

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
Podiplomski študijski program Postgraduate study programme	Civilno in gospodarsko pravo Civil and Commercial Law	1.	1.
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Vrsta predmeta / Course type	Obvezni / Compulsory
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Univerzitetna koda predmeta / University course code:	
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Predavanja Lectures	Seminar Seminar	Sem. vaje Tutorial	Lab. vaje Laboratory work	Teren. vaje Field work	Samost. delo Individ. work	ECTS
30	0	20	0	0	50	4

Nosilec predmeta / Lecturer:	Prof. dr. Jernej Letnar Černič
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Jeziki / Languages: Slovenian	Predavanja / Lectures: Vaje / Tutorial:
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Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti: Predpostavlja se znanje civilnega prava na ravni prve stopnje študija.	Prerequisites: Knowledge of civil law on the first degree of law study is requested.
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Vsebina:	Content (Syllabus outline):
Pojem, izvori in viri izvršilnega in nepravdnega prava	The concept, origins and sources of law of execution and non-litigating procedure
Temeljna načela nepravdnega in izvršilnega prava	The fundamental principles of law of execution and non-litigating procedure
Vsebinsko in postopkovno varstvo človekovih pravic	Substantive and procedural protection of human rights
Narava in obseg pravice do poštnega sojenja v nepravdnih in izvršilnih postopkih	The nature and extent of the right to fair trial in law of execution and non-litigating procedure

Normativna nomotehnika ureditve nepravdnega in izvršilnega postopka	Normative nomotechnic framework in law of execution and non-litigating procedure
Podobnosti in razlikovanje med nepravdnim in pravdnim postopkom	Similarities and differences between non-litigating and litigating procedure
Pravica do pravnih sredstev v nepravdnem in izvršilnem postopku	The right to seek redress in law of execution and non-litigating procedure
Vrste nepravdnih postopkov	Types of non-litigious proceedings
Pravna narava izvršilnega postopka	Legal nature of the law of execution
Sodna praksa slovenskih in tujih sodišč	Jurisprudence of Slovenian and foreign courts

Študijska literatura in viri / Readings:

1. Matej Avbelj (ur.), Komentar Ustave RS, Nova univerza, 2019.
2. Jernej Letnar Černič, 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 Černič, The Impact of European Institutions on the Rule of Law and Democracy: Slovenia and Beyond. Oxford, Hart (Bloomsbury), 2020.
4. Jernej Letnar Černič, 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.

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

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

tujih sodišč pričajoči predmet obravnava specifične primere iz domačih pravnih redov evropskih držav. Vsebinsko se obravnava vprašanja, ki so vezana na sodno varstvo pravic v izvršilnem in pravdnem postopku. Pričajoči predmet obravnava tudi podobnosti in razlikovanja med pravdnim in nepravdnim postopkom, pri čemer se v zaključku posveča varstvu pravic v izvršilnem pravu.

Kompetence

Pričajoči 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,
- 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 svetovnonazorskoga pristopa pri reševanju problemov v javni upravi,
- izboljšanje učinkovitosti in nediskriminatorski uporabe pridobljenega znanja,
- izboljšanje sposobnosti odločanja o

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 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

<p>temeljnih dilemah slovenske družbe v konkretnih primerih,</p> <ul style="list-style-type: none"> – 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. 	<p>about the fundamental dilemmas of Slovenian society in concrete cases,</p> <ul style="list-style-type: none"> – 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. <p>a) Specific competencies:</p> <ul style="list-style-type: none"> – 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

<ul style="list-style-type: none"> – 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. 	<ul style="list-style-type: none"> methodological approaches in exploring issues of human rights law, ability 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.
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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 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

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 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

<p>analyze in interpretacije dogodkov in usmeritev, ki se nanašajo na varovanje človekovih pravic v izvršilnem pravu in pravu nepravdnih postopkov</p> <ul style="list-style-type: none"> - pozna in uporablja osnovne metodološke pristope pri raziskovanju vprašanj izvršilnega prava in prava nepravdnih postopkov 	<p>and interpret events and policies related to human rights protection in the law of execution and non-litigating procedure</p> <ul style="list-style-type: none"> - knowing and employing basic methodological approaches to law of execution and non-litigating procedure
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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

Delež (v %) /

Načini ocenjevanja:

Weight (in %)

Assessment:

<p>Način (pisni izpit, ustno izpraševanje, naloge, projekt)</p> <p>Pisni izpit Seminarska naloga</p>	<p>80%</p> <p>20%</p>	<p>Type (examination, oral, coursework, project):</p> <p>Written examination; and seminar paper.</p>
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Reference nosilca / Lecturer's references:

Jernej Letnar Černič je izredni 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 Associate 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.