

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: _____
 Course title: Topics in Comparative Law

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester

Vrsta predmeta / Course type _____

Univerzitetna koda predmeta / University course code: _____

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
30						

Nosilec predmeta / Lecturer: Rebecca Aviel

Jeziki / Predavanja / Lectures: English
 Languages: Vaje / Tutorial: _____

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

Prerequisites:

Course will be available to fourth and fifth year students.

Vsebina:

Content (Syllabus outline):

Overview: Why Study Law Comparatively?

- 1. Introduction.** Discussion of the reasons to study law comparatively; identification of the underlying goals of legal systems.

Comparing Structures of Legal Authority and Sources of Law

- 2. Comparing Civil and Common Law Traditions.** Special emphasis on the contrast between comprehensive codes and precedential adjudication.
- 3. Constitutions and Constitutional Structure.** Discussion of separation of powers, the American concept of federalism, and the

European concept of subsidiarity.

4. **The role of the courts in various constitutional systems;** discussion of countermajoritarianism with a special focus on the problem of judicial review.
5. **Other issues in Judicial Decision-making:** Methods of Interpretation and Judicial Independence
6. **Equality Mandates and the Protection of Individual Rights.** Race, Gender, Religion, and the concepts of privacy and dignity.
7. **A Case Study in Comparative Constitutional Law: Government Sponsored Health Care.**

The Role of Lawyers and the Legal Profession

8. **The Concept of a Profession.** A discussion of role-differentiated morality and the norm of zealous advocacy
9. **Comparing Adversarial and Inquisitorial Systems.** Discussion of the key differences in the lawyer's role and obligations to the tribunal across these two systems.
10. **Confidentiality and Professional Secrecy.** To what extent is confidentiality treated as a core professional virtue in various legal systems?
11. **Legal Education and Admission to Practice.** We will discuss law school selection processes; curriculum and methods of instruction; tuition and finances; and examine bar admission and licensing.

Differential Regulation of Family Life and Intimate Relationships

12. **Entry Into Marriage and the Role of the State.** We will discuss the varying procedural and substantive requirements for entering into state-sanctioned marriages and the reasons for state involvement.
13. **Divorce and Family Dissolution.** Discussion of changing attitudes about availability of divorce and liberalization of divorce law across many jurisdictions; overview of marital property distribution, support obligations, and child custody.
14. **The State as Paterfamilias and the Rights and Responsibilities of Parents.** Comparative assessment of the tension between parental autonomy and the state's obligation to protect the welfare of children.

Summary: The Challenges of Comparative Law

15. **Critique and Conclusions.** We will consider some critiques of comparative law and assess the merits of each; we will explore the idea of

functional equivalence and discuss when perceived differences may turn out to be superficial upon closer inspection.

Temeljni literatura in viri / Readings:

Cases, statutes, articles, and other materials provided by the professor.

Cilji in kompetence:

Objectives and competences:

Students will be able to identify the underlying purposes and objectives of a legal system; to compare the various approaches to advancing those objectives; to assess the strengths and weaknesses of each system; and to understand the limitations in the comparative law endeavor.

Predvideni študijski rezultati:

Intended learning outcomes:

Students will have a strong grasp of the key differences between civil law and common law legal systems; will understand the core principles of American and Slovenian constitutional design and know how they differ from each other and from other constitutional systems; will have an overview of varying concepts of the lawyer's role and the regulation of the legal profession across multiple jurisdictions; and will be able to compare different approaches to regulating family life and domestic relations.

Metode poučevanja in učenja:

Learning and teaching methods:

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Combination of lecture, seminar discussion, student presentations, and the problem method.

Načini ocenjevanja:	Delež (v %) / Weight (in %)	Assessment:
		Type (examination, oral, coursework, project): Students will be assessed on the basis of weekly class participation; an oral presentation to the class; and a final paper.

Reference nosilca / Lecturer's references:

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