

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	Upravno pravo in upravni postopek
Course title:	Administrative Law and Administrative Procedure

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Pravo in management nepremičnin - 2. stopnja		1	2
Law and Management of Real Estate – 2nd degree		1	2

Vrsta predmeta / Course type Obvezni/Obligatory

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
40	0	0	0	0	160	8

Nosilec predmeta / Lecturer: doc. dr. Boštjan Ferk/Assist. Prof Boštjan Ferk

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

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

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

Prerequisites:

Enrollment into the 1st year of study.
At least 80% attendance at lectures.

Vsebina:

Predmet Upravno pravo in upravni postopek na podiplomski ravni obravnava naslednja osnovna področja: opredelitev in razmejitev pojmov upravno pravo (nastanek, razvoj, klasifikacija), uprava, državna uprava, javna uprava; vire upravnega prava in njihov pomen za delo uprave; sodno pravo kot podlaga za delo uprave; upravnopravne norme in akti (vrste, medsebojna hierarhija ter odvisnost); skladnost upravnopravnih norm in aktov; posebna vprašanja zakonitosti pri izdajanju posamičnih upravnih aktov; vlogo uprave pri

Content (Syllabus outline):

The course on Administrative Law and Administrative procedure on the postgraduate level includes its following basic concepts: definition and demarcation of concepts of administrative Law (formation, development, classification), administration, state administration, public administration. Sources of administrative law and their relevance to the work of the administration. Case law as a basis for the work of the administration. Administrative law norms and instruments (types, the hierarchy and dependence).

uresničevanju človekovih pravic in njeni ustavnopravni vidiki, in izbrana področja posebnega dela upravnega prava zlasti povezana s pravom nepremičnin. V okviru predmeta se študentke in študente seznanijo s pojmom in razvojem upravnega prava ter njegovimi temeljnimi inštituti. Natančneje se obravnava potem celotnega splošnega upravnega postopka in upravnega spora in razmerje so posebnih upravnik postopkov s poudarkom na postopkih povezanih s pravom nepremičnin.

Predmet na podiplomskem nivoju tako poglobljeno obravnava sledečo vsebino:

1. DEL: UPRAVNO PRAVO

Uvodni pojmi, zgodovinski razvoj upravnega prava, umestitev upravnega prava v pravni red. Ustavna izhodišča upravnega prava.

Temeljna načela upravnega delovanja.

Delitev oblasti.

Razmejitev in vloge: državna uprava, javna uprava, javni sektor.

Državna uprava.

Lokalna samouprava.

Pravne osebe javnega prava (j. zavodi, j. agencije, j. skladi, j. podjetja).

Javne službe (gospodarske in negospodarske, javne stvari, javno dobro, javna infrastruktura) in njihovo financiranje.

Javno pooblastilo.

Vrste in hierarhija upravnopravnih norm in aktov.

Vežanost uprave na zakon.

Diskrecija, pravna vežanost, nedoločeni pravni pojmi.

Posledice neskladnosti upravnopravnih norm.

Postopek odločanja o upravnih zadevah.

Pravna sredstva zoper odločitve o upravnih zadevah.

Javne pogodbe (javna pogodba/upravna pogodba, javna naročila, koncesija).

Odškodninska odgovornost javnih oblasti.

Izbrana področja (transparentnost poslovanja, dostop do informacij javnega značaja).

Consistency of administrative norms and regulations. Specific questions related to real estate law. This course aims to acquaint students the concept and development of administrative law and its core institutes. General administrative procedure is analysed thoroughly and relation to the special administrative procedures with emphasis to the special administrative procedures related to the real estate law.

The course at the postgraduate level thus deals in depth with the following content:

PART ONE: Administrative Law

Introductory concepts, historical development of administrative law, the placement of administrative law into the legal order.

Constitutional origins of administrative law.

Fundamental principles of administrative operation.

Separation of powers.

State administration, public administration, public sector - their respective roles and delimitation.

State Administration

Local self-government

Legal entities governed by public law (public institutes, public agencies, public funds, public enterprises).

Public services (economic and non-economic, public works, public goods, public infrastructure) and financing.

Public powers.

Types of administrative norms and instruments and their hierarchy.

Boundness of the administration by the law.

Discretion, legal boundness, indeterminate legal concepts.

Consequences of non-conformity of administrative norms.

Decision-making process in administrative matters.

2. DEL: SPLOŠNI UPRAVNI POSTOPEK

Splošni upravni postopek in posebni upravni postopek, načelo subsidiarnosti.

Značilnosti upravnopravnega razmerja.

Upravna zadeva.

Kateri organi in kdaj postopajo po ZUP.

Javno pooblastilo.

Temeljna načela ZUP.

Krajevna in stvarna pristojnost.

Udeleženci v upravnem postopku.

Komunikacija. Rok. Stroški.

Postopek na prvi stopnji.

Postopek na drugi stopnji.

Postopek z izrednimi pravnimi sredstvi.

Izvršljivost in izvršba v upravnem postopku.

Sodni nadzor nad zakonitostjo posamičnih upravnih aktov.

Legal remedies against decisions in administrative matters.

Public contracts (public contract / administrative contract, public procurement, concession).

The liability of public authorities.

Selected topics (transparency of operation, access to public information).

PART 2: GENERAL ADMINISTRATIVE PROCEDURE

General administrative procedure and special administrative procedure, subsidiarity principle.

Characteristics of the administrative relationship.

Administrative matter.

Which bodies and when they act according to the General Administrative Procedure Act.

Public powers.

Fundamental Principles of the General Administrative Procedure Act.

Territorial and subject-matter jurisdiction.

Subjects of the administrative procedure.

Communication. Time limits Costs.

First-instance procedure.

Appellate procedure.

Procedure using extraordinary legal remedies.

Enforceability and enforcement in the administrative procedure.

Judicial review of the legality of individual administrative acts.

Temeljna literatura in viri / Readings:

- ČEBULJ, Janez, STRMECKI, Mik. *Upravno pravo : učbenik*. Ljubljana: Fakulteta za upravo, 2005.
- JEROVŠEK, Tone, KOVAČ, Polonca. *Upravni postopek in upravni spor*. Fakulteta za upravo, Ljubljana, 2016.
- Jerovšek Tone, Gorazd Trpin et. al., *Komentar zakona o splošnem upravnem postopku*, Inštitut za javno upravo PF, Ljubljana 2004.
- FERK, Boštjan. *Pogodba o javno-zasebnem partnerstvu*. 1. natis. Turjak: Inštitut za javno-zasebno partnerstvo, zavod, 2014 (posamezni deli).
- AVBELJ, Matej (ur.) in drugi: *Komentar Ustave Republike Slovenije*: 1. natis. Nova Gorica: Nova univerza, Evropska pravna fakulteta, 2019 (izbrane vsebine).
- CRAIG, Paul: *Administrative Law*, John Wiley & Sons, London, 2012.
- Christopher Pollitt: *Advanced Introduction to Public Management and Administration*, Edward Elgar Publishing, 2016.

- FERK, Petra, FERK, Boštjan. Implementation of Directive 2014/24/EU in the Republic of Slovenia. In: TREUMER, Steen, COMBA, Mario Comba (Eds.): Modernising Public Procurement – The Approach of EU Member States, European Procurement Law Series, Edward Elgar publishing, 2018.
- Administrative Justice in Europe, Report of the Republic of Slovenia, URL: http://www.aca-europe.eu/en/eurtour/i/countries/slovenia/slovenia_en.pdf.
- Polona Kovač, Better Local Governance by Integrative Reorganization of State Administration and Self-Government (in Slovenia), URL: <https://www.degruyter.com/downloadpdf/j/nispa.2014.7.issue-2/nispa-2014-0006/nispa-2014-0006.xml>.
- Polona Kovač. Effective Adjudication through Administrative Appeals in Slovenia, Utrecht Law Review. 9(3) 2013, pp.39–50.
- Iztok Rakar, Bojan Tičar. Legal Aspects of the Public Authority to Perform Certain Public Administration Tasks in the Republic of Slovenia, Poslovodno računovodstvo, 7(2) 2014, pp. 60-73.
- Stane Vlaj. The system of local self-government in Slovenia with a special emphasis on the status of the capital city Ljubljana, Fakulteta za upravo 2012, pp. 675-694.

Cilji in kompetence:

Splošni cilji predmeta:

- študent poglobljeno spozna institute upravnega prava in upravnega postopka;
- študent zna reševati vprašanja, povezana z nastankom upravnopravnih norm;
- študent je sposoben zaznati vprašanja, pomembna za zakonito delo upravnih organov;
- študent pozna in razume postopke za reševanje upravnih zadev;
- študent spozna sistem pravnih sredstev zoper odločitve upravnih organov.

Predmetno specifične kompetence:

- poznavanje in razumevanje zgodovine razvoja upravnega prava,
- sposobnost za razumevanje in reševanje konkretnih delovnih problemov z uporabo znanstvenih metod in postopkov,
- sposobnost povezovanja znanja z različnih interdisciplinarnih področij,
- sposobnost umeščanja novih informacij in interpretacij v kontekst razvoja stroke na področju prava in managementa nepremičnin,
- razvoj veščin in spretnosti v uporabi znanja na področju nepremičnin,

Objectives and competences:

General aims of the subject:

- students distinguish between institutes of administrative law and administrative procedure;
- students are capable to solve issues associated with the creation and use of administration norms;
- students are competent to identify the issues that are important for legal and legitimate work of administration;
- students know and understand the administrative procedures;
- students know and understand the remedies.

Subject – specific competencies:

- knowledge and understanding of the history of the development of administrative law,
- ability to understand and solve specific problems using scientific methods and procedures,
- ability to integrate knowledge from different interdisciplinary fields,
- ability to place new information and interpretations in the context of the development of the profession at in the field of real estate law and management,

- razumevanje pomena in vloge informacijsko komunikacijske tehnologije in sistemov v upravnem pravu,
- študent zna strokovno izražati svoja stališča na področju upravnega prava;
- sposobnost fleksibilne uporabe znanja v praksi;
- študent je sposoben uporabiti svoje znanje za reševanje konkretnih problemov na področju upravnopravnega delovanja uprave;
- študent je sposoben izdelati splošni upravnopravni akt;
- študent je sposoben uporabljati institute upravnega postopka;
- študent je sposoben reševati enostavnejše upravne zadeve in oblikovati upravno odločbo;
- študent je sposoben pripraviti pravno sredstvo zoper upravno odločbo.

development of skills in the application of real estate knowledge,

- understanding the meaning of the information and communication technologies and systems,
- students can express their professional opinions in the field of administrative law;
- students are capable to use their knowledge in the field of administration law;
- students are capable to use their knowledge and are able to solve problems associated with creation and use of administration norms;
- students are competent to create administration act;
- students are capable to use basic institutes of administrative procedures;
- students are competent to solve simple administrative matters and formulate the administrative order;
- students are capable to use remedies.

Predvideni študijski rezultati:

Znanje in razumevanje:

- Osvojitev poglobljenega poznavanja vprašanj vsebinskega in postopkovnega upravnega prava - splošni in posebni del.
- Študent bo usposobljen za prepoznavanje in razumevanje materije upravnega prava ter upravnopravnih norm. Poznal bo temelje razmerja med posameznikom in državo na področju upravnega prava ter temeljne zahteve, ki izvirajo iz vezanosti uprave na zakon pri izdajanju splošnih in posamičnih norm.
- Študent bo razumel postopke uveljavljanja pravic in odrejanja obveznosti na področju upravnega prava. Usposobljen bo za reševanje upravnih zadev in za vlaganje pritožb in drugih pravnih sredstev v upravnem postopku.

Študent je zmožen/na kritične presoje ter analize in interpretacije dogodkov in usmeritev iz upravnega prava – splošni in posebni del v sodobnem obdobju.

Študent je sposoben je kritično oceniti in se opredeliti do prakse upravnih organov, upravnih sodišč in ustavnega sodišča;

Razvije sposobnost ustrezno umestiti pravico do dobrega upravljanja na področju varstva

Intended learning outcomes:

Knowledge and understanding:

- Acquiring the in depth knowledge of substantive and procedural administrative law – general and specific perspectives.
- Student will be capable to identify and understand the role of administrative law. They will understand the relationship between state and individual. They will know the basic principles of legal binding of administration.
- Students will understand the administrative procedures of ensuring rights and obligations on the field of administration law. They will be capable of resolving easier procedural problems in administration. They will be also capable to use remedies.

Student is able to the critical judge, analyse and interpret events and policies related to administrative law – specific perspectives in the modern period.

Student is able to critically evaluate and define the practice of administrative bodies, administrative courts and the Constitutional Court.

Student is able to the appropriately place right to good governance in the protection of human

človekovih pravic v upravnem pravu - splošne in posebne perspektive.
 Študent pozna in uporablja metodološke pristope pri raziskovanju vprašanj upravnega prava – splošni in posebni del.

rights in administrative law – general and specific perspectives.
 Student knows and uses methodological approaches to administrative law – general and specific perspectives.

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 ali ustni izpit	100 %	Written or oral exam (100%)
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Reference nosilca / Lecturer's references:

FERK, Boštjan, FERK, Petra. Public capital and private capital in the internal market : securing a level playing field for public and private enterprises. V: RODRÍGUEZ IGLESIAS, Gil Carlos (ur.), ORTIZ BLANCO, Luis (ur.). Public capital and private capital in the internal market: [proceedings of the FIDE XXIV Congress, Madrid, 2010, vol.3]. Madrid: Servicio de Publicaciones de la Facultad de Derecho Universidad Complutense. 2010, str. 421-447.

FERK, Boštjan. Public private partnerships : national report for the Republic of Slovenia : sodelovanje na International academy of comparative law (IACL) congress, Washington DC, 25-30 July, 2010. Washington, 2010.

FERK, Petra, FERK, Boštjan. Alternativni viri financiranja javne infrastrukture. Pravna praksa, 2011, leto 30, št. 18, str. II-VIII.

FERK, Petra, FERK, Boštjan. Osebe javnega prava kot ponudniki. Podjetje in delo : revija za gospodarsko, delovno in socialno pravo, 2011, 37, [št.] 3/4, str. 481-502.

FERK, Boštjan. Direktiva o podeljevanju koncesijskih pogodb. Pravna praksa, 2014, leto 33, št. 20, str. 6-8.

FERK, Boštjan. Pogodba o javno-zasebnem partnerstvu. 1. natis. Turjak: Inštitut za javno-zasebno partnerstvo, zavod, 2014.

FERK, Petra, FERK, Boštjan. Slovenia. V: NEERGAARD, Ulla Boegh (ur.). Public procurement law : limitations, opportunities and paradoxes. Vol. 3. 1st ed. Copenhagen: DJØF Publishing. 2014, str. 685-705.

FERK, Boštjan, FERK Petra. Local Preferences as Non-Discriminatory Instrument in Public Procurement of Fresh Foods. In: PIGA, Gustavo, TATRAI Tunde, Law and Economics of Public Procurement Reforms, Routledge, 2017.

FERK, Petra, FERK, Boštjan. Top 10 reasons why (not) and how (not) to implement PPPs in the developing and emerging economies, In: LEITAO, Joao, MORAIS SARMENTO, Elsa, ALELUIA Joao (Eds.): The Emerald Handbook of Public-Private Partnerships PPPs in Developing and Emerging Economies, Perspectives on Public Policy, Enterepreneurschip and Poverty, Emerald Publishing, 2017, pp. 3-44.

FERK, Petra, FERK, Boštjan. Implementation of Directive 2014/24/EU in the Republic of Slovenia. In: TREUMER, Steen, COMBA, Mario Comba (Eds.): Modernising Public Procurement – The Approach of EU Member States, European Procurement Law Series, Edward Elgar publishing, 2018.