

UPRAVNO PROCESNO PRAVO

UČNI NAČRT PREDMETA/COURSE SYLLABUS

Predmet:

UPRAVNO PROCESNO PRAVO

Course title:

ADMINISTRATIVE PROCEDURAL LAW

Članica nosilka/UL

UL FU

Member:

Študijski programi in stopnja	Študijska smer	Letnik	Semestri	Izbirnost
Uprava - Upravljanje javnega sektorja, druga stopnja, magistrski	Ni členitve (študijski program)	1. letnik	2. semester	obvezni

Univerzitetna koda predmeta/University course code:

0156420

Koda učne enote na članici/UL Member course code:

774

Predavanja /Lectures	Seminar /Seminar	Vaje /Tutorials	Klinične vaje /Clinical tutorials	Druge oblike študija /Other forms of study	Samostojno delo /Individual student work	ECTS
28	14			118	80	8

Nosilec predmeta/Lecturer:

Polonca Kovač

Vrsta predmeta/Course type:

OBVEZNI/CORE

Jeziki/Languages:

Predavanja/Lectures:

Angleščina, Slovenščina

Vaje/Tutorial:

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

Ni pogojev.

Prerequisites:

No prerequisites.

Vsebina:

1. Dobro (javno) upravljanje ter vloga upravnih procesov in prava. Upravne tradicije. UPP kot del upravnih reform.
2. Evropeizacija (regulacije) upravnih postopkov. Evropski upravni prostor. Ključni trajnostnostni trendi. Odprava administrativnih ovir. Reševanje sporov.
3. Pojem in pravice dobre uprave po Listini EU. Vzorčna pravila in Uredba o odprti, učinkoviti in neodvisni EU upravi.
4. Vrste upravnih razmerij, aktov in norm v Sloveniji in EU. Konvergenčni trendi.
5. Funkcije upravnega postopka in procesnega prava skozi pravice obrambe v ustavnem okviru. Enako varstvo pravic. Načelo de minimis.
6. Temeljna načela v EU in Sloveniji. Zakonitost, vladavina prava, diskrecija, varstvo javnega

Content (Syllabus outline):

1. Good (Public) Governance with the role of administrative processes and law. Administrative traditions. APL as a part of administrative reforms
2. Europeanization of administrative procedures. European Administrative Space. Key sustainable trends. Red tape reduction. Dispute resolution
3. Notion and rights of Good Administration by EU Charter. Model Rules and Regulation for an open, efficient and independent EU administration
4. Types of administrative relations, acts and norms in Slovenia and the EU. Convergence trends
5. Functions of administrative procedures and law through the rights of defense in the constitutional framework. Equal protection of rights. De minimis

interesa. Bistvena postopkovna pravila in kršitve. Nepristranskost. 7. Varstvo pravic strank. Teorija pridobljenih pravic. Status in položaji strank, stranski udeleženci. Zloraba. 8. Materialna resnica. Stopnje prepričanja. Fikcije in domneve. Dokazovanje, (ne)dovoljeni dokazi. 9. Pravice biti slišan in informiranja. Participacija v javnih zadevah v smislu trajnostnega razvoja. 10. Načelo samostojnosti. Pristojnost. Komunikacija med organi in strankami, vključno s trajnostno digitalizacijo. Faze, posamični upravni akt. 11. Učinkovitost in vrste pravnih sredstev v EU in Sloveniji. Predpisani in razumni rok odločanja. Molk. 12. Sodni in druge oblike nadzora nad upravo. Evropeizacija upravno-sodnega nadzora.	6. Fundamental principles in the EU and Slovenia. Legality, lawfulness, rule of law, discretionary powers, public interest protection. Substantial procedural rules and errors. Impartiality 7. Protection of parties' rights. Vested rights theory. Locus standi and affected parties. Abuse 8. Substantive truth. Levels of certainty. Fictions and legal assumptions. Evidence giving, (in)admissibility 9. Rights to be heard and to information. Participation in public matters in the context of sustainable development 10. Principle of independence. Jurisdiction. Communication, including the sustainable digitalisation, phases, individual administrative act 11. Efficiency and types of legal remedies in EU and Slovenia. Prescribed and reasonable timing, silence 12. Judicial and other review over administration. Europeanisation of administrative justice
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Temeljna literatura in viri/Readings:

1. Avbelj, M. et al. (2019). Komentar Ustave RS. Nova Gorica: Nova univerza, EPF, izbranih 30 str. 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. Dragos, D.C., Kovač, P., Tolsma, H.D. (2020). The Sound of Silence in European Administrative Law. Palgrave Macmillan, izbranih 50 strani. 4. Hofmann, H.C.H. et al. (2014). ReNEUAL Model Rules on EU Administrative Procedure, http://www.reneual.eu/images/Home/ReNEUAL-Model_Rules-Compilation_BooksI_VI_2014-09-03.pdf 5. Kovač, P. (2020). Kodifikacija upravnega postopka v Sloveniji in EU, Teorija in praksa, 57 (2), https://www.fdv.uni-lj.si/revije/znanstvene-revije/teorija-in-praksa 6. Kovač, P. (2022). Praktikum za upravno procesno pravo. Ljubljana: Fakulteta za upravo. 7. 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 8. Kovač, P. (ur.) (2023). Upravni postopki med teorijo in prakso, Fakulteta za upravo, https://www.fu.uni-lj.si/wp-content/uploads/2023/11/Upravni-postopki-med-teorijo-in-prakso_spletna-izdaja_končna.pdf, http://www.dlib.si/details/URN:NBN:SI:doc-HP3NZNAJ. 9. Kovač, P., Jerovšek, T. (2023). Upravni postopek in upravni spor. Ljubljana: Fakulteta za upravo.

Cilji in kompetence:

Cilji • študentje razumejo in vrednotijo UPP in evropske konvergence v javni upravi in trajnostnem razvoju, • razumejo in problematizirajo trende UPP v RS in EU, • analizirajo, soočajo in presodijo pomen in vsebino temeljnih upravnoprosesnih načel, • analizirajo in rešujejo zahtevnejše procesne probleme, • razvijajo skupinsko delo in deluje etično. Kompetence • sposobnost kritičnega vrednotenja jedrnih področnih konceptov,
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Objectives and competences:

Objectives • Students understand and evaluate APL and European convergences in public administration and sustainable development. • Understand and problematize trends in RS/EU. • Analyse, compare and assess significance and content of fundamental procedural principles. • Analyse and resolve more complex procedural situations. • Develop team-work and act ethically. Competences • Ability of critical assessment of core field concepts.

• zmožnost avtonomnega reševanja zahtevnejših procesnih izzivov po načelih dobre uprave in trajnostnosti, • usposobljenost za procesne analize s skupinskim raziskovalnim delom, • sposobnost refleksije, kritične analize in etične presoje, • obvladanje strokovne terminologije v slovenskem in angleškem jeziku.	• Ability to autonomously resolve more complex procedural challenges based on the good administration and sustainability principles. • Ability of procedural analyses with group research work. • Ability to reflect, critically analyse and ethically assess. • Command of field terminology in Slovenian and English.
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Predvideni študijski rezultati:	Intended learning outcomes:
Študent zna: • pojasniti, vrednotiti in razvijati inovativno vlogo UPP in pravic dobre uprave v dobrem javnem upravljanju • povzeti in razčleniti temeljna upravno- procesna načela v EU in Sloveniji • primerjati in razvrstiti bistvena pravila UPP • analizirati zahtevnejše procesne probleme in presoditi, katera načela in pravice se aplicira v teh situacijah • kategorizirati in argumentirati tipe upravnih aktov in posledično pravno varstvo strank	Student knows how to: • explain, assess and develop the innovative role of APL and rights of GA within good public governance • summarize and analyze fundamental APL principles in the EU and Slovenia • compare and classify significant APL rules • analyze complex procedural problems and judge, which principles to apply in these situations • categorize and argue what are the types of administrative acts and consequential legal protection of parties

Metode poučevanja in učenja:	Learning and teaching methods:
1. obvezna priprava in udeležba na predavanjih, 2. obvezna priprava na in udeležba na seminarji, 3. skupinsko problemsko učenje in naloga, 4. gostujoče predavanje iz prakse.	1. Obligatory preparation and participation at lectures 2. Obligatory preparation and participation at seminars 3. Group problem-based learning and assignment 4. Guest lectures from practice

Načini ocenjevanja:	Delež/Weight	Assessment:
1. Aktivno sodelovanje (predavanja, seminarji)	10,00 %	1. Active participation (lectures, seminars)
2. Skupinska seminarska naloga z analizo študije primerov s poročilom	30,00 %	2. Group seminar assignment with case studies and the report
3. Odprt pisni ali ustni izpit	60,00 %	3. Open-book written or oral exam

Ocenjevalna lestvica:	Grading system:
5 - 10, pri čemer velja, da je pozitivna ocena od 6 - 10	5 - 10, a student passes the exam if he is graded from 6 to 10

Reference nosilca/Lecturer's references:
1. Dragos, D.C., Kovač, P., Tolsma, H.D. (2020). The Sound of Silence in European Administrative Law. Palgrave Macmillan. 2. Kovač, P. (2022). Traditional and European oriented principles in the codification of administrative procedures in CEE. <i>HKJU</i>, letnik 22, št. 1, str. 9-36. 3. Kovač, P. (2023). Administrative procedure as a tool for participatory and efficient public governance. V: Howlett, M. (ur.), <i>The Routledge handbook of policy tools</i>. Routledge, str. 413-425. 4. Kovač, P., Jerovšek, T. (2023). Upravni postopek in upravni spor. Fakulteta za upravo. 5. Kovač, P., Kerševan, R. (ur.) (2020, 2022). <i>Komentar ZUP</i>, Uradni list RS in PF UL.