

UČNI NAČRT PREDMETA / COURSE SYLLABUS						
Predmet:	Sodno in alternativno reševanje sporov					
Course title:	Judical and Alternative Dispute Settlement					
Študijski program in stopnja	Študijska smer	Letnik	Semester			
Study programme and level	Study field	Academic year	Semester			
2. stopnja - magisterij	Alternativno reševanje sporov	1	1			
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Vrsta predmeta / Course type		Obvezni				
		Compulsory				
Univerzitetna koda predmeta / University course code:		09				
Predavanja	Seminar	Vaje	Klinične vaje	Druge oblike študija	Samost. delo	ECTS
Lectures	Seminar	Tutorial	work	work	Individ. work	
40	0	0	0	0	160	8
Nosilec predmeta / Lecturer:		prof. dr. Alan Uzelac				
Jeziki	Predavanja	/ prof. dr. Alan Uzelac				
/Languages:	Lectures:					
	Vaje / Tutorial:	/				
Slovenščina/ Slovene						
Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti: Prerequisites:						
Vpis v prvi letnik.			Enrollment in first year.			

Vsebina:	Content (Syllabus outline):
- Posebnosti reševanja sporov po sodni poti in po poti ARS - Razlike (poravnalni narok in mediacija), razlike v pogajanjih pred sodnikom in v mediaciji - Kateri spori niso za ARS - Kako stranke lahko sooblikujejo sodni postopek in kako v mediaciji ali drugih oblikah ARS (arbitraža, med-arb) - Temeljna načela pravnega postopka in temeljna načela v postopku mediacije (načelo dispozitivnosti, zakonitosti, prostovoljnosti, zaupnosti, nevtralnosti, načelo pravičnosti, dobra vera) - <u>Sodišču pridružene mediacije in centri zunaj sodišč</u>, obvezna mediacija, obvezna napotitev na mediacijo, sankcije - Prekinitev pravnega postopka zaradi mediacije - <u>Poravnava (sodna in v postopku mediacije), izvršljivost in izpodbojnost</u> - Posebnosti sodišču pridružene mediacije (na prvi stopnji in v pritožbenem postopku) - Kako poslati spor in stranke v mediacijo - Dokazi v sodnem postopku in v postopku mediacije (izključenost, uporabnost v pravdi) - Merjenje uspešnosti mediacije in ocena dela mediatorjev.	- The specifics of dispute settlement through the courts and ADR - The differences in negotiation (conciliation, mediation, negotiations before the judge) - Conflicts which are not appropriate for ADR - How customers can determine the procedure of the mediation or ADR - The fundamental principles of civil procedure and the fundamental principles of the mediation proceedings (principle of legality, the abovementioned voluntary, confidentiality, neutrality, the principle of fairness, good faith) - Mandatory mediation, mandatory referral to mediation, sanctions - Interruption of the civil procedure rules because of mediation - Court-Annexed Mediation, Alignment, enforceability and voidability - Peculiarities of Court-Annexed Mediation - The evidence in court proceedings and in the process of mediation (exclusion, usefulness in action) - Evaluation of mediators and mediation process.

Temeljni literatura in viri / Readings:

1. Obvezna literatura in pravni viri:
2. Zakon o mediaciji v civilnih in gospodarskih zadevah, Uradni list RS, št. 56/2008
3. Zakon o alternativnem reševanju sodnih sporov, Uradni list RS, št. 97/2009
4. Družinski zakonik, Uradni list RS, št. 15/17, 21/18
5. Direktiva o nekaterih vidikih mediacije v civilnih in gospodarskih zadevah 2008/52/ES
6. Pravila UNCITRAL za modelni zakon o conciliaciji
7. Zakon o mediaciji v civilnih in gospodarskih sporih s komentarjem, Damjan M., GV Založba, Ljubljana 2010, (od strani 111 dalje)
8. ZARSS (Zakon o alternativnem načinu reševanja sodnih sporov) s komentarjem, Zalar A., GV Založba, Ljubljana 2010, strani od 17-110)
9. Ristin G., Hajtnik Z. in soavtorji: (Mediacija v teoriji in praksi, DMS, Ljubljana 2011.
10. Ude, L.: Civilno procesno pravo, Uradni list RS, Ljubljana, 2002
11. Fisher, R., Ury, W.: Kako doseči dogovor : umetnost pogajanja. Ljubljana : Gospodarski vestnik, 1998. - (Zbirka Manager)
12. Priporočljiva literatura:
13. Golann, D.: Mediation Legal Disputes, ABA Section of Dispute Resolution, 2009
14. Annie de Roo/Rob Jagtenberg, Professional(s as) Mediators: Emerging Markets and the Quality of Legal Protection, in: Uzelac/van Rhee (eds.), The Landscape of the Legal Professions in Europe and the USA: Continuity and Change, Intersentia (Cambridge/Antwerp/Portland), 2011, pp. 235-254
15. Rob Jagtenberg/Annie de Roo, Enforcing Mediated Settlements in Europe, in: van Rhee/Uzelac (eds.), Enforcement and Enforceability. Tradition and Reform, Intersentia (Antwerp/Oxford/Portland), 2010, pp. 271-288
16. European Code of Conduct for Mediators, EU, 2004.
17. Slovenski kodeks mediatorjev, Etična načela Društva mediatorjev Slovenije
18. Carlos Esplugues, Jose Luis Iglesias, Mediation and private international law: improving free circulation of mediation agreements across the EU, in: The Implementation of the Mediation Directive Workshop 29 November 20, JURI Research Papers, Brussels, EU, 2016

Cilji in kompetence:

- Spoznati komparativni prikaz obeh vrst reševanja sporov,
- ARS med sodnim postopkom, kdaj koliko časa in posebnosti
- Spoznati posebnosti poravnalnega naroka in razlike v mediaciji

Objectives and competences:

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- Spoznati razliko med pogajanji v mediaciji in pred sodnikom

Predvideni študijski rezultati:

Znanje in razumevanje:

Študent (tka) bo razumel temeljne razlike med sodnim odločanjem in postopki ARS. Tako bo znan svetovati, kateri spori so za mediacijo, kdaj in kako stranke usmeriti v ARS, kdaj pa to ni dobro.

Razumel bo, kateri spori so gospodarski spori, posebnosti, razlike, vrste glede na stranke spora, ločil bo cross boarder spore in pravila za reševanje sporov.

Znal bo napisati dobre klavzule, da med strankami ne pride do spora o pogodbi o mediaciji in o pristojnostih za reševanje teh sporov, če mediacija ni uspešna.

Razumeli bodo, kdaj in kako svetovati strankam, ki so v sodnem sporu, o mediaciji.

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

Intended learning outcomes:

Knowledge and understanding:

Student will:

- be able to understand the fundamental differences between the judicial rulings and ADR processes.
- be able to understand which disputes are appropriate for ADR and will be able to explain why
- be able to understand economic disputes, differences between various types of disputes
- be familiar with rules for the settlement of disputes
- be able to write a good clause

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

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|---|---|
| ☐ Reševanje nalog | ☐ Field work (e.g. company visits) |
| ☐ Študijski obiski podjetij ipd.) | ☐ Inviting guests from companies |
| ☒ Vključevanje gostov iz prakse | ☐ Attending round table and conference |
| ☒ Udeležba na okrogli mizi, na konferenci | |

Učne oblike: - predavanja Metode: - razlaga - proučevanje primera - diskusija v malih skupinah - igre vlog	Teaching forms - frontal instructions Metode: - explanation - case study - discussion in small groups - role playing
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Delež (v %) /

Načini ocenjevanja:

Weight (in %) **Assessment:**

Način:		Type:
Ustni izpit	50%	Oral exam
Seminarska naloga	25%	Seminar paper
Zagovor seminarske naloge	25%	Presentation of seminar paper

Reference nosilca / Lecturer's references:

Born in Zagreb on June 15, 1963

Graduate studies: Zagreb University (Croatia), Johannes Gutenberg University, Mainz (Germany). Graduated from University of Zagreb - Faculty of Philosophy (B.A. degrees in philosophy and comparative literature) and Faculty of Law (dipl. iur. degree in 1988). Postgraduate studies: Zagreb University, University of Vienna, Austria (Visiting Fellow, 1992, 1995), Harvard Law School, USA (Fulbright Visiting Researcher, 1996). Postgraduate degrees received from Zagreb University - Master of Laws, 1992 and Doctor of Laws, 1999. Dr. Uzelac was engaged in drafting of a number of documents in his home country and international bodies. In Croatia he was the principal drafter or engaged in the drafting of the following acts: Law on Courts; Law on State Judicial Council; Arbitration Law; Conciliation Law; Court Rule Book; Legal Aid Act. He was also member of the national Commission for the Administration of the Internet national top-level domain (.hr) and author of the Rules for DNS Arbitral Dispute Resolution regarding .hr domain names.