

## UČNI NAČRT PREDMETA / COURSE SYLLABUS

<b>Predmet:</b>	Pravna zgodovina
<b>Course title:</b>	Legal History

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 / mandatory

**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
40	0	15	0	0	70	5

**Nosilec predmeta / Lecturer:** Prof. dr. Marko Novak/Prof. Marko Novak, PhD

<b>Jeziki / Languages:</b>	<b>Predavanja / Lectures:</b> slovenski jezik / Slovenian
	<b>Vaje / Tutorial:</b> slovenski jezik / Slovenian

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

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

**Prerequisites:**

Enrollment in the 1st year of undergraduate study.  
At least 80% attendance at lectures and tutorials.

**Vsebina:**

Predmet uvaja obravnava pravne zgodovine kot znanosti, kjer si pogledamo začetke znanstvene obravnave pravne zgodovine pri zgodovinski pravni šoli, pa tudi, kako se je znanstveno proučevanje tega področja razvijalo v Sloveniji. V okviru tega poglavja obravnavamo tudi ostale dimenzije znanstvenega proučevanja tematike skupaj z metodologijo. Predmet sicer zajema temelje splošne pravne zgodovine predvsem Evrope in deloma ZDA, v kontekst česar se umešča

**Content (Syllabus outline):**

The course is introduced by discussing legal history as a scientific field, where the beginnings of dealing with legal history in a scientific manner by the German Historical School are dealt with, including the development of its scientific considerations in Slovenia. In this section, other dimensions of legal history as an area of science including methodology are discussed. The course generally includes the foundations of general legal history, particularly of Europe and the

tudi pravna zgodovina slovenskega ozmelja. Pri obravnavi posameznih zgodovinskih obdobj pričnemo z orientalskim pravom, kjer si poleg splošnih značilnosti tega obdobja pogledamo predvsem Hammurabijev zakonik ter egipčansko pravo. Glede prava v antiki obravnavamo zgolj staro Grčijo, pri čemer si pogled splošnega orisa obdobja ter splošnih značilnosti prava v tem času ter tudi prava nekaterih polis, ogledamo najbolj podrobno pravno ureditev Aten v obdobju demokracije.

Srednjeveška pravna zgodovina zajema vsa tri klasična obdobja. Pri zgodnjem srednjem veku si pogledamo pravne vidike preseljevanja ljudstev in njihovega stik s pozno antično družbo na zahodu, omenimo pa tudi kontinuiteto starorimske družbe na vzhodu. Obravnavamo tudi vzpon frankovskega kraljestva ter tudi drugih predfevdalnih držav na današnjem slovenskem ozemlju ali v njegovi okolici. Pri poglavju visokega srednjega veka obravnavamo predvsem pravno-organizacijski sistem fevdalizma z razdrobljenostjo in pravnim pluralizmom. Pri poznem srednjem veku pa je predvsem poudarek na razvoju avtonomij (plemiške, mestne in podeželske), združevanja na nivoju držav ali dežel ter pričetkih recepcije rimskega prava, kot tudi vlogo cerkve pri razvoju postopkovnega prava v Evropi.

Poglavje o novoveškem pravu pričenjamo z zgodnjo moderno državo, kjer prikažemo razvoj vladarjeve zakonodaje, nadaljnji razvoj mest, zametke parlamentarizma, nadaljevanje recepcije rimskega prava in prvi val prehajanja šolanih pravnikov v prakso. Absolutizem predvsem prinaša razvoj uradništva ter upravnega aparata vladarja kot tudi številne reforme v smeri krepitev centralne moči vladarja.

USA, part of which is also the legal history of the Slovene territory also belongs.

In discussing individual historical periods, we begin with Oriental Law where its general characteristics are followed by analysis of the Code of Hammurabi and Egyptian Law. The next section deals with Ancient Greek Law, in which besides the general characteristics of the period and the law thereof along with laws of certain city states, what is particularly discussed is the legal regulation of Athens in the period of democracy.

Middle-Age legal history extends over three periods. The Early middle ages focus on the legal aspects of the Great Migration and the contact of Germanic tribes with the vestiges of the late Roman Empire in the West, and its continuity in the East. What is also deal with is the rise of the Frankish Kingdom and other pre-feudal states on the current Slovene territory and its nearby areas. The High Middle Ages brings the legal organization of the feudal system including its particularism and legal pluralism. The Late Middle Ages deals in particular with the rise of various autonomous systems (of noblemen, cities, and in rural areas), the joining of territories to form a state or land, and the beginnings of the reception of Roman Law, as well as the role of the Church in developing procedural law in Europe.

The section on modern age law begins with early modern state, where the development of royal legislation, the continuing development of cities, parliaments, and the reception of Roman Law with lawyers educated at European universities entering legal practice are depicted. The era of Absolutism brings the development of administrative state with civil servants and other legal reforms to strengthen the central power of the Emperor.

The bourgeois Law depicts law after the

Buržoazno pravo prinaša predvsem razvoj prava po revolucijah v smeri konstitucionalizma ter parlamentarizma kot tudi kodifikacijskega gibanja. Nadalje se razvija trgovinsko pravo, pojavijo pa se tudi nove pravne panoge, kot sta delovno pravo ter pravno socialne varnosti. Uveljavlja se splošna volilna pravica. Pomlad narodov v Habsburški monarhiji prinese pojav gibanja »jezikovno pravo«, kar bistveno zaznamuje razvoj prava v slovenskem jeziku.

Novejša pravna zgodovina je zgodovina 20. stoletja. To najprej zaznamuje obdobje med obema vojnama. Za naše ozemlje je značilno obdobje stare Jugoslavije. V srednji Evropi se uveljavi Weimarska republika, na mednarodni ravni je ustanovljeno Društvo narodov. Obdobje po drugi svetovni vojni pa pomeni razvoj Organizacije združenih narodov ter v Evropi razvoj Evropske unije in Sveta Evrope kot najpomembnejših evropskih pravno-političnih organizacij.

Tudi na Slovenskem je po drugi vojni oblikovana federativna Jugoslavija, ki razvija družbo v smeri socializma in komunizma, kar vpliva tudi na pravo. Od konca osemdesetih let 20. stoletja naprej sledijo prelomni dogodki, ki pripeljejo do ustanovitve Republike Slovenije kot neodvisne države.

revolutions developing in the direction of constitutionalism and parliamentarism as well as the codification movement. Furthermore, law merchant was developed as well as other branches of law arose such as labor law and social welfare law. Universal suffrage was introduced. The Spring of Nations in the Habsburg Monarchy caused the movement of "Linguistic Law" to develop, which decisively impacted the development of law in the Slovene language.

The recent legal history is history of the 20<sup>th</sup> century. What was particularly important for us was the period between the two wars, when old Yugoslavia existed. In Central European, particularly influential was the Weimar Republic, and on the global scale the League of Nations was established. The period after the WW 2 witnessed the development of the United Nations Organization, as well as the establishment of the Council of Europe, and the beginnings of what became later the European Union, as Europe's two main political organizations.

After WW 2, Slovenia became part of the federative Yugoslavia, which began developing a socialist or communist society which impacted the then law. Finally, from the end of the 80's of the 20<sup>th</sup> century onwards, various events had been occurring which led to the establishment of the Republic of Slovenia as an independent state.

#### **Temeljna literatura in viri / Readings:**

- Marko Novak, Maja Tomašević, Bruno Vehar, Uvod v pravno zgodovino, Evropska pravna fakulteta, Nova Gorica (2017) (e-gradivo).
- Sergij Vilfan, Uvod v pravno zgodovino, Uradni list RS, Ljubljana (2011).
- Katja Škrubej, Pravo v zgodovini, GV Založba, Ljubljana (2010).

**Cilji in kompetence:****Študenti/ke bodo pridobili naslednje predmetno specifične kompetence:**

- poznavanje in razumevanje osnovnih zgodovinskih tipov prava, posameznih zgodovinskih obdobj, ki so pripeljala do razvoja temeljnih pravnih panog in institutov;
- poznavanje in razumevanje temeljnih zgodovinskih pravnih dokumentov iz splošne kot tudi nacionalne pravne zgodovine;
- razumevanje vzrokov za nastanek določenih pravnih institutov ter razumevanje primerjave zgodovinskih pravnih pojavnosti z današnjo pravno ureditvijo;
- sposobnost samostojnega in avtonomnega študijskega dela;
- razvoj sposobnosti kritično analizirati zgodovinskih pravnih virov in pravnih besedil;
  - kritična refleksija obstoječih pravnih virov in ocena njihove potrebnosti in kakovosti v luči zgodovinskega razvoja in zgodovinskih pravnih virov;
- sposobnost kritične strokovne razprave in analize o zgodovinskih pravnih virih;
- razumevanje in sposobnost ocene kakovosti delovanja institucij demokratične in pravne države v luči zgodovinskih pravnih virov in zgodovinskih pravnih izkušenj.

**Študenti/ke bodo pridobili naslednje splošne kompetence:**

- uporaba ustreznih metod pravnega raziskovanja, njihovih postopkov, analize in sinteze na področju pravne zgodovine;
- sposobnost skupinskega dela in pripravljenosti za sodelovanja pri

**Objectives and competences:****Students will gain the following subjects specific competences:**

- knowledge and understanding of fundamental historical types of law, individual historical periods that led to the development of basic areas of law and legal institutions;
- knowledge and understanding of basic historical legal documents from general as well as national legal history;
- understanding the causes for the development of certain legal institutions and understanding of comparison of historical legal occurrences with contemporary legal regulations;
- ability to study independently and autonomously;
- developing the ability to critically analyse historical legal sources and legal texts;
- a critical reflection on existing legal sources and an assessment of their need and quality in the light of historical development and historical legal sources;
- ability to critically discuss and analyse expertly the historical legal sources;
- understanding and ability to assess the quality of functioning of democratic and rule of law institutions in the light of historical legal sources and historical legal experiences.

**Students will gain the following general competences:**

- the use of appropriate methods of legal research, their procedures, analysis and synthesis in the area of legal history;
- ability to work together and be willing to work together in analysing historical legal sources;
- development of communication skills

- analizi zgodovinskih pravnih virov;
- razvoj komunikacijskih sposobnosti in veščin pri razumevanju pravne zgodovine;
- razvoj veščin javnega nastopanja in predstavitev pri obravnavi zgodovinskih pravnih dokumentov;
- razvoj ustvarjalnih sposobnosti pri ukvarjanju s pravnozgodovinskimi dokumenti;
- razvoj sposobnosti uporabe interdisciplinarnih znanj pri ukvarjanju s pravnozgodovinskimi vprašanji.

- and competences in the understanding of legal history;
- developing public speaking and presentation skills when dealing with historical legal documents;
- developing creativity and the ability to overcome problems in dealing with historical legal documents;
- developing the ability to use interdisciplinary knowledge in dealing with legal historical issues.

### **Predvideni študijski rezultati:**

Znanje in razumevanje:

*Študent/študentka:*

- Seznanitev študentov z osnovnimi zgodovinskimi tipi prava, zgodovinskim razvojem posameznih pravnih panog in temeljnimi zgodovinskimi pravnimi dokumenti;
- osvojitve temeljnih znanj s področja pravne zgodovine po različnih obdobjih;
- razvije zanimanje in znanje za pravno zgodovino;
- razvije kritično razumevanje zgodovinskih pravnih virov;
- zmožen/na je kritične presoje ter analize in interpretacije zgodovinskih pravnih virov;
- sposoben je primerjati, kritično oceniti in se opredeliti do sodobne pravne pojavnosti glede na zgodovinske izvore;
- sposoben kritičnega presojati, analizirati in razlagati zgodovinske dogodke, pomembne za razvoj posameznih pravnih dokumentov;
- pozna in uporablja osnovne metodološke pristope pri raziskovanju pravnozgodovinskih vprašanj.

### **Intended learning outcomes:**

Knowledge and understanding:

Student / student:

- To introduce students to the fundamental historical types of law, historical development of specific areas of law, and the fundamental historical legal documents;
- acquiring the fundamental knowledge of legal history through different periods;
- aims to develop the students' interest in, and knowledge of, legal history;
- develop a critical understanding of historical legal sources;
- is able to critically evaluate and interpret historical legal sources;
- is able to compare and critically address the present legal occurrences in the light of historical sources;
- able to critically evaluate, analyse and interpret historical events important for the development of specific legal documents;
- to know and use basic methodological approaches to research in legal history.

**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

**Načini ocenjevanja:**Delež (v %) /  
Weight (in %)**Assessment:**

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