. He studied law to achieve the degree of Magister Legum and Doctor of Laws at the Ruprecht-Karls-University in Heidelberg (Federal Republic of Germany). He did his PhD in 1997.

Assistant professor Dr. Marko Brus wrote a number of essays on the civil law and business law. He also made contributions to different legal texbooks. He is the sole author of textbooks Uvod v civilno pravo (Introduction into the Civil Law), Ljubljana 2011 and Law of Obligations, General Part of Obligations without the Obligations Based on Law, Ljubljana 2014.