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 2. stopnje		1	2
Law and Management of Real Estate 2nd Degree		1	2

Vrsta predmeta / Course type:	obvezni/mandatory
Koda predmeta /Course code:	

Predavanja **Lectures**	**Seminar** **Seminar**	**Vaje** **Tutorial**	**Druge oblike študija** **Other type study**	**Samost. delo** **Individual work**	**ECTS**
40	0	0	0	160	8

Nosilec predmeta / Lecturer:		Izr. prof. dr. Petra Ferk / Associate Prof. Petra Ferk, PhD
Jeziki/Languages:	Predavanja / Lectures:	slovenski jezik/Slovenian
	Seminar / Seminar:	slovenski jezik/Slovenian

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

Zahteva se vsaj 80 % prisotnost na predavanjih in vajah.

Prerequisites:

At least 80% attendance at lectures and tutorials is required.

Vsebina:

Predmet Upravno pravo in upravni postopek na podiplomski ravni obravnava naslednja osnovna področja: opredelitev in razmejitev pojmov upravno pravo (nastanek, razvoj, klasifikacija), uprava, državna uprava, javna uprava; vire upravnega prava in njihov pomen za delo uprave; sodno pravo kot podlaga za delo uprave; upravnopravne norme in akti (vrste, medsebojna hierarhija ter odvisnost); skladnost upravnopravnih norm in aktov; posebna vprašanja zakonitosti pri izdajanju posamičnih upravnih aktov; vlogo uprave pri uresničevanju človekovih pravic in njeni ustavnopravni vidiki, in izbrana področja posebnega dela upravnega prava zlasti povezana s pravom nepremičnin. V okviru predmeta se študentke in študente seznanijo s pojmom in razvojem upravnega prava ter njegovimi temeljnimi inštituti. Natančneje se obravnava potem celotnega splošnega upravnega postopka in upravnega spora in razmerje so posebnih upravnik postopkov s poudarkom na postopkih povezanih s pravom nepremičnin.

Predmet na podiplomskem nivoju tako poglobljeno obravnava sledečo vsebino:

1. DEL: UPRAVNO PRAVO

Content (Syllabus outline):

The course on Administrative Law and Administrative procedure on the postgraduate level includes its following basic concepts: definition and demarcation of concepts of administrative Law (formation, development, classification), administration, state administration, public administration. Sources of administrative law and their relevance to the work of the administration. Case law as a basis for the work of the administration. Administrative law norms and instruments (types, the hierarchy and dependence). Consistency of administrative norms and regulations. Specific questions related to real estate law. This course aims to acquaint students the concept and development of administrative law and its core institutes.

General administrative procedure is analysed thoroughly and relation to the special administrative procedures with emphasis to the special administrative procedures related to the real estate law.

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) in njihovo financiranje.
Javno pooblastilo.
Vrste in hierarhija upravnopravnih norm in aktov.
Vezanost uprave na zakon.
Diskrecija, pravna vezanost, 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 IN POSEBNI UPRAVNI POSTOPKI

Splošni upravni postopek in posebni upravni postopek, 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.
Sodni nadzor nad zakonitostjo posamičnih upravnih aktov.
Pridobitev gradbenega in uporabnega dovoljenja – posebni upravni postopek.

The course at the postgraduate level thus deals in depth with the following content:

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) and financing.
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 procedure, subsidiarity principle.
Characteristics of the administrative relationship.
Administrative matter.
Which bodies and when they act according to 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. Obtaining a building and use permit - a special administrative procedure.

Temeljna literatura in viri / Readings:

Obvezna literatura (Mandatory):

- FERK, Boštjan, Ferk, Petra: Skripta za predmet UPRAVNO PRAVO IN UPRAVNI POSTOPEK - Pravo in management nepremičnin (II stopnja), Evropska pravna fakulteta 2024.
- Gradivo s predavanj.
- AVBELJ, Matej (ur.) in drugi: Komentar Ustave Republike Slovenije: 1. natis. Nova Gorica: Nova univerza, Evropska pravna fakulteta, 2019 (izbrane vsebine).
- ČEBULJ, Janez, STRMECKI, Mik. Upravno pravo : učbenik. Ljubljana: Fakulteta za upravo, 2005.
- JEROVŠEK, Tone, KOVAČ, Polonca. Upravni postopek in upravni spor. Fakulteta za upravo, Ljubljana, 2016.
- Jerovšek Tone, Gorazd Trpin et. al., Komentar zakona o splošnem upravnem postopku, Inštitut za javno upravo PF, Ljubljana 2004.
- FERK, Petra, FERK, Boštjan. Javne službe, državne pomoči in javno-zasebna partnerstva. 1. natis. Ljubljana: GV založba, 2008.
- FERK, Petra. Javne službe na ravni primarnih virov ES. Pravna praksa : PP. [Tiskana izd.]. 18. sep. 2008, leto 27, št. 36, str. 9-11.
- CRAIG, Paul: Administrative Law, John Wiley & Sons, London, 2012.
- Christopher Pollitt: Advanced Introduction to Public Management and Administration, Edward Elgar Publishing, 2016.
- 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.
- FERK, Boštjan, FERK, Petra. Pokrajine - kako naprej?. V: JAMBREK, Peter (ur.). Državna uprava, ustavna demokracija in mednarodno pravo : liber amicorum Anton Jerovšek. Bled: Inštitut za ustavno ureditev in človekove pravice, 2022. Str. 65-72.

Priporočeno /Recommended:

- 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.
- Administrative Justice in Europe, Report of the Republic of Slovenia, URL: http://www.aca-europe.eu/en/eurtour/i/countries/slovenia/slovenia_en.pdf.
- KNEZ, Rajko, FERK, Petra. Slovenia. V: CAMERON, Peter D. (ur.), LAFFRANQUE, Julia (ur.). The Interface European Union Energy, Environmental and Competition Law : reports of the XXV FIDE Congress Tallinn 2012 = Euroopa Liidu energia-, keskkonna- ja konkurentsiõiguse seosed. Tallinn: Tartu University Press, 2012. Str. 403-428.
- FERK, Boštjan, FERK, Petra. Public capital and private capital in the internal market : securing a level playing field for public and private enterprises. V: RODRÍGUEZ IGLESIAS, Gil Carlos (ur.), ORTIZ BLANCO, Luis (ur.). Public capital and private capital in the internal market: [proceedings of the FIDE XXIV Congress, Madrid, 2010, vol.3]. Madrid: Servicio de Publicaciones de la Facultad de Derecho Universidad Complutense. 2010, str. 421-447.
- FERK, Petra, FERK, Boštjan. Alternativni viri financiranja javne infrastrukture. Pravna praksa, 2011, leto 30, št. 18, str. II-VIII.
- FERK, Petra, FERK, Boštjan. Osebe javnega prava kot ponudniki. Podjetje in delo : revija za gospodarsko, delovno in socialno pravo, 2011, 37, [št.] 3/4, str. 481-502.

- FERK, Petra, FERK, Boštjan. Slovenia. V: NEERGAARD, Ulla Boegh (ur.). Public procurement law : limitations, opportunities and paradoxes. Vol. 3. 1st ed. Copenhagen: DJØF Publishing. 2014, str. 685-705.
- FERK, Petra, FERK, Boštjan. Top 10 reasons why (not) and how (not) to implement PPPs in the developing and emerging economies, In: LEITAO, Joao, MORAIS SARMENTO, Elsa, ALELUIA Joao (Eds.): The Emerald Handbook of Public-Private Partnerships PPPs in Developing and Emerging Economies, Perspectives on Public Policy, Enterepreneurschip and Poverty, Emerald Publishing, 2017, pp. 3-44.
- 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.

Cilji in kompetence:		**Objectives and competences:**
Študentje bodo razvili **splošne kompetence**: - študent poglobljeno spozna institute upravnega prava in upravnega postopka; - študent zna reševati vprašanja, povezana z nastankom upravnopravnih norm; - študent je sposoben zaznati vprašanja, pomembna za zakonito delo upravnih organov; - študent pozna in razume postopke za reševanje upravnih zadev; - študent spozna sistem pravnih sredstev zoper odločitve upravnih organov.		Students will develop the following **general competences**: - students distinguish between institutes of administrative law and administrative procedure; - 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 understand the remedies.
Študentje bodo razvili **predmetno-specifične kompetence**: - poznavanje in razumevanje zgodovine razvoja upravnega prava, - sposobnost za razumevanje in reševanje konkretnih delovnih problemov z uporabo znanstvenih metod in postopkov, - sposobnost povezovanja znanja z različnih interdisciplinarnih področij, - sposobnost umeščanja novih informacij in interpretacij v kontekst razvoja stroke na področju prava in managementa nepremičnin, - razvoj veščin in spretnosti v uporabi znanja na področju nepremičnin, - razumevanje pomena in vloge informacijsko komunikacijske tehnologije in sistemov v upravnem pravu, - 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 izdelati splošni upravnopravni akt; - študent je sposoben uporabljati institute upravnega postopka; - študent je sposoben reševati enostavnejše upravne zadeve in oblikovati upravno odločbo; - študent je sposoben pripraviti pravno sredstvo zoper upravno odločbo.		Students will develop the following **course-specific competences:** - knowledge and understanding of the history of the development of administrative law, - ability to understand and solve specific problems using scientific methods and procedures, - ability to integrate knowledge from different interdisciplinary fields, - ability to place new information and interpretations in the context of the development of the profession at in the field of real estate law and management, development of skills in the application of real estate knowledge, - understanding the meaning of the information and communication technologies and systems, - 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 competent to create administration act; - students are capable to use basic institutes of administrative procedures; - students are competent to solve simple administrative matters and formulate the administrative order;

		- students are capable to use remedies.

Predvideni študijski rezultati:
Znanje in razumevanje:

Intended learning outcomes:
Knowledge and understanding:

Študent:

- osvoji poglobljeno poznavanje vprašanj vsebinskega in postopkovnega upravnega prava - splošni in posebni del.
- bo usposobljen za prepoznavanje in razumevanje materije upravnega prava ter upravnopravnih norm. Poznal bo temelje razmerja med posameznikom in državo na področju upravnega prava ter temeljne zahteve, ki izvirajo iz vezanosti uprave na zakon pri izdajanju splošnih in posamičnih norm.
- bo razumel postopke uveljavljanja pravic in odrejanja obveznosti na področju upravnega prava. Usposobljen bo za reševanje upravnih zadev in za vlaganje pritožb in drugih pravnih sredstev v upravnem postopku.
- je zmožen/na kritične presoje ter analize in interpretacije dogodkov in usmeritev iz upravnega prava – splošni in posebni del v sodobnem obdobju.
- je sposoben je kritično oceniti in se opredeliti do prakse upravnih organov, upravnih sodišč in ustavnega sodišča;
- razvije sposobnost ustrezno umestiti pravico do dobrega upravljanja na področju varstva človekovih pravic v upravnem pravu - splošne in posebne perspektive.
- pozna in uporablja metodološke pristope pri raziskovanju vprašanj upravnega prava – splošni in posebni del.

Students will:

- acquire the in depth knowledge of substantive and procedural administrative law – general and specific perspectives.
- 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.
- understand the administrative procedures of ensuring rights and obligations on the field of administration law. They will be capable of resolving easier procedural problems in administration. They will be also capable to use remedies.
- be able to the critical judge, analyse and interpret events and policies related to administrative law – specific perspectives in the modern period.
Student is able to critically evaluate and define the practice of administrative bodies, administrative courts and the Constitutional Court.
- be able to the appropriately place right to good governance in the protection of human rights in administrative law – general and specific perspectives.
- knows and uses methodological approaches to administrative law – general and specific perspectives.

Metode poučevanja in učenja:

Oblike dela:
☒ Frontalna oblika poučevanja
☒ Delo v manjših skupinah oz. individualno
☒ Samostojno delo študentov
☒ študij s pomočjo IKT tehnologije
☐ 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

Learning and teaching methods:

Types of learning/teaching:
☒ Frontal teaching
☒ Work in smaller groups or individual work
☒ Independent students work
☒ studies using ICT technology
☐ 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)**
Sprotno ustno (aktivno sodelovanje pri kontaktnih urah in pri raziskavah)		Oral verification and assessment of knowledge
Sprotno pisno preverjanje znanja (krajši pisni izdelki)		Written verification and assessment of knowledge (short written casework)
Daljši pisni izdelki (seminarska naloga, projektna naloga, raziskovalna poročila)		Longer written casework
Javni nastop in predstavitev lastnega raziskovalnega dela		Public presentation of one's research
Končni ustni izpit		Final examination (oral)
Končni pisni izpit	**100**	Final examination (written)
Drugo (vpišite)		Other:

Reference nosilca / Lecture's references:

Petra Ferk je diplomirala pri 22 letih na Pravni fakulteti Univerze v Ljubljani z oceno cum laude. Po končanem študiju se je zaposlila na Slovenski odškodninski družbi, nato pa je kot svetovalka začela delati v javnem podjetju Kontrola zračnega prometa Slovenije, d.o.o. Leta 2008 je na Pravni fakulteti Univerze v Ljubljani uspešno zagovarjala magistrsko nalogo pod mentorstvom prof. dr. Rajka Pirnata. Istega leta je v soavtorstvu z Boštjanom Ferkom napisala monografijo z naslovom Javne službe, državne pomoči in javno-zasebna partnerstva. Leta 2008 je prejela priznanje Zveze društev pravnikov za mlado pravnico. Leta 2023 je prejela priznanje Zveze društev pravnikov za delo v organih zveze in njenih članicah.
Je avtorica več strokovnih in znanstvenih člankov doma in v tujini. Med daljšimi študijskimi aktivnostmi v tujini je treba omeniti raziskovalno delo, ki ga je opravila za magistrsko nalogo in za doktorsko disertacijo kot štipendistka na Inštitutu Maxa Plancka za mednarodno in primerjalno pravo v Hamburgu. Stažirala je na Sodišču Evropske Unije v Luksemburgu, in se v Dublinu na Irskem izpopolnjevala v angleškem jeziku ter opravljala tudi raziskovalno delo za doktorsko disertacijo.
V okviru Inštituta pokriva predvsem raziskovalno dejavnost na vseh področjih delovanja Inštituta, mednarodno sodelovanje in prenos znanja. Kot izredna profesorica za javno upravo je habilitirana in predava na Novi univerzi, kjer predava pri predmetih Pravo javnih služb, Upravni sistemi, Pravo javnih naročil in koncesij in Javno-zasebna partnerstva. V zadnjem času se ukvarja zlasti z aktualnimi vprašanji elektronskega javnega naročanja, projekti pogodbenega zagotavljanja prihranka energije, trajnostno usmerjenega izvajanja javnih projektov, zagotavljanjem in financiranjem izvajanja javnih služb in izgradnje javne infrastrukture ter s tem povezanim vprašanjem državnih pomoči.
Petra Ferk je članica upravnega odbora Slovenskega društva za evropsko pravo in sodeluje pri njegovih aktivnosti že od ustanovitve naprej. Hkrati je tudi članica upravnega odbora Mednarodnega združenja za evropsko pravo (Federation Internationale du droit Europeen – FIDE) in članica upravnega odbora Mednarodne akademije za primerjalno pravo (International Academy of Comparative Law – IACL).
Petra Ferk je nacionalna korespondentka za European Procurement & Public Private Partnership Law Review. V okviru Upravne akademije pri Ministrstvu za javno upravo pa nastopa kot izvajalka seminarjev in izobraževanj na temo javno-zasebnega partnerstva.
Petra je tudi zelo aktivna pri globalnem prenosu najboljših praks s področja uveljavljanja ciljev trajnostnega razvoja z javno-zasebnimi partnerstvi, ki poteka pod okriljem Gospodarske komisije Združenih narodov za Evropo (UNECE) - UNECE PPP and Infrastructure Evaluation and Rating System (PIERS) in je uvrščena na seznam ocenjevalcev projektov po metodologiji PIERS pri Sekretariatu UNECE.

Petra Ferk is one of the Founders at the Institute for Public-Private Partnership, Slovenia. She is also an Assistant Professor for Public Administration at the Graduate School of Government and European Studies, Slovenia.
Petra Ferk graduated cum laude from the Faculty of Law. After her studies, she started working at Slovenska odškodninska družba, Ltd. and later switched to a position of a Advisor at Slovenia Control, Ltd.. In 2008, she successfully defended her Master Thesis, her mentor being prof. Rajko Pirnat. That same year, she co-authored a monograph Javne službe, državne pomoči in javno-zasebna partnerstva [Public Services, State Aids, and Public-Private Partnerships]. In 2008, she was also awarded the "Young Lawyer Award" by the Slovenian Law Association. In 2023, she received recognition from the Association of Lawyers for her work in the organs of the association and its members.
As said, Petra is the co-author of a legal monograph and also the author of numerous articles dealing mainly with public-private partnerships, public procurement, services of general (economic) interest, and state aid. Among her activities abroad, her most prominent work is a research, conducted in Dublin as well as research for her

master's and doctoral theses at the Max Planck Institute for Comparative and International Private Law in Hamburg, Germany, for which she received scholarship. She additionally improved her professional skills as a stagier at the European Court of Justice in the cabinet of Judge of the Court of First Instance of European Communities, Mrs. Ingrida Labucka.

Within the Institute for Public-Private Partnership, Petra advises on complex legal issues within the areas of operation of the Institute, as well as covering the fields of research, international cooperation, and knowledge transfer. As an Associate assistant professor for public administration at the New University, she lectures about public services law, public-private partnerships, public procurement, administrative systems, administrative law and procedure. Recently, she has been actively engaging in discussions on e-procurement, energy performance contracting projects, sustainable procurement, provision and financing of public services, public infrastructure, and the related issue of state aid.

Petra is a member of the board of the Slovenian Association for European Law and participates in its activities since its establishment. She also holds the positions of a member of the management board at Federation Internationale du droit Europeen – FIDE and International Academy of Comparative Law – IACL.

Petra is the national correspondent for European Procurement & Public Private Partnership Law Review, and is active in promoting best practices on PPPs within the trainings organised by the UNECE International PPP Centre of Excellence. She is on the list of lecturers for public-private partnerships at the Academy for Administration of the Slovenian Ministry of Public Administration.

Petra is also very active in the global transfer of best practices in the field of implementing sustainable development goals through public-private partnerships, which takes place under the auspices of the United Nations Economic Commission for Europe (UNECE) - UNECE PPP and Infrastructure Evaluation and Rating System (PIERS) and is listed as a Project Evaluator rostered by the UNECE Secretariat.

Bibliografija/Bibliography: https://bib.cobiss.net/biblioweb/biblio/si/slv/conor/74627939