UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	**Ustavno in mednarodno kazensko pravo**
Course title:	**Constitutional and International Criminal Law**

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

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:		doc. dr. Gregor Maučec / Asst Prof Gregor Maučec
Jeziki/Languages:	Predavanja / Lectures:	slovenski jezik / Slovenian
	Seminar / Seminar:	slovenski jezik / Slovenian

Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:	**Prerequisites:**
Zahteva se vsaj 80 % prisotnost na predavanjih.	At least 80% attendance at lectures is required.

Vsebina:	**Content (Syllabus outline):**

1. Ustavna kazenskopravna jamstva
- Ustavni temelji kaznovalne oblasti, razmerje med vejami oblasti ter ustavnosodna presoja kazenske zakonodaje.
- Temeljna ustavna jamstva v kazenskem pravu: načelo zakonitosti, domneva nedolžnosti in prepoved ponovnega sojenja o isti stvari.
- Varstvo življenja, osebne svobode, človekove osebnosti in dostojanstva.
- Procesna jamstva v kazenskem postopku: enako varstvo pravic, pravica do sodnega varstva in pravnega sredstva, pravica do obrambe ter privilegij zoper samoobtožbo.
- Ustavnopravni vidiki dokazovanja, policijskih pooblastil in posegov v zasebnost.
- Sodno varstvo ustavnih pravic v kazenskih zadevah in izbrana sodna praksa Ustavnega sodišča Republike Slovenije.

2. Konvencijska kazenskopravna jamstva
- Razmerje med Ustavo Republike Slovenije in Evropsko konvencijo o človekovih pravicah ter vpliv sodne prakse Evropskega sodišča za človekove pravice na nacionalno kazensko pravo.
- Pravica do življenja, prepoved mučenja in nečloveškega ali ponižujočega ravnanja ter obveznosti države.
- Pravica do svobode in varnosti ter procesna jamstva ob odvzemu prostosti.
- Pravica do poštenega sojenja, domneva nedolžnosti, pravica do obrambe in druge zahteve poštenega kazenskega postopka.
- Načelo zakonitosti v kazenskem pravu ter varstvo zasebnosti pri kazenskih preiskavah.
- Učinkovito pravno sredstvo, prepoved ponovnega sojenja o isti stvari in druga konvencijska jamstva, pomembna za kazensko pravo.
- Izvrševanje sodb Evropskega sodišča za človekove pravice in njihov vpliv na slovensko zakonodajo ter sodno prakso.

3. Kazensko pravo Evropske unije
- Razvoj in pravni viri kazenskega prava Evropske unije ter pristojnosti Evropske unije na kazenskopravnem področju.
- Materialno kazensko pravo Evropske unije: harmonizacija kaznivih dejanj in sankcij, splošni instituti kazenskega prava Evropske unije, načelo zakonitosti ter izzivi prenosa instrumentov Evropske unije v nacionalno pravo.
- Pravosodno sodelovanje v kazenskih zadevah: načelo medsebojnega priznavanja, evropski nalog za prijetje in predajo, evropski preiskovalni nalog ter razmerje med medsebojnim zaupanjem in varstvom temeljnih pravic.

1. Constitutional Safeguards in Criminal Law
- Constitutional foundations of the state's power to punish, the separation of powers, and constitutional review of criminal legislation.
- Fundamental constitutional safeguards in criminal law: the principle of legality, the presumption of innocence, and the prohibition of double jeopardy.
- Protection of life, personal liberty, human personality, and human dignity.
- Procedural safeguards in criminal proceedings: equal protection of rights, the right to judicial protection and an effective legal remedy, the right to defence, and the privilege against self-incrimination.
- Constitutional aspects of evidence, police powers, and interferences with privacy.
- Judicial protection of constitutional rights in criminal matters and selected case law of the Constitutional Court of the Republic of Slovenia.

2. Criminal Law Safeguards under the European Convention on Human Rights
- The relationship between the Constitution of the Republic of Slovenia and the European Convention on Human Rights, and the impact of the case law of the European Court of Human Rights on national criminal law.
- The right to life, the prohibition of torture and inhuman or degrading treatment, and the corresponding obligations of the state.
- The right to liberty and security and procedural safeguards in cases involving deprivation of liberty.
- The right to a fair trial, the presumption of innocence, the right to defence, and other requirements of fair criminal proceedings.
- The principle of legality in criminal law and the protection of privacy in criminal investigations.
- The right to an effective remedy, the prohibition of double jeopardy, and other Convention safeguards relevant to criminal law.
- Implementation of judgments of the European Court of Human Rights and their impact on Slovenian legislation and judicial practice.

3. European Union Criminal Law
- The development and sources of European Union criminal law and the competences of the European Union in criminal matters.
- Substantive European Union criminal law: harmonisation of criminal offences and penalties, general principles and doctrines of European Union criminal law, the principle of legality, and challenges arising from the implementation of the European Union instruments in national law.

- Procesne pravice v Evropski uniji: harmonizacija minimalnih procesnih jamstev, njihov pomen za čezmejno sodelovanje ter načelo *ne bis in idem*.
- Institucionalni okvir in prihodnji razvoj: Evropsko javno tožilstvo, vloga evropskih agencij, meje medsebojnega priznavanja ter aktualni izzivi razvoja kazenskega prava Evropske unije.

4. Mednarodno kazensko pravo

- Pojem, razvoj, viri in temeljna načela mednarodnega kazenskega prava.
- Mednarodna kazenska odgovornost posameznika in temeljne oblike odgovornosti.
- Mednarodna hudodelstva: genocid, hudodelstva zoper človečnost, vojna hudodelstva in hudodelstvo agresije.
- Mednarodna kazenska sodišča, zlasti Mednarodno kazensko sodišče: pristojnost, delovanje in sodna praksa.
- Razmerje med mednarodnim kazenskim pravom in nacionalnimi pravnimi redi, načelo komplementarnosti ter sodelovanje držav z mednarodnimi kazenskimi sodišči.

- Judicial cooperation in criminal matters: the principle of mutual recognition, the European Arrest Warrant, the European Investigation Order, and the relationship between mutual trust and the protection of fundamental rights.
- Procedural rights in the European Union: harmonisation of minimum procedural safeguards, their significance for cross-border cooperation, and the principle of *ne bis in idem*.
- Institutional framework and future developments: the European Public Prosecutor's Office, the role of the European Union agencies, the limits of mutual recognition, and current challenges in the development of European Union criminal law.

4. International Criminal Law

- The concept, development, sources, and fundamental principles of international criminal law.
- Individual criminal responsibility under international law and the principal forms of liability.
- International crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.
- International criminal courts and tribunals, particularly the International Criminal Court: jurisdiction, operation, and case law.
- The relationship between international criminal law and national legal systems, the principle of complementarity, and cooperation between states and international criminal courts and tribunal.

Temeljna literatura in viri / Readings:

Obvezna / Compulsory:

1. Ambrož, M. et al. (2012). Mednarodno kazensko pravo. Ljubljana: Uradni list Republike Slovenije.
2. Avbelj, M. (ur.) (2019). Komentar Ustave Republike Slovenije (1. In 2. del). Nova Gorica: Nova univerza, Evropska pravna fakulteta.
3. Letnar Černič, J. (2026). Pravo Evropske konvencije o varstvu človekovih pravic. Ljubljana: Nova univerza.
4. Zagorac, D. (ur.) (2003). Rimski statut Mednarodnega kazenskega sodišča in drugi dokumenti z uvodnimi pojasnili. Ljubljana: Amnesty International Slovenije.

Priporočena / Recommended:

1. Harris, D., O'Boyle, M., Bates, E. et al. (2023). Law of the European Convention on Human Rights. Oxford: Oxford University Press.
2. Maučec, G., Dothan, S. (2022). Judicial dissent at the International Criminal Court: a theoretical and empirical analysis. Leiden journal of international law, 35 (4), str. 945–961.
3. Maučec, G. (2021). On implementation of intersectionality in prosecuting and adjudicating mass atrocities by the International Criminal Court. International criminal law review.
4. Schabas, W. (2012). An introduction to the International Criminal Court. Cambridge: Cambridge University Press.
5. Türk, D. (2015). Temelji mednarodnega prava. Ljubljana: Lexpera, GV Založba.
6. Werle, G. (2005). Principles of international criminal law. Hague, Cambridge: TMC Asser Press.

Cilji in kompetence:		**Objectives and competences:**
Študentje bodo razvili **splošne kompetence**: • sposobnost kritičnega in analitičnega razmišljanja ter samostojnega vrednotenja pravnih vprašanj; • sposobnost razumevanja, interpretacije in sistematične uporabe pravnih virov ter sodne prakse; • sposobnost pravnega argumentiranja, oblikovanja utemeljenih stališč in reševanja kompleksnih pravnih problemov; • sposobnost povezovanja teoretičnih pravnih znanj s praktičnimi primeri in aktualnimi pravnimi izzivi; • sposobnost primerjalnopravne analize in razumevanja medsebojnega vplivanja različnih pravnih sistemov; • sposobnost samostojnega raziskovanja, uporabe pravne literature in relevantnih sodnih odločb; • sposobnost jasnega strokovnega izražanja ter predstavitve pravnih argumentov v pisni obliki; • sposobnost prepoznavanja pomena varstva človekovih pravic, vladavine prava in pravne države pri delovanju kazenskopravnega sistema.		Students will develop the following **general competencies**: • The ability to think critically and analytically and to independently evaluate legal issues; • The ability to understand, interpret, and systematically apply legal sources and case law; • The ability to engage in legal reasoning, formulate well-founded positions, and solve complex legal problems; • The ability to connect theoretical legal knowledge with practical examples and current legal challenges; • The ability to conduct comparative legal analysis and understand the interactions between different legal systems; • The ability to conduct independent research and use legal literature and relevant judicial decisions; • The ability to communicate clearly and professionally and to present legal arguments in writing; • The ability to recognize the importance of protecting human rights, upholding the rule of law, and maintaining the principles of a state governed by the rule of law in the functioning of the criminal justice system.
Študentje bodo razvili **predmetno-specifične kompetence**: • razumevanje ustavnih temeljev kaznovalne oblasti ter ustavnih omejitev kazenskega prava in kazenskega postopka; • sposobnost prepoznavanja in uporabe ustavnih kazenskopravnih jamstev ter analize relevantne presoje Ustavnega sodišča Republike Slovenije; • sposobnost razlage in uporabe standardov Evropske konvencije o človekovih pravicah ter presoje njihovega vpliva na slovensko kazensko zakonodajo in (ustavno)sodno prakso; • sposobnost analize sodne prakse Evropskega sodišča za človekove pravice in razumevanja obveznosti države, ki izhajajo iz njegovih sodb; • razumevanje pristojnosti Evropske unije na področju kazenskega prava ter sposobnost analize instrumentov harmonizacije materialnega in procesnega kazenskega prava; • sposobnost razumevanja in uporabe instrumentov pravosodnega sodelovanja v kazenskih zadevah, zlasti načela medsebojnega priznavanja, evropskega naloga za prijetje in predajo ter evropskega preiskovalnega naloga;		Students will develop **subject-specific competencies**: • Understanding the constitutional foundations of the power to punish and the constitutional limitations of criminal law and criminal procedure; • The ability to identify and apply constitutional safeguards in criminal law and to analyse relevant decisions of the Constitutional Court of the Republic of Slovenia; • The ability to interpret and apply the standards of the European Convention on Human Rights and assess their impact on Slovenian criminal legislation and judicial practice, including constitutional review; • The ability to analyse the case law of the European Court of Human Rights and understand the obligations incumbent upon states arising from its judgments; • Understanding the competences of the European Union in the field of criminal law and the ability to analyse instruments for the harmonisation of substantive criminal law and criminal procedure; • The ability to understand and apply instruments of judicial cooperation in criminal matters, particularly the principle of mutual recognition, the European Arrest

• sposobnost presoje razmerja med učinkovitostjo čezmejnega kazenskega pregona, medsebojnim zaupanjem držav članic in varstvom temeljnih pravic; • razumevanje virov, načel in temeljnih institutov mednarodnega kazenskega prava ter oblik mednarodne kazenske odgovornosti posameznika; • sposobnost analize mednarodnih hudodelstev in razumevanje pristojnosti mednarodnih kazenskih sodišč; • sposobnost presoje razmerja med mednarodnim kazenskim pravom in nacionalnimi pravnimi redi ter razumevanja obveznosti držav pri sodelovanju z mednarodnimi kazenskimi sodišči; • sposobnost povezovanja ustavnih, evropskih in mednarodnih pravnih standardov pri reševanju konkretnih vprašanj kazenskega prava in kazenskega postopka.		Warrant, and the European Investigation Order; • The ability to assess the relationship between the effectiveness of cross-border criminal prosecution, mutual trust between Member States, and the protection of fundamental rights; • Understanding the sources, principles, and fundamental concepts of international criminal law, as well as the forms of individual criminal responsibility under international law; • The ability to analyse international crimes and understand the jurisdiction of international criminal courts; • The ability to assess the relationship between international criminal law and national legal systems and to understand states' obligations to cooperate with international criminal courts; • The ability to integrate constitutional, European, and international legal standards when addressing specific issues of criminal law and criminal procedure.

Predvideni študijski rezultati:
Znanje in razumevanje:

Intended learning outcomes:
Knowledge and understanding:

Študent bo: • sposoben razumeti, razložiti in uporabiti temeljna načela ter pravne institute ustavnega, evropskega in mednarodnega kazenskega prava; • sposoben analizirati ustavna kazenskopravna jamstva, konvencijske standarde varstva človekovih pravic ter njihovo uveljavljanje v nacionalnih kazenskih postopkih; • sposoben interpretirati in kritično ovrednotiti presojo Ustavnega sodišča Republike Slovenije in sodno prakso Evropskega sodišča za človekove pravice, Sodišča Evropske unije in mednarodnih kazenskih sodišč; • sposoben prepoznati, analizirati in predlagati pravno utemeljene rešitve za kompleksna materialnopravna in procesnopravna vprašanja na ustavni, evropski in mednarodni ravni; • sposoben presojati medsebojno učinkovanje nacionalnega prava, prava Evropske unije in mednarodnega prava ter prepoznati morebitna neskladja in konflikte med različnimi pravnimi standardi; • sposoben analizirati vpliv nadnacionalnih pravnih virov in sodne prakse na nacionalno kazensko zakonodajo, sodno prakso in kazenskopravno prakso; • sposoben prepoznati in kritično ovrednotiti aktualne izzive ustavnega, evropskega in mednarodnega kazenskega prava ter predvideti njihove možne pravne posledice;	The student will be able: • to understand, explain, and apply the fundamental principles and legal concepts of constitutional, European, and international criminal law; • to analyse constitutional safeguards in criminal law, Convention standards for the protection of human rights, and their application in national criminal proceedings; • to interpret and critically evaluate the case law of the Constitutional Court of the Republic of Slovenia, the European Court of Human Rights, the Court of Justice of the European Union, and international criminal courts; • to identify and analyse complex substantive and procedural legal issues at the constitutional, European, and international levels and propose legally sound solutions; • to assess the interaction between national law, European Union law, and international law, and identify potential inconsistencies and conflicts between different legal standards; • to analyse the impact of supranational legal sources and case law on national criminal legislation, judicial practice, and criminal justice practice; • to identify and critically evaluate current challenges in constitutional, European, and international criminal law and anticipate their potential legal consequences;

• sposoben uporabiti primerjalnopravni pristop pri analizi kazenskopravnih vprašanj in oblikovati argumentirane predloge za njihov pravni razvoj; • sposoben samostojno raziskovati izbrana vprašanja ustavnega, evropskega in mednarodnega kazenskega prava, uporabljati ustrezne pravne vire ter pripraviti strokovno utemeljeno pisno pravno analizo.	• to apply a comparative law approach to the analysis of criminal law issues and formulate reasoned proposals for their legal development; • to independently research selected issues of constitutional, European, and international criminal law, use relevant legal sources, and prepare a well-founded written legal analysis.

Metode poučevanja in učenja:	**Learning and teaching methods:**
Oblike dela: ☒ Frontalna oblika poučevanja ☐ Delo v manjših skupinah oz. individualno ☒ Samostojno delo študentov ☒ Študij s pomočjo IKT tehnologij ☐ 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	**Types of learning/teaching:** ☒ Frontal teaching ☐ Work in smaller groups or individual work ☒ Independent students work ☒ Study with the help of ICT technologies ☐ 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)**
Končni pisni izpit	100 %	Final examination (written)

Reference nosilca / Lecture's references:

Maučec, G. (2023). Protecting Minorities from Mass Violence and Atrocity Crimes Through the International Criminal Court: A Legal Appraisal. V: Europäisches Minderheitenrecht: Festschrift für Professor Gilbert Gornig
(Band I) / P. Hilpold, C. Perathoner (ur.), Facultas-Vienna/Nomos-Baden-Baden, str. 675–695.
Maučec, G., Dothan, S. (2022). Judicial Dissent at the International Criminal Court: A Theoretical and Empirical
Analysis. Leiden Journal of International Law, 35(4), str. 945–961.
Maučec, G. (2021). On Implementation of Intersectionality in Prosecuting and Adjudicating Mass Atrocities by the International Criminal Court. International Criminal Law Review, 21(3), str. 534–560.
Maučec, G. (2021). Law Development by the International Criminal Court as a Way to Enhance the Protection of Minorities – the Case for Intersectional Consideration of Mass Atrocities. Journal of International Dispute Settlement, 12(1), str. 42–83.
Maučec, G. (2021). The International Criminal Court and the Issue of Intersectionality – A Conceptual and Legal
Framework for Analysis. International Criminal Law Review, 21(1), str. 1–34.
Maučec, G. (2020). The Power of Culture and Judicial Decision-Making at the International Criminal Court. V: Intersections of Law and Culture at the International Criminal Court / J. Fraser, B. McGonigle Leyh (ur.), Edward
Elgar, str. 190–208.
Maučec, G. (2017). Proving Unlawful Discrimination in Capital Cases: In Quest of an Adequate Standard of Proof. Utrecht Journal of International and European Law, 33(85), str. 5–37.
Maučec, G. (2014). Discrimination in Capital Sentencing: An International Law Treatise. V: Liber Amicorum, Scritti in onore di Domenico Coccopalmerio / G. Calabrò, G. L. Cecchini (ur.), Amon, str. 621–669.

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