

THE LAW AND PHILOSOPHY OF SOCIAL PROTECTION

UČNI NAČRT PREDMETA/COURSE SYLLABUS

Predmet:	Pravo in filozofija socialne zaščite
Course title:	The Law and Philosophy of Social Protection
Članica nosilka/UL Member:	UL PF

Študijski programi in stopnja	Študijska smer	Letnik	Semestri	Izbirnost
Pravo, prva stopnja, univerzitetni	Ni členitve (študijski program)	4. letnik	1. semester, 2. semester	izbirni

Univerzitetna koda predmeta/University course code: 0643397

Predavanja /Lectures	Seminar /Seminar	Vaje /Tutorials	Klinične vaje /Clinical tutorials	Druge oblike študija /Other forms of study	Samostojno delo /Individual student work	ECTS
20	30	0	0	70	60	6

Nosilec predmeta/Lecturer: Luka Mišič

Vrsta predmeta/Course type: Posebni program študijskih izmenjav/Elective (Special elective course for Erasmus students)

Jeziki/Languages:

Predavanja/Lectures:	Angleščina
Vaje/Tutorial:	Angleščina

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

Študent na izmenjavi na Univerzi v Ljubljani.

Prerequisites:

Exchange student at the University of Ljubljana.

Vsebina:

- Temeljni pojmi socialne zaščite**
 - Socialna varnost
 - Socialno varstvo
 - Mešani sistemi
 - Univerzalni sistemi
 - Načelo solidarnosti
 - Mednarodni pravni viri
 - Evropski pravni viri
 - Nacionalne ureditve
 - Načelo socialne države (nem. *Sozialstaatsprinzip*)
- Temeljne teorije Politične Filozofije**
 - Liberalizem
 - Egalitarizem
 - Komunitarizem
 - Utilitarizem

Content (Syllabus outline):

- Basic Concepts of Social Protection**
 - Social Security
 - Social Assistance
 - Mixed Schemes
 - Universal Schemes
 - The Solidarity Principle
 - International Legal Sources
 - European Legal Sources
 - National Legal Orders
 - The Social State Principle (Germ. *Sozialstaatsprinzip*)
- Basic Theories of Political Philosophy**
 - Liberalism
 - Egalitarianism
 - Communitarianism
 - Utilitarianism

5. Libertarizem 3. Izvori socialne solidarnosti 1. (Unitarna) država 2. Skupnosti 1. Družina 2. Zavarovalna skupnost 3. Lokalne skupnosti 4. Državljanstvo 3. Posameznik 4. Pravičnost in redistribucija 1. Štiri podobe pravičnosti 1. Razdeljevalna pravičnost 2. Postopkovna pravičnost 3. Izravnalna in povračilna pravičnost 2. Enakost rezultata 1. <i>Potrebe</i> in socialno varstvo 2. <i>Zasluge</i> in socialno zavarovanje 3. <i>Želje</i> in zasebno zavarovanje 4. Univerzalni temeljni dohodek 3. Enakost v priložnosti 1. Pravičnost kot poštenost (J. Rawls) 2. Hipotetični zavarovalniški trg (R. Dworkin) 5. Sodobni izzivi 1. Socialne človekove pravice 1. Soodvisnost državljanskih pravic in svoboščin ter socialnih pravic 2. Pozitivne obveznosti države 3. Lastninsko varstvo socialnih pravic 4. Praksa ESČP 2. Zasebna odgovornost 1. Bolezen in dolgotrajna oskrba 2. Starost 3. Brezposelnost 4. Revščina 3. Dohodek, revščina in svoboda gibanja 1. Direktiva 2004/38/ES 2. Uredba (ES) 883/2004 3. Posebne neprispевne dajatve 4. Direktiva 2011/14/EU 4. Evropski socialni model 1. Socialni dumping in razkol med Vzhodom in Zahodom 2. Napoteni in obmejni delavci 3. Družinski prejemki in socialne pomoči 4. Primerna minimalna plača	5. Libertarianism 3. Sources of (Social) Solidarity 1. The (Unitary) State 2. The Community 1. The Family 2. The Insurance Group 3. Regions, Municipalities 4. Citizenry 3. The Individual 4. Justice and Redistribution 1. Four Types of Justice 1. Distributive Justice 2. Procedural Justice 3. Restorative and Retributive Justice 2. Equality of Outcome 1. <i>Need</i> and Social Assistance 2. <i>Merit</i> and Social Insurance 3. <i>Want</i> and Private Insurance 4. Universal Basic Income 3. Equality of Opportunity 1. Justice as Fairness (J. Rawls) 2. The Hypothetical Insurance Market (R. Dworkin) 5. Contemporary Issues 1. Social Human Rights 1. The Interdependency of Civil, Political, and Social Rights 2. Positive State Obligations 3. Proprietary Protection of Social Rights 4. Case-Law of the ECtHR 2. Individual Responsibility 1. Sickness and Long-Term Care 2. Old-Age 3. Unemployment 4. Poverty 3. Income, Poverty, and Free Movement 1. Directive 2004/38/EC 2. Regulation (EC) 883/2004 3. Special Non-Contributory Cash Benefits 4. Directive 2011/14/EU 4. The European Social Model 1. Social Dumping and the "East-West" Divide 2. Posted and Frontier Workers 3. Family Benefits and Social Assistance 4. Adequate Minimum Wages
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Temeljna literatura in viri/Readings:

1. BECKER, U. (2007). Solidarity, Financing and Personal Coverage. *The Japanese Journal of Social Security Policy* 6(1) pp. 1-30.
2. BRINKMAN, O. (2010). The public interest and the welfare state: contemporary political philosophy. In: VONK, G. & TOLLENAAR, A., *Social Security as a Public Interest. A multidisciplinary inquiry into the foundations of the regulatory welfare state*. Antwerp, Oxford, Portland: Intersentia, pp. 91-117.
3. EICHENHOFER, E. (2015). The Law of the Activating Welfare State. Baden Baden: Nomos. [Selected Chapters]
4. EICHENHOFER, E. (2006). Social Security and Philosophy. *Študije FDV* 3(3), pp. 2- 11.

5. GIUBBONI, S. (2016). Free Movement of Persons and European Solidarity. A Melancholic Euology. In: VERSCHUEREN, H (ed), *Residence, employment and social rights of mobile persons. On how EU law defines where they belong*. Antwerp, Cambridge: Intersentia, pp. 75-88.
6. KUKOVEC, D. (2015). Law and the Periphery. *European Law Journal* 21(3), pp. 406-428.
7. KYMLICKA, W. (2002) Contemporary political philosophy: an introduction. Oxford: Oxford University Press. [Selected Chapters]
8. LANCEIRO, R. (2017). *Dano* and *Alimanovic*: the recent evolution of CJEU case-law on EU citizenship and cross-border access to social benefits. *UNIO – EU Law Journal* 3(1), pp. 63-77.
9. METZ, Thaddeus (2016). Recent philosophical approaches to social protection: From capability to *ubuntu*. *Global Social Policy* 2(16), pp. 132-150.
10. MIKKOLA, M. (2015). Social Human Rights of Europe. Helsinki: Karelactio. [Selected Chapters]
11. MIŠIČ, L. (2020). Equality of Opportunity in the EU: Rethinking the European Pillar of Social Rights in Light of Free Movement as a Supranational Principle of Justice. *Zbornik znanstvenih razprav* 80, pp. 41-75.
12. MIŠIČ, L. (2018). Theories of Political Philosophy as Guiding Principles in Social Security. *Studies in Labour Law and Social Policy* 25(3), pp. 271-292.
13. PENNINGS, F. (2020). The discussion on the revision of the coordination rules of unemployment benefits – a battlefield between East and West. *European Journal of Social Security* 22(2), pp. 148-162.
14. SCHEMMEL, C. (2015). How (Not) to Criticise the Welfare State. *Journal of Applied Philosophy* 32(4), pp. 393-409.
15. SPAVENTA, E. (2016). Once a foreigner always a foreigner: Who does not belong here anymore? Expulsion Measures. In: VERSCHUEREN, H (ed), *Residence, employment and social rights of mobile persons. On how EU law defines where they belong*. Antwerp, Cambridge: Intersentia, pp. 89-110.
16. VERSCHUEREN, H. (2015). Free Movement of EU Citizens: Including for the Poor? *Maastricht Journal of European and Comparative Law* 22(1), pp. 10-34.
17. VONK, G. (2020). The EU (non) co-ordination of minimum subsistence benefits: What went wrong and what ways forward? *European Journal of Social Security* 22(2), pp. 138-147.
18. WOLFF, J. (2015). Political Philosophy and the Real World of the Welfare State. *Journal of Applied Philosophy* 32(4), pp. 335-439.

Literature will be updated following new publication and developments (e.g., case-law) in the field of social protection.

Literatura bo posodobljena zasledujoč nove publikacije in razvoj (npr. sodne prakse) na področju socialne zaščite

Cilji in kompetence:

Cilj predmeta je študente seznaniti s temeljnimi koncepti socialne zaščite in prava socialne varnosti, osnovnim poznavanjem izbranih teorij politične filozofije in njihovih ključnih konceptov ter jim omogočiti kritično uporabo tako pridobljenega teoretičnega okvira za obravnavo sodobnih vprašanj na področju socialnega prava tako v nacionalnem kot tudi nadnacionalnem okolju. Študenti bodo pridobili sposobnost širokega in večplastnega pristopa k reševanju konkretnih in sodobnih vprašanj s tega področja.

Objectives and competences:

The aim of the course is to provide students with an overview of the basic concepts of social protection, and social security law, the basic knowledge of selected theories of political philosophy and their key concepts, and enable them to critically apply this theoretical framework to contemporary issues in the field social law and social policy, both in a national and supranational setting. The students will acquire the ability of taking a broad and multi-layered approach to solving concrete and contemporary issues in the field.

Predvideni študijski rezultati:

Poznavanje in razumevanje:

- temeljnih pojmov socialne zaščite,
- temeljnih teorij in pojmov politične filozofije,
- soodvisnosti socialnega prava, socialne politike in politične filozofije v (nad)nacionalnem okolju,
- kritično razumevanje sodobnih in večplastnih vprašanj socialnega prava v (nad)nacionalnem okolju.

Intended learning outcomes:

Knowledge and understanding of:

- Basic concepts of social protection
- Basic theories and concepts of political philosophy
- The interplay between social law, social policy and political philosophy in a (supra)national setting
- Critical understanding of contemporary and multi-layered social law issues in a (supra)national setting

Metode poučevanja in učenja:	Learning and teaching methods:
• Predstavitev temeljnega pojmovnega okvirja na predavanjih • Podrobna analiza področnih izzivov s pomočjo razprave in študentskega sodelovanja • Podrobna analiza področnih izzivov s pomočjo individualne pisne naloge	• Presentation of the basic theoretical framework through lectures • In-depth analysis of relevant topics through student discussion and participation • In-depth analysis of selected topics through individual written assignment

Načini ocenjevanja:	Delež/Weight	Assessment:
Ustni izpiti	50,00 %	Oral examinations
Individualna pisna naloga	50,00 %	Individual written assignment

Ocenjevalna lestvica:	Grading system:

Reference nosilca/Lecturer's references:

1. STRBAN, G. & MIŠIČ, L. (2022). Social Protection and the Pandemic in Slovenia: Between Income Protection, Social Policy and Politics. In BECKER, U & SEEMANN, A (eds), *Protecting livelihoods: a global comparison of social law responses to the COVID-19 Crisis*. Baden-Baden: Nomos, pp. 427-451.
2. MIŠIČ, L. (2022). Ustavnopravne omejitve privatizacije socialnega primera starosti. In DUGAR, G. & BERK SKOS, A. (eds), *Vloga institucij EU in države pri zagotavljanju pravnega in ekonomskega varstva starejših*. Ljubljana: Založba Pravne fakulteta, pp. 150-181.
3. MIŠIČ, L. & STRBAN, G. (2021). Functional and Systemic Impacts of COVID-19 on European Social Law and Social Policy. In HONDIUS, E H (et al) (eds), *Coronavirus and the Law in Europe*. Cambridge, Antwerp, Chicago: Intersentia, pp. 973-988.
4. MIŠIČ, L. (2020). Equality of Opportunity in the EU: Rethinking the European Pillar of Social Rights in Light of Free Movement as a Supranational Principle of Justice. *Zbornik znanstvenih razprav* 80, pp. 41-75.
5. STRBAN, G. & MIŠIČ, L. (2020). Property Protection of Social Rights: Perspectives of the European Court of Human Rights and the Slovenian Constitutional Court. *Iustinianus Primus Law Review* (11), pp. 1-17.
6. MIŠIČ, L. (2019). The National Welfare State, Four Categories of EU Citizens, and the Pursuit of Liberal Equality. In: KOPETZKI M. (ed) *Autoritäres vs Liberales Europa: Tagung junger Europarechtler*innen*. Wien: Jan Sramek Verlag, pp. 3-29.
7. MIŠIČ, L. (2019). Social Insurance and the State: Can't Live with Her, Can't Live without Her. In: PERULLI, A & BELLOMO, S, *New Industrial Relations in the Era of Globalization: A Multilevel Analysis*. Alphen aan den Rijn: Wolters Kluwer, pp. 137-152.
8. MIŠIČ, L. (2019). Socialna pravičnost kot vprašanje upravičenosti redistribucije v sistemu socialnih zavarovanj. Doktorska disertacija. Ljubljana: Pravna fakulteta UL.
9. MIŠIČ, L. (2018). Theories of Political Philosophy as Guiding Principles in Social Security. *Studies in Labour Law and Social Policy* 25(3), pp. 271-292.
10. MIŠIČ, L. (2018). Odsevi politične filozofije v pravu socialne varnosti. *Delavci in delodajalci* 18(1), pp. 57-84.