

UČNI NAČRT PREDMETA / COURSE SYLLABUS						
<b>Predmet:</b>		Sodno in alternativno reševanje sporov				
<b>Course title:</b>		Judicial and Alternative Dispute Settlement				
<b>Študijski program in stopnja</b>		<b>Študijska smer</b>		<b>Letnik</b>	<b>Semester</b>	
<b>Study programme and level</b>		<b>Study field</b>		<b>Academic year</b>	<b>Semester</b>	
Alternativno reševanje sporov – 2. stopnja				1	1	
Alternative Dispute Resolution – 2nd degree				1	1	
<b>Vrsta predmeta / Course type</b>				Obvezni		
				Compulsory		
<b>Univerzitetna koda predmeta / University course code:</b>						
<b>Predavanja</b>	<b>Seminar</b>	<b>Vaje</b>	<b>Klinične vaje</b>	<b>Druge oblike študija</b>	<b>Samost. delo</b>	<b>ECTS</b>
<b>Lectures</b>	<b>Seminar</b>	<b>Tutorial</b>	<b>work</b>		<b>Individ. work</b>	
40	0	0	0	0	160	8
<b>Nosilec predmeta / Lecturer:</b>				Doc. dr. / Assist. Prof. Dr. Nana Weber		
<b>Jeziki</b>		/ Slovenski jezik/Slovenian/Angleški jezik/English				
<b>/Languages:</b>						
<b>Predavanja</b>						
<b>Lectures:</b>						
<b>Vaje / Tutorial:</b>						
Slovenščina/ Slovene						
<b>Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:</b>				<b>Prerequisites:</b>		
Vpis v prvi letnik.				Enrollment in first year.		
Vsaj 80% prisotnost na predavanjih.				At least 80% attendance at lectures.		

**Vsebina:**

- Posebnosti reševanja sporov po sodni poti in po poti ARS
- Razlike (poravnalni narok in mediacija), razlike v pogajanjih pred sodnikom in v mediaciji
- Kateri spori niso za ARS
- Kako stranke lahko sooblikujejo sodni postopek in kako v mediaciji ali drugih oblikah ARS (arbitraža, med-arb)
- Temeljna načela pravnega postopka in temeljna načela v postopku mediacije (načelo dispozitivnosti, zakonitosti, prostovoljnosti, zaupnosti, nevtralnosti, načelo pravičnosti, dobra vera)
- Sodišču pridružene mediacije in centri zunaj sodišč, obvezna mediacija, obvezna napotitev na mediacijo, sankcije
- Prekinitev pravnega postopka zaradi mediacije
- Poravnava (sodna in v postopku mediacije), izvršljivost in izpodbojnost
- Posebnosti sodišču pridružene mediacije (na prvi stopnji in v pritožbenem postopku)
- Napotitev na mediacijo
- Dokazi v sodnem postopku in v postopku mediacije (izključenost, uporabnost v pravdi)
- Merjenje uspešnosti mediaranja in ocena dela mediatorjev.

**Content (Syllabus outline):**

- The specifics of dispute settlement through the courts and ADR
- The differences in negotiation (conciliation, mediation, negotiations before the judge)
- Conflicts which are not appropriate for ADR
- How customers can determine the procedure of the mediation or ADR
- The fundamental principles of civil procedure and the fundamental principles of the mediation proceedings (principle of legality, the abovementioned voluntary, confidentiality, neutrality, the principle of fairness, good faith)
- Mandatory mediation, mandatory referral to mediation, sanctions
- Interruption of the civil procedure rules because of mediation
- Court-Annexed Mediation, Alignment, enforceability and voidability
- Peculiarities of Court-Annexed Mediation
- Referral to mediation
- The evidence in court proceedings and in the process of mediation (exclusion, usefulness in action)
- Evaluation of mediators and mediation process.

## Temeljna literatura in viri / Readings:

1. Betetto, N., in drugi. (2011). Mediacija v teoriji in praksi: veliki priročnik o mediaciji. Ljubljana: Društvo mediatorjev Slovenije. (izbrana poglavja)
2. Zakon o alternativnem reševanju sodnih sporov (ZARSS)
3. Pravilnik o mediatorjih v programih sodišč
4. Zalar, A., in drugi (2010). Zakon o alternativnem reševanju sodnih sporov (ZARSS) s komentarjem. Zakon o mediaciji v civilnih in gospodarskih zadevah (ZMCGZ) s komentarjem. Zakon o arbitraži (ZArbit) s pojasnili. Ljubljana: GV Založba
5. Zakon o mediaciji v civilnih in gospodarskih zadevah (ZMCGZ)
6. Act on Alternative Dispute Resolution in Judicial Matters, Official Gazette of RS, no. 97/09 and next
7. Moore, W.: The Mediation Process: Practical Strategies for Resolving Conflict, Jossey-Bass; 3rd Edition Revised (April 30, 2003)
8. Beer, J. E.: The Mediator's Handbook. New Society Publishers; 4th edition (October 1, 2012)
9. Ude, L.: Civilno procesno pravo, Uradni list RS, Ljubljana, 2002

### Cilji in kompetence:

- Spoznati komparativni prikaz obeh vrst reševanja sporov,
- ARS med sodnim postopkom, kdaj koliko časa in posebnosti
- Spoznati posebnosti poravnalnega naroka in razlike v mediaciji
- Spoznati razliko med pogajanjem v mediaciji in pred sodnikom

### Objectives and competences:

- Learn how the two types of dispute resolution compare,
- ADR during litigation, when how long and the specifics of
- To learn about the specificities of a settlement hearing and the differences in mediation
- Know the difference between negotiation in mediation and in front of a judge

### Predvideni študijski rezultati:

### Intended learning outcomes:

**Znanje in razumevanje:**

Študent bo razumel temeljne razlike med sodnim odločanjem in postopki ARS. Tako bo znal svetovati, kateri spori so za mediacijo, kdaj in kako stranke usmeriti v ARS, kdaj pa to ni ustrezno.

Glede na poglobljeno razumevanje postopka mediacije bo zmožen aktivno sodelovati kot strankin pooblaščenec v postopku mediacije, znal pa bo tudi oceniti, kdaj je potrebno mediacijo zaključiti in nadaljevati s sodnim postopkom, ker mediacija več ni smiselna.

**Knowledge and understanding:**

The student will understand the fundamental differences between adjudication and ADR procedures. The student will be able to advise which disputes are suitable for mediation, when and how to refer parties to ADR, and when this is not appropriate.

Given his/her in-depth understanding of the mediation process, the student will be able to actively participate as a party's representative in the mediation process and will be able to assess when mediation should be terminated and court proceedings resumed because mediation is no longer viable.

**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>Učne oblike:</b> - predavanja  <b>Metode:</b> - razlaga - proučevanje primera - diskusija v malih skupinah - igre vlog	<b>Teaching forms</b> - frontal instructions  <b>Metode:</b> - explanation - case study - discussion in small groups - role playing
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<b>Načini ocenjevanja:</b>	<b>Delež (v %) / Weight (in %)</b>	<b>Assessment:</b>
Način:  Ustni izpit	<b>100%</b>	Type:  Oral exam

**Reference nosilca / Lecturer's references:**

N Nana Weber je docentka za civilno in gospodarsko pravo na Evropski pravni fakulteti, docentka za delovno pravo na MLC Fakulteti za management in pravo Ljubljana in docentka za poslovne vede na B2 Visoki šoli za poslovne vede. Leta 2003 je diplomirala na Pravni fakulteti v Ljubljani. Tam je s podiplomskim študijem nadaljevala in leta 2010 magistrirala na področju civilnega in gospodarskega in leta 2013 doktorirala na področju civilnega prava. Leta 2010 je diplomirala še na Akademiji za glasbo.

Poklicno pot v pravu je začela v sodstvu in na različnih stopnjah sodišč, nato je delala na državnem pravobranilstvu, v odvetniški pisarni in v kabinetu ministra za javno upravo. Leta 2016 je začela samostojno pot in danes vodi Odvetniško družbo Weber.

Ker si vedno prizadeva za mirno rešitev sporov, je mediatorica v Mediacijskem centru Ljubljana, pri Odvetniški zbornici Slovenije in Ministrstvu za delo družino, socialne zadeve in enake možnosti, poleg tega pa je izvajalka izvensodnega reševanja potrošniških sporov pri Ministrstvu za gospodarski razvoj in tehnologijo.

Je tudi članica državne izpitne komisije za pravniški državni izpit (področje civilnega materialnega in procesnega prava).

Na redni bazi piše strokovne in znanstvene članke iz različnih pravnih področij. Med drugim je ena od avtoric Družinskega zakonika (Uradni list, 2019), avtorica uvodnih pojasnil

Družinskega zakonika (GV Založba, Lexpera, 2018), in avtorica zbirke Vprašanja in odgovori iz delovnega prava (GV Založba, Lexpera), v okviru katere sta doslej izšli knjigi Prenehanje pogodbe o zaposlitvi (2020), in Ko delavca ni na delu (Dopust, regres in druge odsotnosti z dela (2021)).

She is also a member of the State Examination Board for the State Lawyers' Examination (civil substantive and procedural law).

Nana Weber is assistant professor for civil and corporate law at the European Faculty of Law New University, assistant professor for labour law and assistant professor for business sciences at Ljubljana School of Business. She graduated from the University of Ljubljana Faculty of Law, in 2003. She continued her postgraduate course in the same University and received a Master's degree of Science in 2010 (Civil and Commercial Law), and Doctor's degree of Science in 2013 (Civil Law). In 2010 she graduated in Music Pedagogy at the Musical Arts in 2010.

Her professional legal career began at different levels of the court, then she worked at the State's Attorney Office, as a lawyer and at the Ministry of Public Administration. In the year 2016 she began her independent career and today she runs her own law firm – *Odvetniška družba Weber*. As a law professional she always strives for peaceful resolution of conflicts.

She is a certified mediator at the Ljubljana Mediation Centre, the Bar Association of Slovenia and at the Ministry of Labour, Family, Social Affairs and Equal Opportunities and the provider of out-of-court settlement of consumer disputes at the Ministry of Economic Development and Technology.

On a regular basis she writes professional and scientific articles. Among other things, she is one of the authors of the Family Code (Uradni list 2019), the author of the introductory explanations of the Family Code (GV Založba, Lexpera, 2018) and author of professional collection Labour Law Questions and Answers (GV Založba, Lexpera), in which so far the book Termination of employment contract (2020) and the book When the worker is not at work (Annual leave, payment for annual leave, and other absences from work) (2021) were published.