

# PRIMERJALNO UPRAVNO PROCESNO PRAVO

## UČNI NAČRT PREDMETA/COURSE SYLLABUS

**Predmet:**

Primerjalno upravno procesno pravo

**Course title:**

Comparative administrative procedural law

**Članica nosilka/UL**

UL FU

**Member:**

| Študijski programi in stopnja                                                                                                   | Študijska smer            | Letnik    | Semestri  | Izbirnost |
|---------------------------------------------------------------------------------------------------------------------------------|---------------------------|-----------|-----------|-----------|
| Skupni doktorski študijski program UPRAVLJANJE IN EKONOMIKA JAVNEGA SEKTORJA , tretja stopnja, za pridobitev doktorata znanosti | Ekonomski (modul)         | 2. letnik | Celoletni | izbirni   |
| Skupni doktorski študijski program UPRAVLJANJE IN EKONOMIKA JAVNEGA SEKTORJA , tretja stopnja, za pridobitev doktorata znanosti | Javno upravljanje (modul) | 2. letnik | Celoletni | izbirni   |

**Univerzitetna koda predmeta/University course code:** 0060732

**Koda učne enote na članici/UL Member course code:** 3009

| Predavanja<br>/Lectures | Seminar<br>/Seminar | Vaje<br>/Tutorials | Klinične vaje<br>/Clinical<br>tutorials | Druge oblike<br>študija<br>/Other forms<br>of study | Samostojno<br>delo<br>/Individual<br>student work | ECTS |
|-------------------------|---------------------|--------------------|-----------------------------------------|-----------------------------------------------------|---------------------------------------------------|------|
| 20                      | 20                  | 0                  | 0                                       | 20                                                  | 90                                                | 5    |

**Nosilec predmeta/Lecturer:** Polonca Kovač

**Vrsta predmeta/Course type:** izbirni/elective course

**Jeziki/Languages:**

Predavanja/Lectures:

Angleščina, Slovenščina

Vaje/Tutorial:

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

Ni pogojev.

**Prerequisites:**

No conditions.

**Vsebina:**

1. Pojem in viri upravnega procesnega prava v okviru nad/nacionalnih pravnih redov in temeljne človekovih pravic ; vpliv ustavnega reda in tradicije ter modernizacija regulacije upravnega postopka v EU in širše
2. Temeljni pravni akti in vsebina koncepta dobre uprave v Evropskem upravnem prostoru

**Content (Syllabus outline):**

1. Administrative procedure law and its sources in supra/national legal systems and fundamental human rights ; he impact of the constitutional system and tradition and modernisation on administrative procedure law in EU and beyond.
2. Key legal acts and content of good administration concept in European Administrative Space

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| <ol style="list-style-type: none"> <li>3. Pojem javnega interesa in upravne zadeve v nacionalnih pravnih redih, EU in v praksi ESČP, vrste aktov v sklopu veljave ZUP</li> <li>4. Razmerje med splošno in področno regulacijo (subsidiarnost); avtonomija nacionalnega procesnega prava v EU</li> <li>5. Temeljna načela upravnega postopka v pravnem redu in sodni praksi v EU in članic ter držav na območju bivše Jugoslavije</li> <li>6. Upravni organi in uradne osebe v upravnem postopku – primerjava ureditev med izbranimi državami in v EU</li> <li>7. Lastnost in položaj strank ter zastopstvo stranke</li> <li>8. Pravila teka postopka – primerjava med izbranimi državami in EU</li> <li>9. Pravna sredstva v upravnih postopkih</li> <li>10. Sodni nadzor nad zakonitostjo konkretnih upravnih aktov v pravu EU in izbranih državah</li> <li>11. Odločanje v razumnem roku v upravnih zadevah</li> <li>12. Alternativno reševanje sporov v upravnih zadevah in odprava administrativnih ovir, digitalizacija.</li> </ol> | <ol style="list-style-type: none"> <li>3. The notion of public interest and administrative matters in national legal systems, in the EU law and ECtHR case law, types of acts under the scope of GAPA</li> <li>4. The relation between general and sector-specific regulation (subsidiarity); autonomy of MS in the EU on procedural law</li> <li>5. Fundamental principles of administrative procedure in the legal system and case law of the EU and its member states, and former Yugoslav republics</li> <li>6. Fundamental Authorities and officials in administrative procedure – comparison between selected countries and within the EU</li> <li>7. Locus standi of the parties, representation of the party</li> <li>8. Rules governing the conduct of the procedure – comparison between selected countries and the EU</li> <li>9. Legal remedies in administrative procedures</li> <li>10. Judicial review over the legality of specific administrative acts in EU and selected countries</li> <li>11. Reasonable time of decision-making in administrative matters</li> <li>12. Alternative dispute resolution in administrative matters and cutting red tape, digitalisation.</li> </ol> |
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#### Temeljna literatura in viri/Readings:

1. Auby, Jean-Bernard (ur.) (2014): Codification of Administrative Procedure, Bruylant, Brussels.
2. Della Cananea, C. (2022). Administrative Procedure in Europe: National and Supranational Legislation, Penn University. <https://pennreg.org/wp-content/uploads/2022/10/Della-Cananea-PPR-Working-Paper-2022-02.pdf>
3. Beneška komisija (2011): Stocktaking on the Notion of Good Governance and Good Administration. Study 470/2008, CDL-AD(2001)009.
4. Dragos, Dacian C., Kovač, Polonca & Tolsma Hanna D. (ur.) (2020): The Sound of Administrative Silence in European Administrative Law, Palgrave Macmillian.
5. Galetta, Diana-Urania et al. (2015): The General Principles of EU Administrative Procedural Law, European Parliament, Brussels. [https://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519224/IPOL\\_IDA%282015%29519224\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519224/IPOL_IDA%282015%29519224_EN.pdf)
6. Harlow, Carol & Rawlings, Richard (2014): Process and Procedure in EU Administration, Hart, Oxford, Portland, Oregon.
7. Kovač, P., Jerovšek, T. (2023). *Upravni postopek in upravni spor*. Ljubljana: Fakulteta za upravo.
8. Kovač, P. (2022). Traditional and European oriented principles in the codification of administrative procedures in CEE. HKJU, 22, 1, 9-36, <https://www.ccpa-journal.eu/index.php/ccpa/article/view/230/112>
9. Kovač, Polonca (2020): Kodifikacija upravnega postopka v Sloveniji in EU: včeraj, danes, jutri, Teorija in praksa, 57(3), 848–866. <https://www.fdv.uni-lj.si/docs/default-source/tip/kodifikacija-upravnega-postopka-v-sloveniji-in-eu-v%C4%8Dera-j-danes-jutri.pdf?sfvrsn=0>
10. EU Resolutions (2013, 2016). [https://www.europarl.europa.eu/doceo/document/TA-7-2013-0004\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-7-2013-0004_EN.html); [https://www.europarl.europa.eu/doceo/document/TA-8-2016-0279\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2016-0279_EN.html)
11. Sproti objavljena gradiva v spletni učilnici

#### Cilji in kompetence:

Cilji:

#### Objectives and competences:

Objectives:

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| <ul style="list-style-type: none"> <li>• Študent spozna razvoj in pomen upravnega procesnega prava in ZUPov za delo v nacionalni in EU upravi,</li> <li>• analizira in evalvira koncept dobre uprave,</li> <li>• podrobno analizira in evalvira posamezne ključne procesne institute v primerjalnem pravu,</li> <li>• aplicira in evalvira metode za samostojno raziskovanje in razvijanje novega znanja v interdisciplinarni in primerjalno pravni perspektivi.</li> </ul> <p>Kompetence:</p> <ul style="list-style-type: none"> <li>• Razumevanje in spodobnost evalvacijo APL v nad- in nacionalnem okviru,</li> <li>• sposobnost kritičnega vrednotenja jedrnih področnih konceptov,</li> <li>• zmožnost avtonomnega reševanja zahtevnejših procesnih izzivov po načelih dobre uprave in trajnostnosti,</li> <li>• razvijanje metod raziskovanja in kritične refleksije v raziskovanju.</li> </ul> | <ul style="list-style-type: none"> <li>• Student gets to know development and Significance of APL and APAs in national and EU framework.</li> <li>• Analyses and evaluates good administration.</li> <li>• Analyses in depth and evaluates selected procedural institutes in comparative law.</li> <li>• Applies and evalates autonomus research work and new knowledge development in interdisciplinary and comparative legal context.</li> </ul> <p>Competences:</p> <ul style="list-style-type: none"> <li>• Undertsanding and ability to evaluate APL in supra- and national framework.</li> <li>• Ability to critically evalate core concepts in the field.</li> <li>• Ability to autonomously resolve complex issues based on good administration and sustainability principles.</li> <li>• Developing research methods and critical reflection in research work.</li> </ul> |
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#### **Predvideni študijski rezultati:**

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| <ul style="list-style-type: none"> <li>• Študentje znajo pojasniti in vrednotiti vlogo UPP in pravic dobre uprave v trajnostnem razvoju,</li> <li>• znajo kategorizirati in argumentirati tipe upravnih aktov in posledično pravno varstvo strank,</li> <li>• so sposobni razčleniti in primerjati trende in vire PUPP v EU,</li> <li>• znajo analizirati zahtevnejše procesne probleme in presoditi, katera načela se aplicira v teh situacijah,</li> <li>• so zmožni samostojnega kreativnega raziskovalnega dela na področju.</li> </ul> | <p><b>Intended learning outcomes:</b></p> <ul style="list-style-type: none"> <li>• Students know how to explain and assess the role of APL and rights of good administration in the sustainable development.</li> <li>• Are able to categorise and argue what are the types of administrative acts and consequential legal protection of parties.</li> <li>• Can analyse and compare fundamental APL principles in the EU.</li> <li>• Can analyse more complex procedural problems and judge, which principles to apply.</li> <li>• Are able to apply autonomus and creative rserch approaches in the area.</li> </ul> |
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#### **Metode poučevanja in učenja:**

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> <li>1. obvezna priprava in udeležba na predavanjih oz. konzultacijah,</li> <li>2. problemsko učenje in naloga,</li> <li>3. e-učenje.</li> </ol> | <p><b>Learning and teaching methods:</b></p> <ol style="list-style-type: none"> <li>1. Obligatory preparation and participation at lectures or consultations.</li> <li>2. Problem-based learning and assignment.</li> <li>3. E-learning.</li> </ol> |
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#### **Načini ocenjevanja:**

#### **Delež/Weight**

#### **Assessment:**

|                                |         |                                                                     |
|--------------------------------|---------|---------------------------------------------------------------------|
| 1. Aktivno sodelovanje         | 10,00 % | 1. Active participation                                             |
| 2. problemsko učenje in naloga | 40,00 % | 2. Seminar assignment with presentation or scientific article/paper |
| 3. Odprt pisni ali ustni izpit | 50,00 % | 3. Open-book written or oral exam                                   |

#### **Ocenjevalna lestvica:**

#### **Grading system:**

|                                   |                                       |
|-----------------------------------|---------------------------------------|
| opravil z odliko/opravl/ni opravl | passed with distinction/passed/failed |
|-----------------------------------|---------------------------------------|

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

|                                                                                                                                                                                                   |
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| 1. Dragos, D.C., Kovač, P., Tolsma, H.D. (ur.) (2020). The Sound of Silence in European Administrative Law. Legal and Empirical Insights in Selected Jurisdictions. Palgrave Macmillan.           |
| 2. Kovač, P. (2023). Administrative procedure as a tool for participatory and efficient public governance. V: Howlett, M. (ur.), The Routledge handbook of policy tools. Routledge, str. 413-425. |

3. Kovač, P., Jerovšek, T. (2023). Upravni postopek in upravni spor. Fakulteta za upravo.
4. Kovač, P. (2022). Traditional and European oriented principles in the codification of administrative procedures in CEE. *HKJU*, letnik 22, št. 1, str. 9-36.
5. Kovač, P. (2020). Kodifikacija upravnega postopka v Sloveniji in EU, *Teorija in praksa*, let. 57, št. 3, str. 848-866.