

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	Kazensko pravo
Course title:	Criminal Law

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

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
65	0	20	0	0	115	8

Nosilec predmeta / Lecturer: prof. dr. Anže Erbežnik

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

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

Vpis v 1. letnik študija.
Vsaj 80% prisotnost na predavanjih in vajah.

Prerequisites:

Enrollment into 1st year.
At least 80% attendance at lectures and tutorials.

Vsebina:

Uvodna razlaga:

- pomen, normativne značilnosti in razčlenjenost kazenskega prava,
- viri kazenskega materialnega prava in načini njihove razlage v različnih fazah udejanjanja tega prava,
- kazenskopravna znanost, razvoj šol kazenskega prava in njihov vpliv na pozitivno kazensko pravo,
- internacionalizacija kazenskega prava po znanstveni poti in sodelovanje z drugimi (pomožnimi) znanostmi.

Content (Syllabus outline):

Introduction:

- The importance, normative characteristics and system of criminal law;
- Sources of criminal law and their interpretation at different stages of implementation;
- Criminal law science, the development of criminal law schools and their impact on positive criminal law;
- Internationalization of criminal law by scientific means and cooperation with

Temelji evropskega kazenskega prava:

- zgodovinski razvoj kazenskega prava v Evropi od konca 18. stoletja,
- kazensko pravo pri Slovencih v 20. stoletju pred osamosvojitvijo in po njej,
- osnove kazenskega prava Sveta Evrope,
- osnove kazenskega prava EU.

Splošne značilnosti pozitivnega kazenskega prava:

- načela kazenskega materialnega prava (vključenost v pravno državo, načelo zakonitosti, krivdno načelo, načelo pravičnosti in načelo humanizacije kazenskih sankcij),
- oblika udejanjanja kazenskega prava (kazenski zakoni, razdeljenost na splošni in posebni del, kodificiranost kazenskega prava, posebni in stranski kazenski zakoni, sodbe rednih sodišč, pravna mnenja občne seje Vrhovnega sodišča, odločbe Ustavnega sodišča),
- veljavnost kazenskih zakonov: krajevna, časovna in osebna.

Temelji nauka o kaznivem dejanju:

- človekovo dejanje kot pogoj za kazensko odgovornost
- objektivno-subjektivna koncepcija kaznivega dejanja,
- vrste izvršitvenih dejanj,
- splošne modalitete: način, kraj in čas storitve kaznivega dejanja,
- vrste posledic in problem vzročne zveze,
- pripravljalna dejanja, poizkus in dokončano kaznivo dejanje,
- enovitost in pluralnost dejanj,
- stek in navidezni stek kaznivih dejanj,
- protipravnost in določenost kaznivega dejanja v zakonu,
- izključitve kaznivega dejanja in
- izključitve kaznivosti.

other (auxiliary) sciences.

The foundations of European criminal law:

- the historical development of criminal law in Europe since the end of the 18th century;
- Criminal law among Slovenes in the 20th century before independence and after it;
- Introduction to Council of Europe criminal law,
- Introduction to EU criminal law.

General features of criminal law:

- Main principles of criminal substantive law (rule of law, legality, the principle of guilt, the principle of fairness and the principle of the humanization of criminal sanctions);
- Adoption and implementation of criminal law (criminal laws, division into a general and special part, codification of criminal law, special and secondary criminal laws, judgments of ordinary courts, legal opinions of general sessions of the Supreme Court, decisions of the Constitutional Court);
- Validity of criminal laws: territorial application, temporal application and personal application.

Criminal offence:

- A human act as a condition for criminal responsibility;
- Objective-subjective concept of a criminal offense;
- Types of actions;
- General modalities: method, place and time of the offense;
- Causal theory,
- Preparatory acts, attempt and finalised criminal offenses;
- Uniformity and plurality of acts;
- Concurrence of criminal offenses;

Krivda:

- razmerje med krivdo, kaznivim dejanjem in kaznijo,
- psihološke in normativne sestavine krivde, definiranje krivde v zakonu in njena ugotovitev v sodbi,
- naklepna in malomarnostna krivda,
- krivda kot subjektivna protipravnost storilčevega ravnanja,
- neprištevnost, zmota (dejanska, pravna), skrajna sila in še drugi primeri izključitve krivde.

Subjekti kaznivega dejanja:

- fizična in pravna oseba kot aktivni subjekt kaznivega dejanja,
- vrste storilstva,
- udeležba: napeljevanje in pomoč,
- posebne določbe o hudodelski združbi.

Kazni in druge kazenske sankcije:

- kazenskopravne teorije o pomenu, potrebnosti in primernosti kaznovanja,
- kazni (vrste in meje, odmera),
- opozorilne sankcije (pogojna obsodba, sodni opomin),
- varnostni ukrepi in pravne posledice obsodbe,
- civilne sankcije v kazenskem pravu,
- temeljne določbe o izvršitvi kazenskih sankcij,
- ugasnitev učinkov kazenskih sankcij,
- zastaranje, rehabilitacija, amnestija, pomilostitev.

Posebni del:

- pregled najpomembnejših inkriminiranih dejanj, storjenih zoper:
- individualne pravne vrednote,
- skupne pravne vrednote
- pravne vrednote iz okrilja države
- mednarodno priznane pravne vrednote.

- Unlawfulness and determination of the offense in the law;
- Exclusion of a criminal offense; and
- Exclusion of punishment.

Guilt:

- The relationship between guilt, offense and punishment;
- Psychological and normative elements of guilt, definition of guilt in the law and in a judgment;
- Intent and negligence;
- Guilty as a subjective unlawful act of the perpetrator;
- Insanity, error (factual, legal), necessity, and other cases of exclusion of guilt.

Participation in a criminal offence:

- Natural and legal persons;
- Types of participation;
- Participation: solicitation and support;
- Specific provisions on criminal organizations.

Penalties and other criminal sanctions:

- Criminal law theories about the importance, necessity and appropriateness of punishment;
- Penalties (types and limits, sentencing);
- Admonitory sanctions (suspended sentence, judicial admonition);
- Safety measures and the legal consequences of the conviction;
- Civil sanctions in criminal law;
- Basic provisions on the enforcement of criminal sanctions;
- Annulment of the effects of criminal sanctions;
- Statute of limitations, rehabilitation, amnesty, pardon.

Special part:

- an overview of the most important criminal acts committed against:
- individual legal values,
- common legal values
- state legal values ,
- internationally recognized legal values.

Temeljna literatura in viri / Readings:

- Komentar KZ-1, Splošni del, GV Založba, 2020
- Bele, Ivan, Šepec, Miha, Praktikum za kazensko materialno pravo : s predstavitevijo institutov splošnega dela kazenskega zakonika, Evropska pravna fakulteta, 2011
- Kazenski zakonik (KZ-1), Uradni list RS, št. 55/08, nazadnje Uradni list RS, št. 27/17 z dne 2. 6. 2017/Criminal Code
- Zakon o odgovornosti pravnih oseb za kazniva dejanja (ZOPOKD), Uradni list RS, št. 59/99 z dne 23. 7. 1999, Uradni list RS, št. 98/04 – uradno prečiščeno besedilo, 65/08 in 57/12)/Liability of legal persons for criminal offences Act
- Bavcon et. al, Kazensko pravo, Splošni del, Uradni list, 2017
- Deisinger, Mitja, Kazenski zakonik 2017, Posebni del, PZMB, 2017

Dodatna literatura

- Bele, Ivan, et al., Kazenski zakonik: KZ-1 in KZ-UPB1, GV Založba, 2008
- Beccaria, Cesare, O zločinih in kaznih, in Jelenc, Franc Ksaver, Dva govora o splošnih načelih kriminalnega prava in njegovi literarni zgodovini (uredil Ljubo Bavcon), Pravna fakulteta in Cankarjeva založba, Ljubljana, 2002.
- Roxin, Claus, Strafrecht - Allgemeiner Teil, CH Beck, München, 2006.

Cilji in kompetence:

Študenti/ke bodo pridobili naslednje predmetno specifične kompetence:

- Znanje s področja kazenskega prava na dodiplomski ravni in njegova uporaba v praksi;
- Sposobnost razumevanja načela zakonitosti v kazenskem pravu na dodiplomski ravni;
- Sposobnost analize elementov kaznivega dejanja na splošno in v konkretnem primeru;

Objectives and competences:

Students will gain the following subject specific competences:

- Knowledge in the field of criminal law at graduate level;
- Ability to understand the principle of legality at graduate level;
- Ability to analyse main general elements of a criminal offence in general and in practice;
- Ability to understand criminal liability in general and in practice;

- Sposobnost analize koncepta kazenske odgovornosti na splošno in v konkretnem primeru;
- Sposobnost za reševanje problemov kazenskega prava na dodiplomski ravni z uporabo znanstvenih metod in postopkov;
- Koherentno obvladovanje temeljnega znanja kazenskega prava kot obveznemu predmetu ter razumevanje umestitve kazenskega prava v širši pravni sistem;
- Sposobnost iskanja informacij s področja kazenskega prava v literaturi in sodni praksi;
- Razumevanje povezanosti kazenskega prava s sorodnimi pravnimi vejami;
- Razvoj veščin in spretnosti v uporabi znanja kazenskega prava, kar bo študent razvijal v okviru seminarskih vaj in seminarjev pri kazenskem pravu;
- Uporaba informacijsko-komunikacijske tehnologije, zlasti v smislu on-line iskalnikov sodne prakse kazenskega prava na ravni dodiplomskega študija.

Študenti/ke bodo pridobili naslednje splošne kompetence:

- Sposobnost analize, sinteze in predvidevanja rešitev ter posledic na področju kazenskega prava;
- Obvladovanje raziskovalnih metod, postopkov in procesov ter razvoj kritične in samokritične presoje;
- Sposobnost uporabe znanj s pravnih področij;
- Avtonomnost pri strokovnem delu in sprejemanju pravnih odločitev;
- Razvoj komunikacijskih sposobnosti in spretnosti ter terminologije na področju kazenskega prava;

- Ability for solving criminal law issues at graduate level by using the scientific method and procedure;
- Coherent knowledge of criminal law as an obligatory course and understanding the role of criminal law in the legal system as such;
- Ability for information gathering in the field of criminal law by using literature and case-law;
- Understanding the connection of criminal law with similar fields of law;
- Development of skills to use criminal law in practice through practical and seminar work in the framework of criminal law;
- Use of modern technology as regards the use of search engines of criminal law case-law.

Students will gain the following general competences:

- Ability to analyse, connect and foresee developments in the area of criminal law;
- Knowledge of methods of legal research, their procedures and development of critical self-reflection skills;
- Ability to use theoretical legal knowledge in practice;
- Ability to work autonomously and take legal decisions;
- Development of communication skills and competences as well as terminology in the understanding and implementation of criminal law;

- Sposobnost upoštevanja etičnih vrednot, družbeno odgovornega mišljenja in kritičnega odnosa do družbenih dogajanj pri odločitvah;
- Inicijativnost pri odločanju.

- Ability to take into account ethical aspects and critical distance to social developments;
- Self-initiative as regards decision-taking.

Predvideni študijski rezultati:

Znanje in razumevanje:

Študent pridobi sposobnost znanstvene analize problemov z navedenih pravnih področij, vrednotenja različnih teoretičnih stališč, uporabo primerjalno pravne metode, kritične analize sodne prakse in znanje za zahtevnejšo argumentacijo. Študent pridobi sposobnost samostojne analize praktičnega primera z vidika opredelitve morebitnih kazenskomaterialnih problemov.

Intended learning outcomes:

Knowledge and understanding:

The student gets competence of scientific analyses of problems from the selected legal topics, competences of evaluation of different theoretical points of view, competence of critical analyses of jurisprudence and knowledge for an advanced written argumentation. The student is able to make a case-study as regards potential criminal law problems of a given case.

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

Načini ocenjevanja:	Delež (v %) / Weight (in %)	Assessment:
Pisni izpit.	100 %	Written examination

Reference nosilca / Lecturer's references:

- Kazenski zakonik, Splošni del, Komentar (Criminal Code, Commentary, General part), GV Založba, 2020, co-author
- Ustavno kazensko procesno pravo (»Constitutional Criminal Procedural Law«), co-author, case-book, Pasadena, 2000 and 2003, 2nd ed.
- Kazensko procesno pravo RS (»Criminal procedural law of the Republic of Slovenia«), co-author, book, GV Založba, 2003
- Odvzem premoženja nezakonitega izvora – obid kavtel poštenega postopka? (»Confiscation of illegally obtained property – violation of fair trial?«), article, Pravna praksa, No. 32/2011
- Mednarodno sodelovanje v kazenskih postopkih – podhranjeno področje (»International cooperation in criminal matters – an underdeveloped area«), article, Pravna praksa, No. 36/2011
- Evolutivna teorija razvoja prava (»Evolutionary theory of law«), GV Založba, book, 2012
- Language training on the vocabulary of judicial cooperation in criminal matters, Handbook, EJTN, 2012
- The principle of mutual recognition as a utilitarian solution, and the way forward, EuCLR, No. 1/2012
- Skupni standardi EU na področju kazenskega prava v primerjavi z nacionalnimi ustavnopravnimi standardi – Solange Reloaded (»Common standards in the area of EU criminal law in comparison with national constitutional standards – Solange Reloaded«), Pravna praksa, No. 27/2014
- Legitimacy and Trust in Criminal Law, Policy and Justice, co-author, book, Ashgate, 2014
- European Public prosecutor's Office (EPPO) – too much, too soon and without legitimacy?, EuCLR, No. 2/2015
- The Needed Balances in EU Criminal Law, Hart Publishing, 2017, chapter in book