

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: Mirno reševanje sporov
Course title: Peaceful Dispute Settlement

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Pravo - 1. stopnja		3	2
Law – 1st degree		3	2

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	10	0	0	120	6

Nosilec predmeta / Lecturer:

prof. dr. Ernest Petrič

**Jeziki /
Languages:**

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

Vaje / Tutorial: Slovenski jezik/Slovenian

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

Izpolnjeni pogoji za vpis v 3. letnik.

Vsaj 80% prisotnost na predavanjih in vajah.

Prerequisites:

Enrolment into 3rd year

At least 80% attendance at lectures and tutorials.

Vsebina:

Namen predmeta Mirno reševanje sporov je seznaniti študente z obveznostjo držav reševati vse svoje spore na miren način in z možnostmi, ki jih države za mirno reševanje sporov imajo. Posebna pozornost je namenjena pogajanjem, ki so najbolj pogost način reševanja mednarodnih sporov in sodnemu reševanju mednarodnih sporov, ki je zaradi suverenosti držav specifično, saj sodno reševanje sporov pride v poštev, kadar se sprte države same za to odločijo.

Content (Syllabus outline):

The purpose of the course Peaceful Dispute Resolution is to acquaint students with the obligation of states to resolve all their disputes in a peaceful manner and with the possibilities that states have for the peaceful settlement of disputes. Special attention is paid to negotiations, which are the most common way of resolving international disputes, and to judicial settlement of international disputes, which is specific due to the sovereignty of states, as judicial settlement of disputes comes

Posebna pozornost bo namenjena problemu mirnega reševanja konflikta, ki je posledica agresije Ruske federacije na Ukrajino. Študenti bodo seznanjeni predvsem z možnostmi za mirno rešitev in hkrati tveganji, ki bi jih za mednarodni red pomenilo priznati agresorju pridobitve na temelju agresije.

Glavne obravnavane teme v okviru tega predmeta so:

- Pojem mednarodnega spora in specifičnost mednarodnih sporov in njihovo reševanje.
- Vrste mednarodnih sporov.
- Vsebine in narava mednarodnih sporov.
- Preraščanje mednarodnih sporov v mednarodne konflikte.
- Posebna narava ozemeljskih in obmejnih sporov.
- Vsebina načela mednarodnega prava o obveznosti mirnega reševanja mednarodnih sporov
- Načelo proste izbire miroljubnih sredstev za reševanje mednarodnih sporov.
- Vsebina obveznosti držav glede reševanja sporov.
- Izvedene pravne obveznosti iz tega načela.
- Sredstva reševanja mednarodnih sporov.
- Klasifikacija in vrste sredstev.
- Povezljivost in izključevanje sredstev.
- Pogajanja.
- Narava in značilnosti pogajanj. Praktični vidiki meddržavnih pogajanj. Pogajalska taktika in tehnika.
- Vrste pogajanj.
- Posredovanje
- Dobre usluge. Klasična mediacija. Sprava
- Narava in značilnosti sprave. Moderni spravni postopki.

into play when conflicting states themselves decide to do so.

Special attention will be devoted to the issue of peaceful conflict resolution resulting from the aggression of the Russian Federation against Ukraine. Students will be acquainted primarily with the possibilities for peaceful resolution and, at the same time, the risks that recognizing the aggressor's gains based on aggression would pose to international order.

The main topics covered in this course are:

- The concept of international conflict and the specificity of international disputes and their resolution.
- Types of international disputes.
- Contents and nature of international disputes. The special nature of territorial and border disputes.
- Escalation of international disputes into international conflicts.
- Content of the principle of international law on the obligation to settle international disputes peacefully.
- The principle of free choice of peaceful means of resolving international disputes.
- Content of States' dispute settlement obligations.
- Derived legal obligations under this principle.
- Means of resolving international disputes.
- Classification and types of means. Connectivity and means exclusion.
- Negotiations.
- Nature and characteristics of negotiations. Practical aspects of interstate negotiations. Negotiation tactics and technique. Types of negotiations.
- "Good offices".
- Mediation.
- Conciliation.

- Arbitraža .
- Praktični vidiki arbitražnega reševanja sporov in mednarodna arbitražna praksa.
- Sodno reševanje mednarodnih sporov. Meddržavno sodišče v Haagu. Hamburški tribunal za pomorsko mednarodno pravo. Pravosodni sistem EU.
- Poseben poudarek bo dan mednarodnemu kazenskemu sodstvu in razvoju mednarodnega kazenskega prava.
- Reševanje mednarodnih sporov v okviru mednarodnih organizacij.
- Reševanje sporov v OZN.
- Regionalni dogovori in aranžmaji. Reševanje sporov v okviru OVSE in Sveta Evrope.
- Nekateri drugi mednarodni forumi za reševanje sporov (WTO, ILO).
- Stalno arbitražno sodišče v Haagu.
- Republika Slovenija in aktualni mednarodni spori.
- Spor o meji s Hrvaško

- Nature and characteristics of conciliation. Modern conciliation procedures.
- Arbitration.
- Practical aspects of arbitration and international arbitration practice.
- Judicial settlement of international disputes
- Special emphasis will be given to international criminal justice and the development of international criminal law.
- The International Court of Justice in The Hague.
- Hamburg Tribunal for the Law of the Sea.
- EU justice system.
- Settlement of international disputes within international organizations.
- Dispute resolution within organs of UN.
- Regional arrangements
- Dispute resolution within the OSCE and the Council of Europe.
- Some other international dispute resolution forums (WTO, ILO).
- Permanent Court of Arbitration in The Hague. Republic of Slovenia and current international disputes.
- Border dispute with Croatia.

Temeljni literatura in viri / Readings:

1. Petrič, E.: Zunanja politika, Ljubljana, 2010 (IV. Del, str. 343 - 443).
2. Pogačnik, M., Petrič, E.: Izbrane teme mednarodnega prava, Nova Gorica, 2010, str. 15 - 81.
3. J. L. Jesus: Law of the Sea Dispute Settlement: The Applicable Law in the Jurisprudence of the
4. Tribunal, v: Challenges of Contemporary International Law and International Relations, ur. Pogačnik, M., Nova Gorica, 2011.
5. Pogačnik, M: Nekaj misli o naravi mednarodnega pravosodja; Zbornik 8. dnevv javnega prava, Portorož, 10. – 12. junij 2002, str. 415 – 420.
6. Pogačnik, M.: Mirno reševanje mednarodnih sporov v okviru konference o varnosti in sodelovanju v Evropi; Pravniki, 1994, letnik 49, št. 10-12, str. 397 - 409.
7. Pogačnik, M.: Arbitraža kot sredstvo mirnega reševanja mednarodnih sporov; Pravniki, 1995, letnik 50, št. 4-5, str. 239 - 249.

8. Pogačnik, M.: Načelo mirnega reševanja mednarodnih sporov v dobi Združenih narodov; Pravniki 1995, letnik 50, št. 6-8, str. 347-356.
9. Petrič, E.: Spomini in spoznanja, Celovec, 2018, poglavje Meja s Hrvaško (str.475-501).
10. Ustanovna listina OZN.
11. Statut Meddržavnega sodišča v Haagu.
12. Merrills, R.: International Dispute Settlement, Cambridge, 2011
13. Konvencija o spravi in arbitraži v okviru OVSE.
14. Konvencija Sveta Evrope o mirnem reševanju mednarodnih sporov.
15. ILC Model Rules on Arbitral Procedure.
16. Petrič, E., Zunanja politika: Osnove teorije in praksa, dopolnjena izdaja. Založba FDV in ZRC SAZU. Ljubljana, 2022.
17. Pogačnik, M., Mirno reševanje mednarodnih sporov v okviru konference o varnosti in sodelovanju v Evropi, v: Pravniki, št. 10 – 12, Ljubljana, 1994.

Cilji in kompetence:

Predmet seznanja študenta s sistemom sredstev in postopkov mirnega reševanja mednarodnih sporov v sodobni mednarodni skupnosti. Problemska in praktična naravnost predmeta poudarja uporabno vrednost pravil mednarodnega prava pri reševanju konkretnih sporov, ki nastajajo med državami in drugimi subjekti mednarodnega prava, s poudarkom na mednarodne spore, v katerih je angažirana Republika Slovenija.

Predmet je povezan zlasti s temeljnim predmetom mednarodno pravo.

Študenti bodo, v povezanosti s predmetom Mirno reševanje sporov pridobili predvsem naslednje splošne in specifične kompetence:

- sposobnost uporabe metod pravnega razlogovanja, raziskovanja analize ter pravnih postopkov v mednarodnem pa tudi državnem pravu;
- sposobnost razumeti specifično reševanje sporov na mednarodni ravni, kar v sodobnem globaliziranem svetu postaja vse pomembnejše;
- sposobnost sodelovati pri reševanju mednarodnih sporov, če bodo z njimi

Objectives and Competences:

To enable the students to understand the concept and use of peaceful settlement of international disputes and of importance of international law in settlement of disputes.

The course acquaints the student with the system of means and procedures for the peaceful settlement of international disputes in the modern international community. The problematic and practical orientation of the course emphasizes the useful value of the rules of international law in resolving specific disputes arising between states and other subjects of international law, with an emphasis on international disputes in which the Republic of Slovenia is involved.

The subject is related in particular to the fundamental subject of international law.

In connection with the subject International Law, students will acquire the following general and specific competencies:

- ability to use methods of legal reasoning, research analysis and understanding of legal procedures in international as well as in national law;
- ability to understand the specifics of

poklicno soočeni;

- uporabiti znanje o reševanju mednarodnih sporov tudi pri reševanju sporov v državi, kar posebej velja za pogajanja;
- glede na razvoj v mednarodni skupnosti (uveljavljanje agresije kot sredstav uveljavljanaj interesov držav bo pri predmetu poseben poudarek dan bodočim možnostim mirnega reševanja sporov in še posebej prepovedi agresije po mednarodnem pravu, ki jo je moč razumeti kot normo ius cogens in hkrati ko se za zločine kot je agresija genocid itd. vse bolj uveljavlja univerzalna kazenska jurisdikcija.

dispute resolution at the international level, which is becoming increasingly important in today's globalized world;

- ability to cooperate in resolving international disputes if they are to be involved professionally;
- apply knowledge of the settlement of international disputes also in the settlement of disputes in the country, which is especially true for negotiations;
- Given the developments in the international community (the use of aggression as a means to assert state interests), the course will place special emphasis on future possibilities for peaceful dispute resolution and, particularly, the prohibition of aggression under international law. This prohibition can be understood as a norm of jus cogens, while universal jurisdiction for crimes such as aggression, genocide, etc., is increasingly being established.

Predvideni študijski rezultati:

Znanje in razumevanje reševanja sporov v mednarodni skupnosti in razumevanje specifičnosti teh sporov, zlasti pa:

- osvojitve temeljnih znanj o reševanju mednarodnih sporov pa tudi sporov v državi;
- poglobitev znanja in zavedanja o pomenu in vlogi mednarodnega prava v sodobnem mednarodnem redu;
- sposobnost kritično ovrednotiti sodobne mednarodne spore in iskati možnost za njihovo mirno razrešitev;
- razumevanje vloge meddržavnih sodišč in arbitraž;
- razumevanje bistva nekaterih mednarodnih sporov naše države in možnosti za njihovo mirno reševanje;
- sposobnost kritično presojeti konkretne mednarodne spore in njihovo reševanje;

Intended learning outcomes:

Knowledge and understanding of dispute resolution in the international community and understanding of the specifics of such disputes, in particular:

- acquisition of basic knowledge on resolving international disputes as well as disputes in the country;
- deepening knowledge and awareness of the meaning and role of international law in the modern international order;
- the ability to critically evaluate contemporary international disputes and look for opportunities for their peaceful resolution;
- understanding the role of international courts and arbitration;
- understanding the essence of some international disputes of our country and the possibilities for their peaceful

- poznavanje metodološki pristopov v pogajanjih, ki so pomembni tako v mednarodnih pogajanjih in pri drugih pogajanjih.

settlement; -ability to critically assess specific international disputes and resolve them;

- knowledge of methodological approaches in negotiations, which are important both in international negotiations and in other negotiations.

Metode poučevanja in učenja:

Oblike dela:

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

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

Delež (v %) /

Načini ocenjevanja:

Weight (in %)

Assessment:

Pisni ali ustni izpit (Upoštevano tudi sodelovanje pri predmetu, zlasti ustni nastopi in eseji)	100%	Written or oral examination (Taking into account participation in the subject, particularly oral presentations and essays)
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Reference nosilca / Lecturer's references:

Prof. dr. Petrič Ernest, zaslužni profesor uči mednarodno pravo kot redni profesor od leta 1982, v Ljubljani pa tudi na številnih tujih univerzah; nagrajen je bil za znanstveno delo in knjigo o problematiki mednarodno pravnega varstva manjšin; je avtor desetih knjig o problematiki mednarodnega prava, mednarodnih odnosov in zunanje politike in več kot 350 znanstvenih in

strokovnih člankov o tej problematiki; je član Komisije za mednarodno pravo in njen bivši predsednik; je bil kot veleposlanik akreditiran v Indiji in Nepal, ZDA, Mehiki, Braziliji, Avstriji, in bil stalni predstavnik/veleposlanik Republike Slovenije pri OZN New York in Dunaj, pri OVSE in IAEA; je bivši član in predsednik Ustavnega sodišča Republike Slovenije ; je član t.i. Beneške komisije Sveta Evrope in višji svetovalec predsednika Republike Slovenije.

Full Professor; former member of the UN International Law Commission (3 mandates) and its past President; former member of the Advisory Committee on the Nomination of Judges of the International Criminal Court; member of the Venice Commission of the Council of Europe; author of 8 books on international law, international relations, and foreign policy, as well as over 250 scholarly papers and articles on these issues; former judge and President of the Constitutional Court of the Republic of Slovenia; former Ambassador to the United States, the United Nations (New York), India, and Austria; Senior Advisor to the President of the Republic of Slovenia for International Relations and Law; recipient of the Slada B. Kidrič Award for research work; member of the European Academy of Sciences and Arts and member of advisory boards of some international institutes.