

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: Mediacija v teoriji in praksi
Course title: Mediation in theory and practice

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Pravo - 3. stopnja	Alternativno reševanje sporov	2.	1.
Law - 3rd degree	Alternative dispute resolution	2.	1.

Vrsta predmeta / Course type

Izbirni / Elective

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar Seminar	Sem. vaje Tutorial	Lab. vaje Laboratory work	Teren. vaje Field work	Samost. delo Individ. work	ECTS
20	0	0	0	0	230	10

Nosilec predmeta / Lecturer:

izr. prof. dr. Nana Weber / Assoc. Prof. Dr. Nana Weber

**Jeziki /
Languages:**

**Predavanja /
Lectures:** Slovenski jezik/ Slovenian
Vaje / Tutorial:

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

Vpis v 2. letnik študijskega programa.

Vsaj 80% prisotnost na predavanjih.

Prerequisites:

Enrollment into 2nd year of study.

At least 80% attendance at lectures

Vsebina:

Predmet obravnava temeljna izhodišča, principe delovanja, načela in izvedbe mediacijskih postopkov, ki predstavljajo enega izmed najbolj množičnih in učinkovitih alternativnih načinov reševanja konfliktov in sporov v današnjem družbenem ustroju.

Hkrati predmet postreže s številnimi praktičnimi izkušnjami izvajanja mediacij na različnih področjih človekovega življenja, saj ima mediacija tudi že v Sloveniji dovolj izčrpno

Content (Syllabus outline):

The course focuses on the fundamental premise, principles of the operation and conducting of mediation procedures, which are one of the most popular and effective ways of alternative conflict and dispute resolution in the modern society.

At the same time, the course includes a lot of practical experience of conducting mediation in various fields of life as the mediation practice in Slovenia is quite comprehensive and of high quality.

in kakovostno prakso.

Ob tem predmet poseže tudi na pravno ureditev izvajanja mediacije, tako na sodiščih v obliki sodišču pridružene mediacije, kot v praksi izven sodišč.

- Temeljno o mediaciji - opredelitev in principi mediacije kot enega od načinov mirnega – alternativnega reševanja sporov
- Načela mediacijskega postopka
- Mediacija v primerjavi s sorodnimi postopki
- Akti EU o mediaciji – direktive, uredbe, priporočila
- Nacionalni zakonski in podzakonski akti o mediaciji
- Temeljni pristopi v mediaciji in vrste mediacije
- Sodišču pridružena mediacija in izvensodna mediacija
- Vloga mediatorja in vloga udeležencev
- Mediacijski proces in faze mediacije – temeljno
- Temeljno o konfliktu, ki je predpogoj vsake mediacije ter volja strank
- Čustva strank in mediatorja v mediaciji
- Posebnosti mediacije v nekaterih vrstah sporov:

Mediacija v delovnih sporih

Mediacija v družinskih sporih

Mediacija v odškodninskih in zavarovalnih sporih

Mediacija v gospodarskih sporih.

The course includes also the legal regulation of mediation, at courts as the court-associated mediation as well as out-of-court mediation.

- Introduction to mediation – definition and principles of mediation as one of the ways of peaceful – alternative dispute resolution
- Mediation procedure principles
- Mediation in comparison with the related procedures
- EU acts on mediation – directives, regulations, recommendations
- National statutory and implementing acts on mediation
- Fundamental approaches in mediation and main types of mediation
- Mediation associated with the court and out-of-court mediation
- The roles of the mediator and the participants
- Mediation process and stages – introduction
- Introduction to the conflict, which is the prerequisite of each mediation and parties' willingness
- Parties' and mediator's emotions in mediation
- Special characteristics of mediation in certain types of disputes:

Mediation in work disputes

Mediation in family disputes

Mediation in compensation and insurance disputes

Mediation in commercial disputes.

Temeljna literatura in viri / Readings:

- Betetto, N., in drugi. (2011). Mediacija v teoriji in praksi: Veliki priročnik o mediaciji. Ljubljana: Društvo mediatorjev Slovenije. (izbrana poglavja)
- Mediacijske tehnike in veščine 1-50. Priročnik za preprečevanje in reševanje konfliktov in osebno rast v komuniciranju. Ljubljana: ProCreathor
- Zakon o alternativnem reševanju sodnih sporov (ZARSS)
- Pravilnik o mediatorjih v programih sodišč
- Zalar, A., in drugi (2010). Zakon o alternativnem reševanju sodnih sporov (ZARSS) s komentarjem. Zakon o mediaciji v civilnih in gospodarskih zadevah (ZMCGZ) s komentarjem. Zakon o arbitraži (ZArbit) s pojasnili. Ljubljana: GV Založba
- Zakon o mediaciji v civilnih in gospodarskih zadevah (ZMCGZ)
- Act on Alternative Dispute Resolution in Judicial Matters, Official Gazette of RS, no. 97/09 and next
- Moore, W.: The Mediation Process: Practical Strategies for Resolving Conflict, Jossey-Bass; 3rd Edition Revised (April 30, 2003)
- Beer, J. E.: The Mediator's Handbook. New Society Publishers; 4th edition (October 1, 2012)

Cilji in kompetence:

Pri predmetu se zasledujejo naslednji specifični cilji:

- razumevanje teoretičnega koncepta mediacije kot metode upravljanja konfliktov in razreševanja sporov med uporabniki
- prepoznavanje uporabnosti različnih zvrsti mediacije na posameznih področjih
- poznavanje in razumevanje predpisov EU s področja mediacije
- poznavanje in razumevanje temeljnih nacionalnih zakonskih aktov s področja mediacije
- temeljno poznavanje in osnovno uporabljanje mediacijskega procesa
- prepoznavanje in posledično razvijanje novih veščin konstruktivnega in dogovornega reševanja konfliktov in sporov v lastnem življenju

Pri predmetu se zasledujejo naslednji splošnejši cilji:

- poznavanje in razumevanje pojmov, načel in pravil s področja mirnega reševanja sporov in

Objectives and competences:

The course pursues the following specific objectives:

- to understand the theoretical concept of mediation as a method of managing conflicts and resolving disputes among users
- to recognise the usefulness of various types of mediation in specific fields
- to know and understand the EU regulations and acts in the field of mediation
- to know and understand the fundamental national regulations and acts in the field of mediation
- basic knowledge and basic application of mediation process
- to recognise and consequently develop new skills of constructive and responsible resolving of conflicts and disputes in one's own life

The course pursues the following more general objectives:

- to know and understand the definitions, principles and rules in the field of peaceful dispute resolution and mediation

mediacije

- sposobnost samostojnega in avtonomnega študijskega dela;
- razvoj sposobnosti kritično analizirati pravne vire in pravna besedila;
- kritična refleksija obstoječih pravnih virov in ocena njihove potrebnosti in kakovosti;
- uporaba pojmov, načel in pravnih pravil pri reševanju konkretnih primerov s pomočjo mediacije;
- sposobnost kritične strokovne razprave in analize o temeljnih pojmi, načelih in principih mediacije;
- sposobnost ustreznega navajanja domačih in mednarodnih pravnih virov, domače in mednarodne sodne prakse in elektronskih virov;
- razvoj etičnih sposobnosti pri uresničevanju načel in pravil mediacije;
- sposobnost skupinskega dela in pripravljenosti za sodelovanja pri reševanju konkretnih primerov s področja mediacije;
- razvoj komunikacijskih sposobnosti in veščin pri razumevanju in uresničevanju procesa mediacije;
- razvoj ustvarjalnosti in sposobnosti premagovanja problemov pri uporabi načel in pravil mediacijskega postopka;
- sposobnost uporabe mediacije pri upravljanju s človeškimi viri in reševanju sporov v delovnem okolju.

- the ability of independent and autonomous study work;
- to develop the ability to critically analyse legal sources and legal texts;
- critical reflexion of the existing legal sources and assessing their usefulness and quality;
- to apply the definitions, principles and legal rules to the resolution of specific cases with the help of mediation;
- the ability to participate in critical professional discussions and analysis of fundamental definitions and principles of mediation;
- the ability to appropriately quote national and international legal sources, national and international case law and electronic sources;
- to develop ethical abilities in the application of mediation principles and rules;
- to be able to work in a team and participate in resolving specific cases in the field of mediation;
- to develop communication abilities and skills in understanding and conducting mediation process;
- to develop creativity and ability to overcome problems in the application of the principles and rules of mediation procedure;
- the ability to apply mediation to managing human resources and dispute resolution in work environment.

Predvideni študijski rezultati:

Znanje in razumevanje:

- študent-ka pridobi osnovno znanje o konceptu, teoretičnih izhodiščih in temeljnih načelih mediacije
- spozna, na katerih področjih se mediacija lahko uporablja, in je sposoben prepoznati konkretne primere, kjer se lahko uporablja postopek mediacije
- spozna, razume in zna deloma uporabljati proces mediacije

Intended learning outcomes:

Knowledge and understanding

- the student acquires basic knowledge of the concept, theoretical basis and fundamental principles of mediation
- gets to know in which fields mediation can be used and is able to recognise specific cases where mediation procedure can be applied
- gets to know, understands and is able to apply mediation process
- the student is able to apply the acquired

- študent-ka zna uporabiti pridobljena znanja in spretnosti pri neposrednem delu z uporabniki

- študent-ka osvoji vodenje mediacij v enostavnih zadevah, t.j. v situacijah, kjer prepozna enostavnejše konflikte in lažje spore

- obvlada veščino ohranjanja profesionalne in osebne avtonomije v medsebojnih odnosih

- pozna in razume temeljne akte o mediaciji na področju EU

- pozna, razume in zna uporabljati nacionalne zakonske akte s področja mediacije

- sposoben je kritično oceniti in se opredeliti do mediacijske prakse

- sposoben je kritičnega presojeti, analizirati in razlagati postopke, povezane z vidiki alternativnega reševanja sporov v sodobnem obdobju;

- pozna in uporablja osnovne metodološke pristope pri raziskovanju vprašanj alternativnega reševanja sporov, pri čemer zlasti mediacije.

knowledge and skills in the direct work with the users

- the student is able to conduct mediations in simple cases, i.e. cases where more simple conflicts or disputes are recognised

- is able to apply the skill of keeping professional and personal autonomy in interpersonal relationships

- knows and understands the fundamental EU acts on mediation

- knows, understands and is able to apply national regulations and acts in the field of mediation

- is able to critically assess and take a position regarding mediation practice

- is able to critically assess, analyse and explain the procedures, related with the aspects of alternative dispute resolution in modern times;

- knows and applies the basic methodological approaches in examining the issues of alternative dispute resolution, particularly mediation.

Metode poučevanja in učenja:

Oblike dela:

- Frontalna oblika poučevanja
- Delo v manjših skupinah oz. v dvojicah
- Samostojno delo študentov
- e-učenje
- drugo (vpišite) _____

Metode (načini) dela:

- Razlaga
- Razgovor/ diskusija/debata
- Delo z besedilom
- Proučevanje primera
- Igra vlog
- Druge vrste nastopov študentov
- Reševanje nalog
- 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 pair work
- Independent students work
- e-learning
- other _____

Teaching methods:

- Explanation
- Conversation/discussion/debate
- Work with texts
- Case studies
- Role-play
- Different presentation
- Solving exercises
- Field work (e.g. company visits)
- Inviting guests from companies
- Attending round table and conference

Načini ocenjevanja:Delež (v %) /
Weight (in %)**Assessment:**

Način (pisni izpit, ustno izpraševanje, naloge, projekt):		Type (examination, oral, coursework, project):
Pisni ali ustni izpit	100 %	Written or oral exam

Reference nosilca / Lecturer's references:

N Nana Weber je izredna profesorica za civilno in gospodarsko pravo na Evropski pravni fakulteti, docentka za delovno pravo na MLC Fakulteti za management in pravo Ljubljana in docentka za poslovne vede na B2 Visoki šoli za poslovne vede. Leta 2003 je diplomirala na Pravni fakulteti v Ljubljani. Tam je s podiplomskim študijem nadaljevala in leta 2010 magistrirala na področju civilnega in gospodarskega in leta 2013 doktorirala na področju civilnega prava. Leta 2010 je diplomirala še na Akademiji za glasbo (profesorica glasbe).

Poklicno pot v pravo je začela v sodstvu in na različnih stopnjah sodišč, nato je delala na državnem pravobranilstvu, v odvetniški pisarni in v kabinetu ministra za javno upravo. Leta 2016 je začela samostojno pot in do nedavnega delovala kot odvetnica. Sedaj vodi družbo Weber N., pravna svetovanja, analize in mediacije, d.o.o.

Izkušnje mediatorke v Mediacijskem centru Ljubljana, pri Odvetniški zbornici Slovenije in Ministrstvu za delo družino, socialne zadeve in enake možnosti ter izvajalke izvensodnega reševanja potrošniških sporov pri Ministrstvu za gospodarski razvoj in tehnologijo so botrovale odločitvi, da pomaga reševati spore na neformalen način v okviru lastnega podjetja.

Je tudi članica državne izpitne komisije za pravniški državni izpit (področje civilnega materialnega in procesnega prava) in zborovodja Mešanega pevskega zbora Nove Univerze.

Na redni bazi piše strokovne in znanstvene članke iz različnih pravnih področij. Med drugim je ena od avtoric Družinskega zakonika (Uradni list, 2019), avtorica uvodnih pojasnil Družinskega zakonika (GV Založba, Lexpera, 2018), in avtorica zbirke Vprašanja in odgovori iz delovnega prava (GV Založba, Lexpera), v okviru katere so doslej izšle knjige Prenehanje pogodbe o zaposlitvi (2020), Ko delavca ni na delu (Dopust, regres in druge odsotnosti z dela (2021)) in Prejemki iz delovnega razmerja (2023). Je tudi avtorica uvodnih pojasnil k Zakonu o sodnih taksah (ZST-1); Odvetniška tarifa; Notarska tarifa: (neuradna prečiščena besedila) - Uradni list Republike Slovenije 2022, in avtorica Zakona o sodnih taksah (ZST-1) z uvodnimi pojasnili - Lexpera, GV založba, 2023.

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Nana Weber is associate professor for civil and corporate law at the European Faculty of Law New

University, assistant professor for labour law and assistant professor for business sciences at Ljubljana School of Business. She graduated from the University of Ljubljana Faculty of Law, in 2003. She continued her postgraduate course in the same University and received a Master's degree of Science in 2010 (Civil and Commercial Law), and Doctor's degree of Science in 2013 (Civil Law). In 2010 she graduated in Music Pedagogy at the Musical Arts in 2010 (Professor of Music).

Her professional legal career began at different levels of the court, then she worked at the State's Attorney Office, as a lawyer and at the Ministry of Public Administration. She went freelance in 2016 and until recently worked as a lawyer. She now runs Weber N., Legal Consulting, Analysis and Mediation, d.o.o.

Her experience as a mediator at the Ljubljana Mediation Centre, the Bar Association of Slovenia and the Ministry of Labour, Family, Social Affairs and Equal Opportunities, and as a provider of out-of-court dispute resolution for consumer disputes at the Ministry of Economic Development and Technology, led to her decision to help resolve disputes in an informal way within her own company.

She is also a member of the State Examination Board for the State Lawyers' Examination (civil substantive and procedural law) and choirmaster of the mixed choir at New University.

On a regular basis she writes professional and scientific articles. Among other things, she is one of the authors of the Family Code (Uradni list 2019), the author of the introductory explanations of the Family Code (GV Založba, Lexpera, 2018) and author of professional collection Labour Law Questions and Answers (GV Založba, Lexpera), in which so books Termination of employment contract (2020), When the worker is not at work (Annual leave, payment for annual leave, and other absences from work) (2021) and Employment Benefits (2023) were published. She is also the author of the Introductory Explanatory Notes to the Law on Court Fees (ZST-1); Lawyer's Tariff; Notary's Tariff: (Unofficial Consolidated Texts) - Official Gazette of the Republic of Slovenia 2022, and the author of the Law on Court Fees (ZST-1) with Introductory Explanatory Notes - Lexpera, GV založba, 2023.