

# UPRAVNO PROCESNO PRAVO

## UČNI NAČRT PREDMETA/COURSE SYLLABUS

<b>Predmet:</b>	UPRAVNO PROCESNO PRAVO
<b>Course title:</b>	ADMINISTRATIVE PROCEDURAL LAW
<b>Članica nosilka/UL Member:</b>	UL FU

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

<b>Univerzitetna koda predmeta/University course code:</b>	0156420
<b>Koda učne enote na članici/UL Member course code:</b>	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.	Ni pogojev.
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### Vsebina:

1. Dobro (javno) upravljanje ter vloga upravnih procesov in prava v njem. Interdisciplinarnost upravnih procesov. Upravne tradicije. UPP kot del upravnih reform.
2. Evropeizacija (regulacije) upravnih postopkov skozi funkcijo implementacije javnih politik. Evropski upravni prostor. Ključni trendi. Odprava administrativnih ovir. Alternativno reševanje sporov.
3. Pojem in pravice dobre uprave po Listini EU o temeljnih pravicah in evropski judikaturi. Vzorčna pravila in Uredba o odprti, učinkoviti in neodvisni EU upravi.
4. Vrste upravnih razmerij, aktov in norm v Sloveniji in EU ter izbranih državah. Konvergenčni trendi. Normodajni in upravni postopki. Razmerje materialno in procesno pravo.

### Content (Syllabus outline):

1. Good (Public) Governance with the role of administrative processes and law in it. Interdisciplinarity of administrative procedures. Administrative traditions. APL as a part of administrative reforms.
2. Europeanization of administrative procedures through the function of public policies' implementation. European Administrative Space. Key trends. Red tape reduction. Alternative dispute resolution.
3. Notion and rights of Good Administration by EU Charter of Fundamental Rights and European case law. Model Rules and Regulation for an open, efficient and independent EU administration.
4. Types of administrative relations, acts and norms in Slovenia, the EU and selected countries. Convergence trends. Regulatory and

<ol style="list-style-type: none"> <li>5. Funkcije upravnega postopka in upravnega procesnega prava skozi pravice obrambe v ustavnem okviru. Enako varstvo pravic in posebni upravni postopki. Načelo de minimis.</li> <li>6. Temeljna načela upravnega procesnega prava v EU in Sloveniji. Zakonitost, vladavina prava, diskrecija, varstvo javnega interesa. Bistvena postopkovna pravila in kršitve. Nepristranskost.</li> <li>7. Varstvo pravic strank. Teorija pridobljenih pravic. Status in položaji strank, stranski udeleženci. Zloraba pravice.</li> <li>8. Materialna resnica. Stopnje prepričanja in vrste ugotovitvenega postopka. Fikcije in domneve. Dokazovanje, (ne)dovoljeni dokazi, privatizacija.</li> <li>9. Pravice biti slišan in informiranja. Participacija v javnih zadevah.</li> <li>10. Načelo samostojnosti. Pristojnost, devolucija, delegacija, rekvizicija. Komunikacija med organi in strankami, faze postopka, posamični upravni akt.</li> <li>11. Učinkovitost in vrste pravnih sredstev v EU in Sloveniji. Upravna pritožba, izredna pravna sredstva, res iudicata.</li> <li>12. Predpisani in razumni rok odločanja. Upravni molk. Sodni in druge oblike nadzora nad zakonitostjo in primernostjo upravnih aktov. Evropeizacija upravnno-sodnega nadzora.</li> </ol>	<p>administrative procedures. Relation substantive v. procedure law.</p> <ol style="list-style-type: none"> <li>5. Functions of administrative procedures and law through the rights of defense in the constitutional framework. Equal protection of rights in special procedures. De minimis principle.</li> <li>6. Fundamental administrative procedural law principles in the EU and Slovenia. Legality, lawfulness, rule of law, discretionary powers, public interest protection. Substantial procedural rules and errors. Impartiality.</li> <li>7. Protection of parties' rights. Vested rights theory. Locus standi and affected parties. Abuse of rights.</li> <li>8. Substantive truth. Levels of certainty and types of facts establishing proceedings. Fictions and legal assumptions. Evidence giving, (in)admissible proofs, privatisation/outcourcing.</li> <li>9. Rights to be heard and to information. Participation in public matters.</li> <li>10. Principle of independence. Jurisdiction, devolution, delegation, requisition. Communication, phases of procedure, individual administrative act.</li> <li>11. Efficiency and types of legal remedies in EU and Slovenia. Administrative appeal, extraordinary remedies, res iudicata. Prescribed and reasonable timing. Administrative silence.</li> <li>12. Judicial and other review forms over legality and appropriateness of administrative acts. Europeanisation of administrative justice</li> </ol>
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### Temeljna literatura in viri/Readings:

1. Jerovšek, T., Kovač, P. (2020). *Upravni postopek in upravni spor*. 3. izdaja/ponatis. Ljubljana: Fakulteta za upravo, 200 str.
2. Avbelj, M. et al. (2019). *Komentar Ustave RS*. Nova Gorica: Nova univerza, EPF, izbranih 30 str.
3. Kovač, P. (2021). Changing the General Administrative Procedure Codification in Slovenia: between Austrian Tradition, EU Convergence and Future Social Challenges, *Edizioni Scientifiche Italiane*, special issue.
4. Kovač, P. (2020). Kodifikacija upravnega postopka v Sloveniji in EU, *Teorija in praksa*, let. 57, št. 3, str. 848-866, <https://www.fdv.uni-lj.si/revije/znanstvene-revije/teorija-in-praksa>
5. Kovač, P. (2016). The requirements and limits of the codification of administrative procedures in Slovenia according to European trends. *Review of central and east European law*, 41(3/4) 427-461.
6. Kerševan, E., Androjna, V., (2017). *Upravno procesno pravo*. Ljubljana: GV založba, izbranih cca 80 str.
7. Kovač, P. (2019): Principles of administrative procedure in selected CEE countries : between national legacies and European trends. V: *Public Administration in a Democratic Society, Dubrovnik, Croatia* [Zagreb]: Institute of Public Administration. <https://iju.hr/ipisa/2019/papers/ip19p2.pdf>.
8. Hofmann, H.C.H. et al. (2014): ReNEUAL Model Rules, [http://www.renewal.eu/images/Home/ReNEUAL-Model\\_Rules-Compilation\\_BooksI\\_VI\\_2014-09-03.pdf](http://www.renewal.eu/images/Home/ReNEUAL-Model_Rules-Compilation_BooksI_VI_2014-09-03.pdf)
9. Dragos, D.C., Kovač, P., Tolsma, H.D. (2020). *The Sound of Silence in European Administrative Law*. Palgrave Macmillan, izbranih 50 strani.
10. Koprić, I. et al. (2016). *Legal Remedies in Administrative Procedures in Western Balkans*. ReSPA, <http://www.respaweb.eu/11/library#respa-publications-2016-7>, izbranih 20 str.
11. Kovač, P., Jukić, T. (2017): Recent regional developments in red tape reduction. *Lex Localis*, vol. 15 (3), 433-457, <http://pub.lex-localis.info/index.php/LexLocalis/article/view/15.3.433-457%282017%29>
12. Kovač, P. (2022). *Praktikum za upravno procesno pravo*. Ljubljana: Fakulteta za upravo.

**Cilji in kompetence:**

<p><b>Cilji</b></p> <ul style="list-style-type: none"> <li>• razumevanje in evalvacija vloge UPP v javni upravi in evropske konvergence</li> <li>• razumevanje in vrednotenje prvin javnega upravljanja, dobre uprave, upravnih postopkov in (upravnega procesnega) prava, razmerja med njimi</li> <li>• kritično razumevanje trendov UPP v slovenskem in evropskem prostoru</li> <li>• usposobljenost za razlago pomena in vsebin temeljnih upravnoprocenih načel</li> <li>• analiziranje in reševanje zahtevnejših procesnih problemov razvijanje skupinskega dela, mreženja in upravne etike</li> </ul> <p><b>Kompetence</b></p> <ul style="list-style-type: none"> <li>• sposobnost inovativnega in kritičnega vrednotenja jedrnih področnih konceptov</li> <li>• zmožnost avtonomnega reševanja zahtevnejših upravnoprocenih problemov skozi prizmo načel dobre uprave</li> <li>• sposobnost inovativne (primerjalno)pravne analize in povezanega raziskovalnega dela</li> <li>• sposobnost refleksije in kritične analize ter pravnoetične presoje</li> <li>• zmožnost konstruktivno mrežiti in delovati v skupini</li> <li>• obvladanje strokovne terminologije v slovenskem in angleškem jeziku</li> </ul>
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**Objectives and competences:**

<p><b>Objectives</b></p> <ul style="list-style-type: none"> <li>• understanding and evaluation of APL role in public administration and European convergence</li> <li>• understanding and assessment of elements of public governance, good administration, administrative procedures and (administrative procedural) law, relations among them</li> <li>• critical assessment of trends in administrative procedural law in Slovenian and European space</li> <li>• ability to interpret meaning and contents of fundamental administrative procedural principles</li> <li>• analysis and problemsolving of complex problems</li> <li>• development of team work, networking and field ethics</li> </ul> <p><b>Competences</b></p> <ul style="list-style-type: none"> <li>• ability to innovatively and critically assess key field concepts</li> <li>• ability to autonomously resolve complex administrative procedural problems through lenses of good administration principles</li> <li>• ability to conduct innovative (comparative) legal analysis and research work</li> <li>• ability to reflect and perform legal and ethical evaluation</li> <li>• ability to constructively net- and teamwork</li> <li>• ability to use professional terminology in Slovenian ad English</li> </ul>
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**Predvideni študijski rezultati:**

<p>Študent zna:</p> <ul style="list-style-type: none"> <li>• pojasniti, vrednotiti in razvijati inovativno vlogo UPP in pravic dobre uprave v dobrem javnem upravljanju</li> <li>• povzeti in razčleniti temeljna upravno- procesna načela v EU in Sloveniji</li> <li>• primerjati in razvrstiti bistvena pravila UPP</li> <li>• analizirati zahtevnejše procesne probleme in presoditi, katera načela in pravice se aplicira v teh situacijah</li> <li>• kategorizirati in argumentirati tipe upravnih aktov in posledično pravno varstvo strank</li> </ul>
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**Intended learning outcomes:**

<p>Student knows how to:</p> <ul style="list-style-type: none"> <li>• explain, assess and develop the innovative role of APL and rights of GA within good public governance</li> <li>• summarize and analyze fundamental APL principles in the EU and Slovenia</li> <li>• compare and classify significant APL rules</li> <li>• analyze complex procedural problems and judge, which principles to apply in these situations</li> <li>• categorize and argue what are the types of administrative acts and consequential legal protection of parties</li> </ul>
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**Metode poučevanja in učenja:**

<ol style="list-style-type: none"> <li>1. priprava na predavanja</li> <li>2. predavanje</li> <li>3. priprava na seminar</li> <li>4. seminar</li> <li>5. projektna skupinska naloga (analiza sodnih primerov oz. upravne prakse, primerjalne ureditve, sodelovanje v raziskovalnem projektu, terensko delo, medpredmetno sodelovanje)</li> <li>6. problemsko učenje</li> <li>7. konzultacije</li> </ol>
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**Learning and teaching methods:**

<ol style="list-style-type: none"> <li>1. preparations for lectures</li> <li>2. lecture</li> <li>3. preparations for seminars</li> <li>4. seminars</li> <li>5. project group (analysis of case-law and administrative practice, comparative analyses, cooperation within research project, field work, inter-curricular collaboration)</li> <li>6. problem based learning</li> <li>7. study consultation</li> </ol>
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8. gostujoče predavanje iz prakse	8. guest lecture from practice
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Načini ocenjevanja:	Delež/Weight	Assessment:
1. pisni in/ali ustni izpit	60,00 %	1. written and/or oral examination
2. sprotne naloge in aktivno delo na predavanjih in seminarjih	10,00 %	2. interim assignments and active collaboration within lectures and seminars
3. skupinska seminarska naloga z analizo študije primerov s poročilom	30,00 %	3. group seminar work on with analysis of case studies a report

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

<ol style="list-style-type: none"> <li>1. Kovač, P., Kerševan, E. (ur.) (2020/1, 2). ZUP s komentarjem. Ljubljana: Uradni list RS in PF UL.</li> <li>2. Kovač, P. (2021). Changing the General Administrative Procedure Codification in Slovenia: between Austrian Tradition, EU Convergence and Future Social Challenges, Edizioni Scientifiche Italiane, special issue.</li> <li>3. Dragos, D.C., Kovač, P., Tolsma, H.D. (2020). The Sound of Silence in European Administrative Law. Legal and Empirical Insights in Selected Jurisdictions. Palgrave Macmillan.</li> <li>4. Jerovšek, T., Kovač, P. (2020). Upravni postopek in upravni spor. Ljubljana: Fakulteta za upravo.</li> <li>5. Kovač, P., v Avbelj, M. (2019). Komentar Ustave RS (komentar k členom 22, 23, 25 in 157; Del 1: str. 189-197, 228-232, 248-255, Del 2: str. 420-430). Nova Gorica: Nova univerza, EPF.</li> <li>6. Kovač, P. (2016). The requirements and limits of the codification of administrative procedures in Slovenia according to European trends. <i>Review of central and east European law</i>, 41(3/4) 427-461.</li> <li>7. Kovač, P. (2017). Between theoretical principles and practice in Slovene regulatory impact assessment procedures. <i>Review of central and east European law</i>. 2017, vol. 42, iss. 2/3, str. 215-250.</li> <li>8. Kovač, P., Fabrizio, K. (2020), v: Karpen, U., Xanthaki, H. (ur.). <i>Legislation in Europe : a country by country guide</i>. Oxford; New York: Hart, 2020. Str. 433-451.</li> </ol>
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