

UČNI NAČRT

UČNI NAČRT PREDMETA / COURSE SYLLABUS	
Predmet: Course title:	Etika pravniških poklicev Legal ethics

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Enoviti magistrski študijski program Pravo Integrated master study programme Law	/	4., 5.	8., 10.
	/	4 th , 5 th	8 th , 10 th

Vrsta predmeta / Course type	Izbirni predmet /Elective course
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Univerzitetna koda predmeta / University course code:	
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Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
45	15				60	4

Nosilec predmeta / Lecturer:	doc. dr. Aleš Novak, prof. dr. Miro Cerar
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Jeziki / Languages:	<table border="1"> <tr> <td>Predavanja / Lectures:</td><td>Slovenski / Slovenian</td></tr> <tr> <td>Vaje / Tutorial:</td><td></td></tr> </table>	Predavanja / Lectures:	Slovenski / Slovenian	Vaje / Tutorial:	
Predavanja / Lectures:	Slovenski / Slovenian				
Vaje / Tutorial:					

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

Opravljene obveznosti pri Uvodu v pravoznanstvo ter Sociologiji prava.

Prerequisites:

Completed courses in Theory of law and Sociology of law.

Vsebina:

Content (Syllabus outline):

1. Smisel etičnega urejanja pravniških poklicev	1. The purpose of legal ethics
2. Pojem etike	2. The concept of ethics
2.1. Poglavitne smeri v etiki (utilitaristične teorije, deontološke teorije, etika vrlin)	2.1. Main theories of ethics (utilitarian theories, deontological theories, virtue ethics)
2.2. Metaetika	2.2. Metaethics
2.3. Problem vlogi lastne morale (role morality)	2.3. The problem of role morality
3. Reguliranje etike pravniških poklicev	3. Regulation of legal ethics
3.1. Modeli reguliranja (zakonodajno in sodno urejanje ter urejanje v okviru stanovskih organizacij; mešani modeli)	3.1. Models of regulation (legislative, judicial and regulation within autonomous organisations, mixed models)
3.2. Viri reguliranja (ustava, zakon, sodna praksa, avtonomno pravo, mehko pravo)	3.2. Sources of regulation (constitution, statute, case-law, autonomous law, soft law)
4. Sodniška poklicna etika	4. Judicial ethics
4.1. Dve podobi sodnika	4.1. Two understanding of a judge's role
4.2. Institucionalni okviri sodniške vloge	4.2. Institutional framework of a judge's role
4.3. Etične dolžnosti (oz. vrline) sodnika	4.3. Ethical duties (or virtues) of a judge
4.4. Odprtvi problemi: soočanje z moralno spornimi zakoni, politično delovanje sodnika, meje javnega nastopanja, meje svobode govora).	4.4. Open questions: facing morally flawed laws, political engagements of judges, the limits of public activities, the limits on the freedom of speech)
5. Odvetniška poklicna etika	5. Lawyers' Ethics
5.1. Etični trikotnik: stranka – družba – pravo	5.1. Ethical triangle: client – society – law
5.2. Ključne vrednote: avtonomija stranke – skupno dobro – pravice drugih – delovanje pravnega sistema (zvestoba vladavini prava)	5.2. Crucial values: client's autonomy – common good – rights of others – functioning of a legal system (loyalty to the rule of law)
5.3. Odvetnikove etične dolžnosti do stranke in njihove meje	5.3. Lawyer's ethical duties to a client and its limits
5.4. Odvetnikove etične dolžnosti do drugih	5.4. Lawyer's ethical duties to others
5.5. Odvetnikove etične dolžnosti do prava (pravosodnega sistema)	5.5. Lawyer's ethical duties to the institutions of a legal system
6. Notarska poklicna etika	6. Professional ethics of notaries public
6.1. Institucionalni položaj notarja: svobodni poklic in oseba javnega zaupanja	6.1. Institutional role of notary public: free profession and a person of public trust
6.2. Etične dolžnosti do pravnega sistema	6.2. Ethical duties towards the institutions of a legal system
6.3. Etične dolžnosti do stranke	6.3. Ethical duties to a client
7. Poklicna etika državnih tožilcev	7. Professional ethics of public prosecutors
7.1. Institucionalni položaj državnega tožilca	7.1. Institutional role of public prosecutor
7.2. Ustavni in zakonski okviri njegovega delovanja	7.2. Constitutional and statutory framework of prosecutorial conduct
7.3. Etične dolžnosti: komu je državni tožilec zavezan?	

1. The purpose of legal ethics	1. The purpose of legal ethics
2. The concept of ethics	2. The concept of ethics
2.1. Main theories of ethics (utilitarian theories, deontological theories, virtue ethics)	2.1. Main theories of ethics (utilitarian theories, deontological theories, virtue ethics)
2.2. Metaethics	2.2. Metaethics
2.3. The problem of role morality	2.3. The problem of role morality
3. Regulation of legal ethics	3. Regulation of legal ethics
3.1. Models of regulation (legislative, judicial and regulation within autonomous organisations, mixed models)	3.1. Models of regulation (legislative, judicial and regulation within autonomous organisations, mixed models)
3.2. Sources of regulation (constitution, statute, case-law, autonomous law, soft law)	3.2. Sources of regulation (constitution, statute, case-law, autonomous law, soft law)
4. Judicial ethics	4. Judicial ethics
4.1. Two understanding of a judge's role	4.1. Two understanding of a judge's role
4.2. Institutional framework of a judge's role	4.2. Institutional framework of a judge's role
4.3. Ethical duties (or virtues) of a judge	4.3. Ethical duties (or virtues) of a judge
4.4. Open questions: facing morally flawed laws, political engagements of judges, the limits of public activities, the limits on the freedom of speech)	4.4. Open questions: facing morally flawed laws, political engagements of judges, the limits of public activities, the limits on the freedom of speech)
5. Lawyers' Ethics	5. Lawyers' Ethics
5.1. Ethical triangle: client – society – law	5.1. Ethical triangle: client – society – law
5.2. Crucial values: client's autonomy – common good – rights of others – functioning of a legal system (loyalty to the rule of law)	5.2. Crucial values: client's autonomy – common good – rights of others – functioning of a legal system (loyalty to the rule of law)
5.3. Lawyer's ethical duties to a client and its limits	5.3. Lawyer's ethical duties to a client and its limits
5.4. Lawyer's ethical duties to others	5.4. Lawyer's ethical duties to others
5.5. Lawyer's ethical duties to the institutions of a legal system	5.5. Lawyer's ethical duties to the institutions of a legal system
6. Professional ethics of notaries public	6. Professional ethics of notaries public
6.1. Institutional role of notary public: free profession and a person of public trust	6.1. Institutional role of notary public: free profession and a person of public trust
6.2. Ethical duties towards the institutions of a legal system	6.2. Ethical duties towards the institutions of a legal system
6.3. Ethical duties to a client	6.3. Ethical duties to a client
7. Professional ethics of public prosecutors	7. Professional ethics of public prosecutors
7.1. Institutional role of public prosecutor	7.1. Institutional role of public prosecutor
7.2. Constitutional and statutory framework of prosecutorial conduct	7.2. Constitutional and statutory framework of prosecutorial conduct

- 7.4. Odprta vprašanja: odnos do žrtev, tožilska diskrecija, politična nevtralnost
8. Poklicna etika državnih pravobranilcev
- 8.1. Institucionalni položaj državnega pravobranilca
- 8.2. Etične dolžnosti državnih pravobranilcev: javni interes, pravni red, državljeni
9. Poklicna etika javnih uslužbencev
- 9.1. Institucionalni položaj
- 9.2. Etične dolžnosti in njihove meje

- 7.3. Ethical duties: to whom does a prosecutor owe its ethical duties?
- 7.4. Open questions: attitude towards victims, prosecutorial discretion, political neutrality
8. Professional ethics of attorneys general
- 8.1. Institutional role of attorney general
- 8.2. Ethical duties of attorney general: public interest, legal order, citizens
9. Professional ethics of public employees
- 9.1. Institutional role of public employees
- 9.2. Ethical duties and their limits

Temeljni literatura in viri / Readings:

- D. Nicolson in J. Webb: Professional Legal Ethics – Critical Investigations, Oxford University Press 1999, str. 10-34.
- R. Wasserstrom, Lawyers as Professionals: Some Moral Issues, Human Rights 1 (1975-76) 5, str. 1-24.
- P. Čeferin: Odvetnik in etika, Podjetje in delo 6-7/2007, str. 1573-81.
- J. Kranjc: Ni vse, kar je dovoljeno, tudi pošteno (spodobno), Pravna praksa 26 (2007) 45, str. 6-9.
- M. Accetto: Scila in Karibda odvetnikove vesti, <http://www.ius-software.si/DnevneVsebine/Kolumna.aspx?id=10431>.
- odločba US U-II-1/09-9 z dne 5. 5. 2009 (referendum o odvetniški tarifi)
- odločba US Up-309/05-25 z dne 15. 5. 2008 (kaznovanje odvetnika zaradi izjav v postopku)
- M. Cerar: Etični temelji sodniškega poklica, v delu: Ustavnosodno odločanje (ur. M. Pavčnik, A. Novak), GV Založba, Ljubljana 2013, str. 225-254.
- J. Zobec: Politična vzdržnost sodnika, Pravna praksa 25 (2006) 38, str. 12-14.
- A. Zalar: O politični vzdržnosti sodnikov (2), Pravna praksa 25 (2006) 41-42, str. II-VII.
- P. Krug: Urejanje zunajsodnega dela sodnikov: etični standardi in njihova uporaba v Združenih državah Amerike, Pravnik 63 (2008), 7-8, str. 355-362.
- B. L. Gersham: Prosecutorial Ethics and Victim's Rights: The Prosecutor's Duty to Neutrality, Lewis & Clark Law Review 9 (2005), str. 559-579.

Študent se mora seznaniti tudi s / The student must also consult:

- Kodeks sodniške etike (Sodnega sveta) 2017. / (Slovenian) Code of Judicial Conduct (issued by the Judicial Council), 2017.
- Kodeks odvetniške poklicne etike, 2011 / (Slovenian) Code of Lawyers' Ethics, 2011.
- Kodeks državnootožilske etike, 2015 / (Slovenian) Code of Prosecutorial Ethics, 2015.
- Kodeks notarske etike, 1996. / (Slovenian) Code of Notarial Ethics, 1996.

Lecturer reserves the right to minor adaptations of readings according to the current topics.

Cilji in kompetence:

Objectives and competences:

Cilj predmeta je, da študenta seznaní z osnovnimi zahtevami etike pravnískih poklicev, da ga napravi za občutljivega za zaznavanje etičnih dilem pri pravnískem delu ter da ga pripravi na samostojno in reflektirano reševanje etičnih vprašanj pri pravnískem delu.

The course presents the students with an introduction to basic requirements of legal ethics, raises their awareness to ethical issues involved in lawyer's work and prepares the students for independent and reflective solving of ethical problems encountered in different legal professions.

Predvideni študijski rezultati:

Pravni sistem lahko uspešno in učinkovito deluje le pod predpostavko, da pravniki v njem delujejo v skladu s poklicno etiko, zato je poznavanje temeljnih etičnih zahtev poklica, za katerega se šolajo, temeljnega pomena. Predmet bo študenta seznanil s filozofskimi podlagami poklicne etike, kodeksi poklicnih etik pravnískih poklicev (odvetnik, notar, sodnik, državni tožilec itd.), temeljno zakonodajo, ki opredeljuje etične dolžnosti omenjenih poklicev ter relevantno sodno in ustavnosodno prakso. Študent bo po opravljenem izpitu sposoben zaznati ključne etične dileme, s katerimi se srečujejo tipični pravníski poklici, jih analizirati in samostojno poiskati argumentirane rešitve možnih dilem. Študenti povezujejo pridobljeno znanje zlasti s predmeti Uvod v pravoznanstvo ter Filozofija prava in metodologija pravnega vrednotenja, pridobljena znanja pa so koristna tudi pri vseh ostalih pozitivno naravnanih predmetih.

Intended learning outcomes:

A legal system can function successfully and efficiently only when lawyers adhere to the standards of professional ethics. Knowing basic requirements of professional ethics is therefore of fundamental importance. The course will provide students with the philosophical framework needed to understand professional ethics, the codes of professional ethics (for lawyers, judges, notaries public, etc.), and constitutional and statutory provisions relevant case-law pertaining to ethically required conduct. Students will gain the ability to detect key ethical dilemmas, encountered in typical legal settings, analyse them and find a reasoned solution to possible dilemmas. The course participants will have to rely on knowledge gained in Legal Theory and Philosophy of law courses and will be able to apply knowledge gained in all other courses.

Metode poučevanja in učenja:

Predavanja (posredovanje temeljnih teoretičnih znanj, analiza kodeksov poklicnih etik, relevantne področne zakonodaje ter sodne in ustavnosodne prakse, analiza konkretnih primerov) ter druge oblike študija (individualne konzultacije študentov z nosilcem predmeta)

Learning and teaching methods:

Lectures (conveying of theoretical knowledge, analysis of codes of ethics, legislation and case-law) and other forms of study (consultations).

Načini ocenjevanja:

Izpiti je pisni ali ustni.
V primeru pisnega izpita ima študent (ob predpostavki pozitivno ocenjenega pisnega izdelka) možnost dodatnega ustnega dela izpita.

Delež (v %) /

Weight (in %)

100%

Assessment:

Written or oral examination.
If the examination is written, the students who have received a passing grade can request additional oral examination.

<p>Študent lahko v dogovoru z nosilcem predmeta izpit opravi tudi s krajšimi seminariskimi nalogami, ki morajo biti pripravljene v skladu z navodili nosilca.</p> <p>Izpit se oceni z ocenjevalno lestvico od 5 - 10: od 6-10 (pozitivno) oziroma 5 (negativno); ob upoštevanju Statuta UL in Pravil Pravne fakultete.</p>	<p>Exam can (with consent of the lecturer) be substituted with short seminar papers submitted in accordance with the lecturer's guidelines.</p> <p>The success is graded on the scale 5-10: 6-10 (pass) and 5 (fail), according to the Statute of the University of Ljubljana and Law Faculty Rules.</p>
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Reference nosilca / Lecturer's references:

doc. dr. Aleš Novak

NOVAK, Aleš. *Narava in meje zavezajoče moči prava : doktorska disertacija*. Ljubljana: [A. Novak], 2003. 427 f.

NOVAK, Aleš. O definiciji prava. Zb. znan. razpr. (Prav. fak. 1991), 2001, letn. 61, str. [81]-101. NOVAK, Aleš: Deontološki kodeksi pravnih poklicev – med moralo in pravom, Podjetje in delo 27 (2001) 6-7.

prof. dr. Miro Cerar

CERAR, Miro. Etični temelji sodniškega poklica. V: NOVAK, Aleš (ur.), ACCETTO, Matej, PAVČNIK, Marijan. (Ustavno)sodno odločanje. Ljubljana: GV založba, 2013. Str. 225-254. Zbirka Pravna obzorja, 45. ISBN 978-961-247-244-3. [COBISS.SI-ID 13204305]

CERAR, Miro. Etični temelji (ustavno)sodnega odločanja. V: Dnevi slovenskih pravnikov 2011 od 13. do 15. oktobra, Portorož. Ljubljana: GV Založba, 2011. Str. 1264-1274. Podjetje in delo, Letn. 37, št. 6/7. ISSN 0353-6521. [COBISS.SI-ID 11913809]

CERAR, Miro. (I)racionalnost modernega prava. 1. natis. Ljubljana: Bonex, 2001. 515 str. ISBN 961-6019-23-6. [COBISS.SI-ID 115493120]