

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: **Upravno pravo in upravni postopek**
Course title: **Administrative law and administrative procedure**

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

Vrsta predmeta / Course type

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
20	0	0	0	0	230	10

Nosilec predmeta / Lecturer:

Jeziki / Languages: **Predavanja / Lectures:**
Vaje / Tutorial:

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

Vsebina:**1. DEL: UPRAVNO PRAVO**

Uvodni pojmi, zgodovinski razvoj upravnega prava, umestitev upravnega prava v pravni red.

Ustavna izhodišča upravnega prava.

Temeljna načela upravnega delovanja.

Delitev oblasti.

Razmejitev in vloge: državna uprava, javna uprava, javni sektor.

Državna uprava.

Lokalna samouprava.

Pravne osebe javnega prava (j. zavodi, j. agencije, j. skladi, j. podjetja).

Javne službe (gospodarske in negospodarske, javne stvari, javno dobro, javna infrastruktura).

Javno pooblastilo.

Vrste in hierarhija upravnopravnih norm in aktov.

Vežanost uprave na zakon.

Diskrecija, pravna vežanost, nedoločeni pravni pojmi.

Posledice neskladnosti upravnopravnih norm.

Postopek odločanja o upravnih zadevah.

Pravna sredstva zoper odločitve o upravnih zadevah.

Javne pogodbe (javna pogodba/upravna pogodba, javna naročila, koncesija).

Odškodninska odgovornost javnih oblasti.

Izbrana področja (transparentnost poslovanja, dostop do informacij javnega značaja).

2. DEL: SPLOŠNI UPRAVNI POSTOPEK

Splošni upravni postopek in posebni upravni postopki, načelo subsidiarnosti.

Značilnosti upravnopravnega razmerja.

Upravna zadeva.

Kateri organi in kdaj postopajo po ZUP.

Javno pooblastilo.

Temeljna načela ZUP.

Krajevna in stvarna pristojnost.

Udeleženci v upravnem postopku.

Komunikacija. Roki. Stroški.

Postopek na prvi stopnji.

Postopek na drugi stopnji.

Postopek z izrednimi pravnimi sredstvi.

Izvršljivost in izvršba v upravnem postopku.

Content (Syllabus outline):**PART ONE: Administrative Law**

Introductory concepts, historical development of administrative law, the placement of administrative law into the legal order.

Constitutional origins of administrative law.

Fundamental principles of administrative operation.

Separation of powers.

State administration, public administration, public sector - their respective roles and delimitation.

State Administration

Local self-government

Legal entities governed by public law (public institutes, public agencies, public funds, public enterprises).

Public services (economic and non-economic, public works, public goods, public infrastructure).

Public powers.

Types of administrative norms and instruments and their hierarchy.

Boundness of the administration by the law.

Discretion, legal boundness, indeterminate legal concepts.

Consequences of non-conformity of administrative norms.

Decision-making process in administrative matters.

Legal remedies against decisions in administrative matters.

Public contracts (public contract / administrative contract, public procurement, concession).

The liability of public authorities.

Selected topics (transparency of operation, access to public information).

PART 2: GENERAL ADMINISTRATIVE PROCEDURE

General administrative procedure and special administrative procedures, subsidiarity principle.

Characteristics of the administrative relationship.

Administrative matter.

Which bodies and when they act according to

Sodni nadzor nad zakonitostjo posamičnih upravnih aktov.

the General Administrative Procedure Act.
Public powers.
Fundamental Principles of the General Administrative Procedure Act.
Territorial and subject-matter jurisdiction.
Subjects of the administrative procedure.
Communication. Time limits Costs.
First-instance procedure.
Appellate procedure.
Procedure using extraordinary legal remedies.
Enforceability and enforcement in the administrative procedure.
Judicial review of the legality of individual administrative acts.

Temeljna literatura in viri / Readings:

- Godec Rupko, Horvat Mitja, Pirnat Rajko, Šturm Lovro, Trpin Gorazd. Upravni zbornik, Inštitut za javno upravo pri Pravni fakulteti v Ljubljani. Ljubljana 1993.
- FERK, Petra, FERK, Boštjan. Implementation of Directive 2014/24/EU in the Republic of Slovenia. In: TREUMER, Steen, COMBA, Mario Comba (Eds.): Modernising Public Procurement – The Approach of EU Member States, European Procurement Law Series, Edward Elgar publishing, 2018.
- Čebulj, Janez, Strmecki, Mik. *Upravno pravo : učbenik*. Ljubljana: Fakulteta za upravo, 2005.
- Matej Avbelj (ur.), Komentar Ustave RS, Nova univerza, 2019.
- Androjna V., Kerševan. E.: Upravno procesno pravo, GV Založba, Ljubljana 2006.
- Ferk, Boštjan. Pogodba o javno-zasebnem partnerstvu. 1. natis. Turjak: Inštitut za javno-zasebno partnerstvo, zavod, 2014 (posamezni deli).
- Čebulj Janez. Ustavno delovanje uprave. V: *IX. dnevi javnega prava, Portorož, 18.-20. junij 2003*, (Izobraževanje in usposabljanje v javni upravi, 2003, 2). Ljubljana: Inštitut za javno upravo, 2003, str. 117-122.
- Čebulj Janez. Ustavnosodno varstvo v upravnih zadevah. V: *Dnevi slovenskih pravnikov 2009 od 15. do 17. oktobra, Portorož*, Podjetje in delo, Letn. 35, št. 6/7. Ljubljana: GV Založba, 2009, str. 1293-1301.
- Čebulj Janez. Vežanost uprave na odločbe Ustavnega sodišča. V: *XVI. dnevi javnega prava in javnega managementa, Portorož, 2. in 3. junij 2010 : simpozij*. Ljubljana: Inštitut za javno upravo pri Pravni fakulteti, 2010, str. 67-78.
- Jerovšek, Tone, Kovač, Polonca. Upravni postopek in upravni spor. Fakulteta za upravo, Ljubljana, 2016.
- Jerovšek, Tone (ur.). Zakon o splošnem upravnem postopku s komentarjem, Ljubljana : Nebra, 2004.
- Kovač Polonca, Remic Matjaž, Sever Tina. *Upravno-procesne dileme o rabi ZUP : 113 vprašanj iz prakse z odgovori*, (PPP). 1. natis. Ljubljana: Uradni list Republike Slovenije, 2010.
- Kovač, Polonca in drugi. *Upravno-procesne dileme o rabi ZUP – 2. del: 120 vprašanj iz prakse z odgovori in sodno prakso ter z uvodno študijo*. 1. natis. Ljubljana: Uradni list

Republike Slovenije, 2012.

- Christopher Pollitt: *Advanced Introduction to Public Management and Administration*, Edward Elgar Publishing, 2016.
- CRAIG, Paul: *Administrative Law*, John Wiley & Sons, London, 2012.
- FERK, Petra, FERK, Boštjan. *Implementation of Directive 2014/24/EU in the Republic of Slovenia*. In: TREUMER, Steen, COMBA, Mario Comba (Eds.): *Modernising Public Procurement – The Approach of EU Member States*, European Procurement Law Series, Edward Elgar publishing, 2018.
- FERK, Petra, FERK, Boštjan. *Script and presentations in English language for the course, for English speaking students*.
- Žan Oplotnik, Boštjan Brezovnik. *Financing local government in Slovenia*. *Post-Communist Economies*, 16(4) 2004, pp. 483-496.
- Polonca Kovač idr. *Legal Remedies in Administrative Procedures in Western Balkans, Comparative study*, 2016, URL: <http://www.nispa.org/files/conferences/2016/Respa/Legal-Remedies-in-Administrative-Procedures.pdf>.
- *Administrative Justice in Europe, Report of the Republic of Slovenia*, URL: http://www.aca-europe.eu/en/eurtour/i/countries/slovenia/slovenia_en.pdf.
- Polona Kovač, *Better Local Governance by Integrative Reorganization of State Administration and Self-Government (in Slovenia)*, URL: <https://www.degruyter.com/downloadpdf/j/nispa.2014.7.issue-2/nispa-2014-0006/nispa-2014-0006.xml>.
- Polona Kovač. *Effective Adjudication through Administrative Appeals in Slovenia*, *Utrecht Law Review*. 9(3) 2013, pp.39–50.
- Bojan Tičar. *Legal analysis of Slovenian public sector salary system*, *Poslovodno računovodstvo*, No. 3, 2013, pp. 6-15.
- Iztok Rakar, Bojan Tičar. *Legal Aspects of the Public Authority to Perform Certain Public Administration Tasks in the Republic of Slovenia*, *Poslovodno računovodstvo*, 7(2) 2014, pp. 60-73.
- Stane Vlaj. *The system of local self-government in Slovenia with a special emphasis on the status of the capital city Ljubljana*, *Fakulteta za upravo* 2012, pp. 675-694.
- Nataša Pirc Musar, Kristina Kotnik Šumah. *Transparency of Public Administration of Slovenia*.
- Boštjan Brezovnik, Jurij Toplak. *Administrative Law in Slovenia*. In Roberto Scarciglia (Ed). *Administrative law in the Balkans : case studies of comparative administrative law in Albania, Bulgaria, Croatia, Serbia and Slovenia*, 2012, Cedam, Ch. 6.
- Bojan Tičar, Iztok Rakar. *Civil Servant Regulation in the Republic in Slovenia*, *Poslovodno računovodstvo*, 6(1) 2013, pp. 29-49.
- Iztok Rakar, Tina Sever, Polonca Kovač. *Evaluating Procedural Aspects of Public Governance: Case of Slovenia*, Paper for Conference Program for the 21st NISPAcee Annual Conference. URL: https://www.researchgate.net/publication/305597088_Evaluating_Procedural_Aspects_of_Public_Governance_Case_of_Slovenia.
- Polonca Kovač. *Modernizing Administrative Procedural Law in Slovenia as a Driving Force of Efficient and Good Administration*, *NISPAcee Journal of Public Administration and Policy*. 4(2) 2013, pp. 39–66.

- Polonca Kovač. Participative Authority in Administrative Proceedings – European Impacts and Constitutional Court Practice in Slovenia, IPSA RC 32 Conference, Dubrovnik, 4-7 April 2013.
- Miro Haček, Simona Kukovič, Marjan Brezovšek. Problems of corruption and distrust in political and administrative institutions in Slovenia, Communist and Post-Communist Studies No. 46 2013, pp. 255–261.
- Republic of Slovenia: Public Administration Country Profile, Division for Public Administration and Development Management (DPADM), Department of Economic and Social Affairs (DESA), United Nations, May 2004.
- Taxation in Slovenia 2015, Republic of Slovenia, Ministry of Finance, September 2015.
- Miro Haček, Irena Bačlija. The Administrative Capacity of Slovenian Municipalities, Lex localis – Journal of Local Self-Government, 7(3) 2009, pp. 307–327.
- Polona Kovač. The never-ending story of public administration reform in Slovenia (from 1991 to further development), Fakulteta za upravo, 4(2/3) 2006, pp. 55-74.
- Petra Ferk, Boštjan Ferk. Public Capital and Private Capital in the Internal Market: Securing a Level Playing Field for Public and Private Enterprises. In G. C. Rodriguez Iglesias, L. Ortiz Blanco (Eds.), Proceedings of the FIDE XXIV Congress Madrid 2010, Public Capital and Private Capital in the Internal Market, Madrid, Vol. 3, 2010, pp. 421-447.
- Petra Ferk, Boštjan Ferk. Public-Private Partnership in Slovenia: An Analysis of one of the first successful Projects of Public-Private Partnership in Slovenia – The Stozice Stadium, European Public Private Partnership Law, 3(4) 2008, pp. 175-184.
- Boštjan Ferk. Public Private Partnerships, National Report for the Republic of Slovenia for the International Academy of Comparative Law Congress (IACL), Washington, 25-30 July 2010.
- Petra Ferk. The Influence of the Ongoing Liberalisation of the European Transport Market on the Provision of Public Services and Public Infrastructure, Journal of Transportation Law, Logistics & Policy, 82(1) 2015, pp. 59-100.

Cilji in kompetence:

Splošni cilji predmeta:

- študent poglobljeno spozna institute upravnega prava;
- študent zna reševati najzahtevnejša vprašanja, povezana z nastankom upravnopravnih norm;
- študent je sposoben zaznati in rešiti najzahtevnejša vprašanja, pomembna za zakonito delo upravnih organov;
- študent pozna in razume postopke za reševanje upravnih zadev;
- študent pozna in zna oceniti zahtevne procesne situacije, ki nastajajo pri odločanju v upravnih stvareh na različnih upravnih področjih, in zna reševati analogne probleme,

Objectives and competences:

General aims of the subject:

- students distinguish between institutes of administrative law;
- students are capable to solve issues associated with the creation and use of administration norms;
- students are competent to identify the issues that are important for legal and legitimate work of administration;
- students know and understand the administrative procedures;
- students know and assess the most complicated procedural situations, which occur in decision-making process in different administrative fields and can apply knowledge gained in similar cases;

- študent je sposoben analizirati prakso primerov, ki so jih obravnavali Upravno sodišče ali Vrhovno sodišče ali Ustavno sodišče Republike Slovenije, v nekaterih primerih tudi Evropsko sodišče za človekove pravice
- sposobnost kritične strokovne razprave in analize o temeljnih pojmi, načelih in pravil upravnega prava;
- razumevanje in sposobnost ocene kakovosti delovanja institucij demokratične in pravne države pri uresničevanju načel in pravil upravnega prava;
- študent zna strokovno izražati svoja stališča na področju upravnega prava;
- sposobnost fleksibilne uporabe znanja v praksi;
- študent je sposoben uporabiti svoje znanje za reševanje konkretnih problemov na področju upravnopravnega delovanja uprave;
- študent je sposoben reševati najzahtevnejše probleme upravne teorije in prakse;
- študent ima sposobnost vodenja ljudi in projektov;
- študent ima sposobnost refleksije in kritične analize;
- študent ima sposobnost primerjalnopravne analize (v EU in drugod) ter samostojnega raziskovalnega dela z uporabo znanstvenih metod.

- they analyse individual examples which have been ultimately considered by the Administrative Court or the Supreme Court or the Constitutional Court of the Republic of Slovenia and in some cases by the European Court of Human Rights
- - ability to critically discuss and analyse expertly the fundamental concepts, principles and rules of administrative law;
- - understanding and ability to assess the quality of functioning of democratic and rule of law institutions in the implementation of the principles and rules of administrative law;
- students can express their professional opinions in the field of administrative law;
- students are capable to use their knowledge in the field of administration law;
- students are capable to use their knowledge and are able to solve problems associated with creation and use of administration norms;
- students are able to resolve the most complex problems in administrative theory and practice;
- students have ability of people and project management;
- students have ability of reflection and critical analysis;
- students have ability of legal comparative analysis (in EU and elsewhere) and independent research work with application of scientific methods.

Predvideni študijski rezultati:

Znanje in razumevanje:

Študent bo usposobljen za prepoznavanje in razumevanje materije upravnega prava ter upravnopravnih norm. Poznal bo razmerja med posameznikom in državo na področju upravnega prava ter zahteve, ki izvirajo iz vezanosti uprave na zakon pri izdajanju splošnih in posamičnih norm.

Študent bo pridobil poglobljeno znanje o postopkih uveljavljanja pravic in odrejanja obveznosti na področju upravnega prava. Usposobljen bo za reševanje težjih upravnih zadev in za vlaganje pritožb in drugih pravnih sredstev v upravnem postopku.

Pridobljeno znanje študentu omogoča opravljati svetovalno in operativno delo pri vseh subjektih, ki uveljavljajo pravice na področju upravnega prava. Prav tako pridobi metodološko znanje raziskovanja v stroki in znanosti. Študent je usposobljen razvijati regulacijo in izvajanje upravnega procesnega prava kot dela izvajanja javnih politik.

Intended learning outcomes:

Knowledge and understanding:

Students will be capable to identify and understand the role of administrative law. They will understand the relationship between state and individual. They will know the basic principles of legal binding of administration.

Students will understand the administrative procedures of ensuring rights and obligations on the field of administrative law. They will be capable of resolving procedural problems in administration.

They are able to resolve the most complicated procedural problems to carry out counselling and operative work in relation to all entities which exercise their rights in the field of administrative law. They are capable to lead most demanding administrative systems and subsystems of executive powers. Additionally, they will be able to demonstrate consulting and research work in profession and science.

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

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

<input type="checkbox"/> Študijski obiski podjetij ipd.)
<input checked="" type="checkbox"/> Vključevanje gostov iz prakse
<input checked="" type="checkbox"/> Udeležba na okrogli mizi, na konferenci

<input type="checkbox"/> Field work (e.g. company visits)
<input checked="" type="checkbox"/> Inviting guests from companies
<input checked="" type="checkbox"/> Attending round table and conference

Načini ocenjevanja:	Delež (v %) / Weight (in %)	Assessment:
Ustni izpit	100%	Oral examination.

Reference nosilca / Lecturer's references:

Jernej Letnar Černič je redni profesor za pravo človekovih pravic, upravno pravo in ustavno pravo na Evropski pravni fakulteti in Fakulteti za državne in evropske študije, obe Nova Univerza. Na Pravni fakulteti Univerze v Ljubljani je diplomiral leta 2002. Za diplomsko delo je prejel študentsko Prešernovo nagrado. Doktoriral je v letu 2009 iz prava človekovih pravic in mednarodnega javnega prava na Univerzi v Aberdeenu, Škotska, Združeno kraljestvo. V zadnjih letih je delal na Evropskem univerzitetnem inštitutu, Univerzi New York v Firencah, Mednarodnem kazenskem sodišču, Univerzi v Aberdeenu ter pri Evropskem varuhu človekovih pravic.

Jernej Letnar Černič is Professor of Human Rights Law, Administrative Law and Constitutional Law at the European Faculty of Law and Faculty of Government and European Studies, both New University. He graduated from the University of Ljubljana with the France Prešeren award. He completed his Ph.D. in Law at the School of Law, University of Aberdeen, Scotland, UK. Jernej has worked at the European Ombudsman's Office, the Superior Court of the Republic of Slovenia, the Law Institute in Ljubljana, the International Criminal Court, and has taught at the University of Aberdeen, University of Lund, New York University and European University Institute.