

UČNI NAČRT DIFERENCIALNEGA PREDMETA / COURSE SYLLABUS OF DIFFERENTIAL COURSE

Predmet:	Pravoznanstvo
Course title:	Jurisprudence

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
II. stopnja/II. level	Alternativno reševanje sporov/ Alternative dispute resolution	/	/
II. stopnja/II. level	Civilno in gospodarsko pravo/ Civil and commercial law	/	/
II. stopnja/II. level	Pravo/Law	/	/

Vrsta predmeta / Course type Diferencialni/ Differential

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
70	15	30	0	0	0	8

Nosilec predmeta / Lecturer: Prof. Dr. Marko Novak

Jeziki / Languages:	Predavanja / Lectures:	slovenski jezik / Slovenian
	Vaje / Tutorial:	slovenski jezik / Slovenian

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

Vsebina:	Content (Syllabus outline):
Pravoznanstvo obravnava naslednja osnovna področja preučevanja prava: pojem prava; institucionalni temelji prava (pravo in država); pravna norma (pravno pravilo in pravno načelo); pravno razmerje; pravni akt; pravni vir; ustvarjanje splošnih pravnih aktov; uporabljanje pravnih aktov; razlaga pravnih aktov; pravne praznine; sistemizacija prava; in teorije o naravi prava.	Jurisprudence includes the following fundamental areas of studying law: concept of law; institutional grounds of law (law and state); legal norm (legal rule and legal principle); legal relation; legal act; legal source; creation of general legal acts; application of legal acts; interpretation of legal acts; gaps in the law; systemization of law; and theories on the nature of law.

V okviru predmeta se študentke in študenti najprej seznanijo s pojmom prava, njegovo povezanostjo z vsakokratno družbo in posledično neuniverzalnostjo. Blizu povezavi z družbo je bistvena povezanost prava z državo, kjer si ogledamo nekatere ključne pojme iz teorije države, ki določajo njegovo prvinsko in ustavno umeščenost v državni pravni red in njegovo povezavo z naddržavni pravnimi ureditvami.

Pri obravnavi pravnega sistema in njegovih sestavin sledi najprej obravnavo pravnih norm, ki jo sestavljajo pravna pravila in pravna načela. Pri pravnem pravilu si predvsem ogledamo, katere vrste jih poznamo in kako so sestavljena. Glede pravnega načela je bistveno sporočilo, kaj je njihova vloga v pravnem sistemu glede na pravna pravila.

Zatem sledi obravnavo pravnega razmerja kot pravno urejenega družbeno razmerja, kjer obravnavamo predvsem njegove sestavine, ki so pravni subjekti, pravice in dolžnosti ter predmet in namen razmerja. Ključna sestavina pravnega reda so tudi pravni akti, kjer obravnavamo najprej vrste pravnih aktov, nato pa veljavnost tako splošnih kot tudi posamičnih pravnih aktov.

Sledi obravnavo pravnih virov, kjer študentke in študenti spoznajo, kako ti v pravnem sistemu nastajajo organizirano ter katere pravne vire štejejo za avtonomne pravne vire. V okviru tega poglavja obravnavamo tudi spontano nastajanje pravnih virov, kjer si ogledamo, kakšna je vloga morale in običajev v pravnih virih. Poglavje se zaključuje z obravnavo sodne prakse kot pravnega vira ter tudi spoznavnih pravnih virov.

Temelj prava je tudi seznanitev s postopki ustvarjanja splošnih pravnih aktov (predvsem zakonodajnih postopkom), pomembni pa so tudi postopki uporabljanja splošnih pravnih aktov, ki jim pravimo tudi pravovarstveni postopki. V tem okviru si tudi pogledamo, kateri

In the course, the students first learn about the concept of law, its connection with everyday society and its non-universality. What is close to its connection with society is its essential connection with the state, where its primary place in the state legal order and its link to supranational legal orders are determined by means of analyzing certain crucial concepts from the theory of state.

In dealing with the legal system and its essential parts, legal norms composed of legal rules and legal principles are discussed. Concerning the legal rule, what is discussed is its types and composition. With respect to the legal principle, its role in the legal system in view of legal rules is dealt with.

The above is followed by discussion of the legal relation as a legally regulated social relation, composed of legal subjects, rights and obligations, its object and purpose. An essential component of the legal order are legal acts, whose types are discussed at first and then also the validity of both general and individual legal acts.

Further, legal sources are dealt with concerning which the students learn how these are created in an organized manner, and which of them are considered autonomous legal sources. In the framework of this section, it is also dealt with spontaneous creation of legal sources, primarily in relation to the role of morality and customs in the legal sources. The section is concluded by discussing case law as a legal source, and the publication of legal sources.

Crucial to understand law is to learn about procedures of creation of general legal acts (particularly the legislative procedure), while the procedures of the application of general legal acts, called also procedures of legal protection, are also important. In connection with such, it is

posamični pravni akti nastanejo v teh postopkih, kaj pomeni pravnomočnost, kaj so to redna in izredna pravna sredstva, kakšne roko poznamo v pravu ter kako izgleda izvršilni postopek.

Sledi poglavje razlaga pravnih aktov, kjer si pogledamo predvsem različne metode neobvezne metode razlage in njihovih argumentov ter kakšne specifičnosti poznamo pri razlagi različnih pravnih aktov. Pomembna tema tega uvodnega predmeta je tudi pojem pravnih praznin, kjer si pogledamo tudi katere vrste pravnih praznin poznamo ter kako jih zapolnjujemo.

Sledi poglavje sistemizacija prava, kjer študentke in študenti spoznajo, kako so pravni sistemi sestavljeni, tako na nacionalni kot tudi globalni ravni. Predmet zaključuje obravnavo temeljnih teorij o naravi ali bistvu prava, ki so se izoblikovale v človeški misli vse od začetkov pa do danes, kjer se ukvarjamo predvsem s področji naravnega prava in pravnega pozitivizma, na kratko pa si pogledamo tudi nekatere druge pravne šole.

discussed which individual legal acts are created in these procedures, what is understood by finality, which ordinary and extraordinary legal remedies are there, and how enforcement procedure is regulated.

What follows is the topic of interpretation of legal acts, where various methods of non-mandatory interpretation and their arguments are discussed, including their special aspects concerning the interpretation of different legal acts. Also, an important topic of this course is also gaps in the law, where their types and how they are filled in are discussed.

The course continues with the topic of systematization of law, where the students learn about world legal systems and their components, both at the national and global level. Finally, the most important theories on the nature of law are discussed, which had been firstly created at the beginnings of human thought and have existed until now, dealing primarily with natural law and legal positivism, as well as other most important schools of law.

Temeljni literatura in viri / Readings:

Marko Novak, Uvod v pravo, Evropska pravna fakulteta v Novi Gorici, Nova Gorica (2010).
Repetitorij za Uvod v pravo (e-gradivo).

Power-point prosojnice na vajah za reševanje praktičnih primerov.

Dopolnilno gradivo:

Marko Novak, Uvod v pravno pisanje, Planet GV, Ljubljana (2005).

Ljubo Bavcon et al., Pravo, Leksikon Cankarjeve založbe, Ljubljana (2003).

Egon Schneider, Logika za pravnike, Cankarjeva založba, Ljubljana (1999).

Cilji in kompetence:

Študenti/ke bodo pridobili naslednje predmetno specifične kompetence:

- poznavanje in razumevanje osnovnih pravnih pojmov, najpomembnejših pravnih načel s področja temeljnih pravnih panog; državnopravnih

Objectives and competences:

Students will gain the following subjects specific competences:

- knowledge and understanding of fundamental legal concepts, most important legal principles from the area of the basic branches of law; state legal

postopkov ter sposobnost za njihovo analizo, sintezo in predvidevanje rešitev in njihovih posledic;

- razumevanje pomembnosti uporabe ustavnih načel za delovanje demokratične in pravne države in razvoj sposobnosti dostopati do domače in tuje sodne prakse;
- sposobnost samostojnega in avtonomnega študijskega dela;
- razvoj sposobnosti kritično analizirati pravne vire in pravna besedila;
- kritična refleksija obstoječih pravnih virov in ocena njihove potrebnosti in kakovosti;
- uporaba pojmov, načel in pravnih pravil pri reševanju najenostavnejših primerov iz kazenske, civilne in upravne prakse;
- sposobnost kritične strokovne razprave in analize o nekaterih temeljnih pravnih pojmih, načelih in pravilih;
- sposobnost ustreznega navajanja domačih in mednarodnih pravnih virov, domače in mednarodne sodne prakse in elektronskih virov;

Študenti/ke bodo pridobili naslednje splošne kompetence:

- uporaba ustreznih metod pravnega raziskovanja, njihovih postopkov, analize in sinteze;
- razvoj etičnih sposobnosti pri uresničevanju pravnih načel in pravil;
- sposobnost skupinskega dela in pripravljenosti za sodelovanja pri reševanju najenostavnejših konkretnih pravnih primerov;
- razvoj komunikacijskih sposobnosti in veščin pri razumevanju in uresničevanju prava;
- razvoj veščin javnega nastopanja in predstavitev pri obravnavi pravnih institutov;
- razvoj ustvarjalnosti in sposobnosti premagovanja problemov pri splošni uporabi pravnih načel in pravil;

procedures and the ability to analyse, synthesize and anticipate solutions and their consequences;

- understanding the importance of applying constitutional principles to the functioning of a democratic and rule of law state, and developing the capacity to access domestic and foreign case law;
- ability to study independently and autonomously;
- developing the ability to critically analyse legal sources and legal texts;
- a critical reflection on existing legal sources and an assessment of their need and quality;
- the application of concepts, principles and legal rules to the resolution of easy cases from the areas of criminal, civil, and administrative law;
- ability to critically discuss and analyse expertly some of the most important fundamental legal concepts, principles and rules;
- ability to properly cite domestic and international legal sources, domestic and international case law and electronic resources;

Students will gain the following general competences:

- the use of appropriate methods of legal research, their procedures, analysis and synthesis;
- developing ethical skills in the implementation of the principles and rules;
- ability to work together and be willing to work together to solve specific easy legal cases;
- development of basic communication skills and competences in the understanding and implementation of law;
- developing basic public speaking and presentation skills when dealing with legal institutes;

- razvoj sposobnosti uporabe interdisciplinarnih znanj pri reševanju enostavnih pravnih zadev.

- developing creativity and the ability to overcome problems in applying legal principles and rules;
- developing the ability to use interdisciplinary knowledge in the resolution of easy legal cases.

Predvideni študijski rezultati:

Znanje in razumevanje:

Študent/študentka:

- Seznanitev študentov z osnovnimi pravnimi pojmi, temeljnimi pravnimi postopki in razdelitvami v pravu;
- osvojitev temeljnih znanj razlage pravnih pravil in argumentiranja v pravu;
- razvije osnovno zanimanje za kritično razpravljanje o naravi prava;
- sposoben je kritično oceniti in se opredeliti do rešitve enostavnih primerov v sodni in upravni praksi;
- sposoben razumeti hierarijo pravnih aktov in njihovo razmerje do tujih pravnih vsebin;
- sposoben prepoznati pravno vprašanje v določenem življenjskem dogodku, ga opredeliti glede na pravno panogo in ustrezen postopek;
- sposoben je predvideti pravno sredstvo in potek postopka v enostavnih pravnih primerih na vseh temeljnih pravnih področjih;
- pozna in uporablja osnovne metodološke pristope pri raziskovanju enostavnih pravnih vprašanj.

Intended learning outcomes:

Knowledge and understanding:

Student / student:

- To introduce students to the fundamental concepts of law, basic procedures, and elementary divisions in law;
- acquiring the fundamental knowledge of interpretation and argumentation in law;
- aims to develop the students' interest in critical discussion concerning the nature of law;
- is able to critically evaluate and take a position concerning the resolution of easy cases in court and administrative practice;
- is able to understand the hierarchy of legal acts and their relation to foreign legal issues;
- is able to recognize legal issues in various life situations, evaluate such concerning the appropriate field of law and procedure;
- is able to envisage the necessary legal remedy and the course of proceedings in easy cases in all fundamental areas of law;
- to know and use basic methodological approaches to deal with easy legal cases.

Metode poučevanja in učenja:

Learning and teaching methods:

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

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

Delež (v %) /

Načini ocenjevanja:

Weight (in %)

Assessment:

Način (pisni izpit, ustno izpraševanje, naloge, projekt):	Delež (v %) / Weight (in %)	Assessment: Type (examination, oral, coursework, project):
Pisni izpit.	100%	Written examination.

Reference nosilca / Lecturer's references:

Marko Novak je redni profesor za filozofijo in teorijo prava ter 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 1992. Magistriral je leta 1994 na *Georgetown University Law Center* v Washingtonu, D. C., ZDA, doktoriral pa na Pravni fakulteti Univerze v Ljubljani leta 2001. Bil je predsednik Sodnega sveta Republike Slovenije in član izvršnega odbora Evropske mreže sodnih svetov (ENCJ).

Marko Novak is Full Professor of Legal Philosophy, Legal Theory, 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 in 1992, completed his LL.M. at the Georgetown University Law School in the USA in 1994, and his doctorate in law at the University of Ljubljana in 2001. He has served as President of the Judicial Council of the Republic of Slovenia and member of the Executive Board of the European Network of Councils for the Judiciary (ENCJ).