

**UČNI NAČRT PREDMETA / COURSE SYLLABUS**

**Predmet:** Varstvo človekovih pravic v izvršilnem pravu in pravu nepravdnih postopkov  
**Course title:** Human rights protection in law of execution and non-litigating procedure

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Civilno in gospodarsko pravo – 2. stopnja		1.	1.
Civil and Commercial Law – 2nd degree		1.	1.

**Vrsta predmeta / Course type**

Obvezni / Compulsory

**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	0	0	0	80	4

**Nosilec predmeta / Lecturer:**

prof. dr. Jernej Letnar Černič/Prof. Jernej Letnar Černič, PhD

**Jeziki /**

**Languages:**

**Predavanja /**

**Lectures:**

**Vaje / Tutorial:**

Slovenski jezik/Slovenian/Angleški jezik/English

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

Vpis v prvi letnik podiplomskega študijskega programa.

Vsaj 80% prisotnost na predavanjih.

**Prerequisites:**

Enrollment in the first year of the postgraduate study program.

At least 80% attendance at lectures.

**Vsebina:**

Pojem, izvori in viri izvršilnega in nepravdnega prava

Temeljna načela nepravdnega in izvršilnega prava

Vsebinsko in postopkovno varstvo človekovih pravic

Narava in obseg pravice do poštnega sojenja v nepravdnih in izvršilnih postopkih

Normativna nomotehnikna ureditve nepravdnega in izvršilnega postopka

Podobnosti in razlikovanje med nepravdnim in pravdnim postopkom

Pravica do pravnih sredstev v nepravdnem in izvršilnem postopku

Vrste nepravdnih postopkov

Pravna narava izvršilnega postopka

Sodna praksa slovenskih in tujih sodišč

**Content (Syllabus outline):**

The concept, origins and sources of law of execution and non-litigating procedure

The fundamental principles of law of execution and non-litigating procedure

Substantive and procedural protection of human rights

The nature and extent of the right to fair trial in law of execution and non-litigating procedure

Normative nomotechnic framework in law of execution and non-litigating procedure

Similarities and differences between non-litigating and litigating procedure

The right to seek redress in law of execution and non-litigating procedure

Types of non-litigious proceedings

Legal nature of the law of execution

Jurisprudence of Slovenian and foreign courts

**Študijska literatura in viri / Readings:**

1. Matej Avbelj (ur.), Komentar Ustave RS, Nova univerza, 2019.
2. Jernej Letnar Čerňič, Matej Avbelj, Marko Novak, Dejan Valentinčič, Reforma demokratične in pravne države v Sloveniji. 1. natis. Kranj: Nova univerza, Fakulteta za državne in evropske študije, cop. 2018.
3. Matej Avbelj, Jernej Letnar Čerňič, The Impact of European Institutions on the Rule of Law and Democracy: Slovenia and Beyond. Oxford, Hart (Bloomsbury), 2020.
4. Jernej Letnar Čerňič, Slovenija na razpotju: geneza varstva človekovih pravic v slovenski družbi, Kranj: Nova univerza, Fakulteta za državne in evropske študije, cop. 2018.
5. Lovro Šturm: Omejitev oblasti. Ljubljana: Nova revija, 1998.
6. Christoph Grabenwarter, European Convention on Human Rights – Commentary, Beck, 2014.
7. David Harris, Michael O'Boyle, Ed Bates, Carla Buckley, Law of the European Convention on Human Rights, OUP, 2009.

**Cilji in kompetence:****Cilji**

Predmet varstvo človekovih pravic v izvršilnem pravu in pravu nepravdnih postopkov obravnava tako vsebinsko kot tudi postopkovno varstvo pravic posameznikov v izvršilnem in nepravdnem pravu. Posebna pozornost je namenjena opredelitvi predmetnega področja posameznih nepravdnih postopkov, ki se obravnavajo z vidika splošnega varstva človekovih pravic, kakor tudi z vidika Evropske konvencije o človekovih pravicah in temeljnih svoboščinah. Pri predmetu se primarno obravnava vire in temeljna načela izvršilnega in nepravdnega prava. Na podlagi sodne prakse slovenskih in tujih sodišč pričujoči predmet obravnava specifične primere iz domačih pravnih redov evropskih držav. Vsebinsko se obravnavajo vprašanja, ki so vezana na sodno varstvo pravic v izvršilnem in pravdnem postopku. Pričujoči predmet obravnava tudi podobnosti in razlikovanja med pravnim in nepravdnim postopkom, pri čemer se v zaključku posveča varstvu pravic v izvršilnem pravu.

**Kompetence**

Pričujoči predmet prispeva k razvoju naslednjih splošnih in specifičnih kompetenc študentov:

**a) Splošne kompetence :**

- sposobnost razumevanja temeljnih institutov gospodarskega in civilnega prava na ravni magistrskega študija,
- poznavanje in razumevanje pravnih pojmov, pravnih pravil, pravnih načel s področja gospodarskega in civilnega prava,
- sposobnost in razvoj kritičnega mišljenja pri obravnavi temeljnih vprašanj, procesov in problemov,

**Objectives and competences:****Objectives**

The course »human rights protection in law of execution and non-litigating procedure« addresses both substantive and procedural protection of individual rights in law of execution and non-litigating procedure. Special attention is given to the definition of the subject area of different non-litigating procedure, which are considered from general protection of human rights, as well as in terms of the European Convention on Human Rights and Fundamental Freedoms. The course primarily deals with sources and fundamental principles of law of execution and non-litigating procedure. Based on the case law and foreign courts, this course aims to illuminate specific cases from national legal orders of European countries. This course examines substantive issues relating to judicial protection of human rights of individuals in law of execution and non-litigating procedure« addresses. This course examines also similarities and differences between non-litigating and litigating procedure, whereas conclusion examines protection of rights in law of execution.

**Competences**

The present course contributes to the development of following generic and specific competencies of students:

**a) General competences:**

- ability to understand the fundamental institutes of corporate and civil law at the level of master studies,
- development of knowledge and understanding of legal concepts, rule of law, legal principles in the field of corporate and civil law,
- ability and development of critical thinking in addressing the fundamental

- sposobnost poznavanja in izvirnega reševanja konkretnih sodnih, pravnih in drugih družbenih problemov,
- sposobnost prehoda od opisnega načina učenja do analitičnega učenja s poudarkom na samokritičnem mišljenju,
- sposobnost izboljšanja izbire in uporabe raziskovalnih metod glede na specifični problem,
- razumevanje nujnosti nevtralnega svetovnonazorskega pristopa pri reševanju problemov v javni upravi,
- izboljšanje učinkovitosti in nediskriminatornosti uporabe pridobljenega znanja,
- izboljšanje sposobnosti odločanja o temeljnih dilemah slovenske družbe v konkretnih primerih,
- vključevanje pridobljenega znanja v delovni proces in reševanje delovnih nalog,
- sposobnost iskanja utemeljenih alternativnih rešitev in njihovo uporabo pri konkretnih problemih,
- sposobnost pridobljenega znanja in veščin v prostovoljno delo,
- sposobnost interdisciplinarnega učenja in uporabe znanj iz različnih strokovnih področij,
- sposobnost predanega samostojnega dela in njegove samorefleksije,
- sposobnost skupinskega dela in odločanje ter mreženja na strokovnem področju,
- sposobnost iskanja rešitev in njihove uporabe v praksi,
- izboljšanje in razvoj govorniških sposobnosti v akademskem svetu in v praksi,
- razvoj sposobnosti pisanja strokovnih prispevkov na visoki strokovni ravni,
- sposobnost pravilnega citiranja v besedilu in na njegovem koncu.

- issues, processes and problems,
- ability and knowledge of the original resolution of concrete judicial, legal and other social problems,
- ability to transition from a descriptive way of learning to analytical learning with an emphasis on self-critical thinking,
- ability to improve the selection and application of research methods depending on the specific problem,
- understanding the necessity of a neutral philosophical approach to resolving problems in public administration,
- improving the efficiency and non-discriminatory use of knowledge gained,
- improving the ability to make decisions about the fundamental dilemmas of Slovenian society in concrete cases,
- integration of acquired knowledge in the work process and solving tasks,
- ability to search for compelling alternative solutions and their application to concrete problems,
- ability to employ acquired knowledge and skills in voluntary work,
- ability to employ interdisciplinary learning and to apply the knowledge from different areas of expertise,
- ability to work independently and self-reflective,
- ability to work in a team and decision-making and networking in the professional field,
- ability to search for solutions and their application in practice,
- improvement and development of oral and presentation skills in the academic world and in practice,
- develop the ability to write professional articles on a high professional level,
- ability to cite sources correctly in the text and at its end.

**b) Specifične kompetence:**

- sposobnost razumevanja in kritične razlage temeljnih institutov civilnega in gospodarskega prava,
- sposobnost osvojitve temeljnih vprašanj vsebinskega in postopkovnega prava človekovih pravic in njihove uporabe na praktičnih primerih,
- sposobnost umestitve posamičnih pravic v varstvo človekovih pravic,
- sposobnost kritične presoje ter analize in interpretacije aktualnih dogodkov,
- sposobnost kritične presoje sodne prakse ustavnih, regionalnih in mednarodnih sodišč za varstvo človekovih pravic,
- sposobnost uporabe osnovnih in naprednih metodoloških pristopov pri raziskovanju vprašanj prava človekovih pravic,
- sposobnost uporabe pridobljenih znanj pri reševanju konkretnih problemov in v delu z ljudmi v praksi,
- sposobnost kreativne in izvirne uporabe pridobljenega znanja v navidezno nerešljivih primerih.

**b) Specific competencies:**

- ability to understand and critical interpret the main institutes of civil and corporate law,
- ability to conquer the fundamental questions of substantive law and procedural law of human rights and their application in practical situations,
- ability to place of individual rights in the protection of human rights,
- development of critical thinking, analysis and interpretation of daily events,
- ability to critically judge the jurisprudence of constitutional, regional and international courts for protection of human rights,
- ability to use basic and advanced methodological approaches in exploring issues of human rights law,7ability to use the acquired knowledge for solving specific problems and working with people in practice,
- ability to use of knowledge gained creatively and inventively in the seemingly unsolvable cases.

**Predvideni študijski rezultati:**

Znanje in razumevanje:

*Študent/študentka:*

- Seznanitev študentov s pojmom in razvojem izvršilnega prava in prava nepravdnih postopkov ter njegovimi temeljnimi inštituti.
- Osvojitev temeljnih vprašanj vsebinskega in postopkovnega mednarodnega varstva človekovih pravic
- razvije zanimanje in znanje o izvršilnem pravu in pravu nepravdnih postopkov
- razvije kritično razumevanje izvršilnega prava in prava nepravdnih postopkov z

**Intended learning outcomes:**

Knowledge and understanding:

Student / student:

- introducing students to the concept of law of execution and non-litigating procedure, and to its basic parts.
- Acquiring the fundamental knowledge of substantive and procedural aspects of international and regional protection of human rights
- aims to develop the students' interest in, and knowledge of, law of execution and non-litigating procedure;
- developing a critical understanding of the law of execution and non-litigating

vidika varstva človekovih pravic

- pridobiva, v povezavi z drugimi predmeti, znanje o temeljnih poglavjih izvršilnega prava in prava nepravdnih postopkov, še posebno z vidika varstva človekovih pravic.
- zmožen/na je ustrezno umestiti izvršilno pravo in pravo nepravdnih postopkov v evropski in mednarodni kontekst
- zmožen/na je kritične presoje ter analize in interpretacije dogodkov in usmeritev, ki se nanašajo na varovanje človekovih pravic v izvršilnem pravu in pravu nepravdnih postopkov
- pozna in uporablja osnovne metodološke pristope pri raziskovanju vprašanj izvršilnega prava in prava nepravdnih postopkov

procedure from the perspective of protection of human rights

- assessing, in combination with other subjects, newer developments in the law of execution and non-litigating procedure, particularly from human rights protection perspective being able to appropriately place the law of execution and non-litigating procedure in the European context
- being able to the critical judge, analyse and interpret events and policies related to human rights protection in the law of execution and non-litigating procedure
- knowing and employing basic methodological approaches to law of execution and non-litigating procedure

#### 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
- 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

<b>Načini ocenjevanja:</b>	<b>Delež (v %) / Weight (in %)</b>	<b>Assessment:</b>
Način (pisni izpit, ustno izpraševanje, naloge, projekt)		Type (examination, oral, coursework, project):
Pisni izpit	<b>80%</b>	Written examination; and seminar paper.
Seminarska naloga	<b>20%</b>	

**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 Full 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.