

UČNI NAČRT

UČNI NAČRT PREDMETA / COURSE SYLLABUS								
Predmet:	Kazensko procesno pravo							
Course title:	Criminal Procedure Law							
Študijski program in stopnja Study programme and level	Študijska smer Study field			Letnik Academic year	Semester Semester			
Enoviti magistrski študijski program Pravo	/			2.	3.,4.			
Integrated master study programme Law	/			2 nd	3 rd , 4 th			
Vrsta predmeta / Course type	Obvezni /Obligatory							
Univerzitetna koda predmeta / University course code:								
Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS		
60	/	90	/	/	150	10		
Nosilec predmeta / Lecturer:	prof. dr. Katja Šugman Stubbs, izr. prof. dr. Primož Gorkič, doc. dr. Miha Hafner							
Jeziki / Languages:	Predavanja / Lectures:	Slovenski / Slovenian						
	Vaje / Tutorial:	Slovenski / Slovenian						
Pogoji za vključitev v delo oz. za opravljanje študijskih obveznosti:				Prerequisites:				
Pogoj za pristop k izpitu so: 1. oddana seminarska naloga 2. opravljen obisk glavne obravnave 3. potrdilo izvajalca vaj o sodelovanju na vajah; način sodelovanja na vajah in način preverjanja se določi z načrtom dela, ki se objavi na običajen način pred začetkom izvajanja vaj.				Conditions for taking the exam: 1. submitted student paper 2. visit to a main hearing 3. obtained certificate of attending the tutorial; the conditions for obtaining the certificate will be laid out in a course plan, published in the usual manner before tutorials commence.				
Vsebina:				Content (Syllabus outline):				

<p>1. Uvod</p> <ul style="list-style-type: none"> - Družbeni pomen in vloga kazenskega procesnega prava - Razmerje med materialnim in procesnim kazenskim pravom - Naloge in namen kazenskega postopka <p>2. Zgodovinski razvoj kazenskega postopka</p> <ul style="list-style-type: none"> - Inkvizitorni postopek - Akuzatorni postopek - Mešani postopek - Kratek pregled razvoja kazenskega postopka na območju Slovenije <p>3. Temeljna načela kazenskega procesnega prava</p> <ul style="list-style-type: none"> - Pomen temeljnih načel - Načelo oficialnosti in legalitete pregona - Načelo iskanja materialne resnice in proste presoje dokazov - Obtožno načelo - Preiskovalno in razpravno načelo - Načelo neposrednosti in ustnosti glavne obravnave - Načelo javnosti glavne obravnave - Načelo ekonomičnosti in prepovedi zlorabe procesnih pravic <p>4. Subjekti kazenskega postopka</p> <ul style="list-style-type: none"> - Splošno o subjektih kazenskega postopka - Sodišče - Upravičeni tožilec - Obdolženec - Oškodovanec - Ostali udeleženci v kazenskem postopku, posebej o organih odkrivanja in zagovorniku <p>5. Objekti kazenskega postopka</p> <ul style="list-style-type: none"> - Kazenska zadeva - Stroški kazenskega postopka - Premoženjskopravni zahtevek - Predhodna vprašanja <p>6. Procesna dejanja</p> <ul style="list-style-type: none"> - Procesna dejanja organov postopka: odločbe v kazenskem postopku in drugi poglavitni pisni akti - Procesna dejanja strank postopka in drugih udeležencev - Posebej o preiskovalnih dejanjih in omejevalnih ukrepih <p>7. Ugotavljanje dejstev v kazenskem postopku</p> <ul style="list-style-type: none"> - Splošno o dokaznem pravu, dokazovanju, dokaznih sredstvih - Osebni dokazi 	<p>1. Introduction</p> <ul style="list-style-type: none"> - social impact of criminal procedure law - criminal substantive and criminal procedural law - tasks and goals of criminal procedure <p>2. Historical development of criminal procedure</p> <ul style="list-style-type: none"> - inquisitorial procedure - accusatorial procedure - mixed procedure - development of criminal procedure in the territory of Slovenia <p>3. Fundamental principles of criminal procedural law</p> <ul style="list-style-type: none"> - the importance of procedural principles - the principle of ex officio prosecution; the principle of mandatory prosecution - the truth-finding principle and the principle of free evaluation of evidence - accusatory principle - inquisitorial principle; the principle of party-led presentation of evidence - the principle of immediacy and the principle of oral presentation of evidence - the publicity of the main hearing - the principle of efficiency and the prohibition of abuse of procedural rights <p>4. Actors of criminal procedure</p> <ul style="list-style-type: none"> - general - courts - prosecutor - defendant - injured party - other actors of criminal procedure; bodies in charge of discovering criminal offences; defence counsel <p>5. Subject of criminal procedure</p> <ul style="list-style-type: none"> - causa criminalis - costs - indemnification claims - preliminary issues <p>6. Procedural acts</p> <ul style="list-style-type: none"> - procedural acts of bodies of criminal procedure (decisions and other written acts) - procedural acts of parties and other actors - investigative acts and coercive measures <p>7. Fact-finding in criminal procedure</p> <ul style="list-style-type: none"> - general on evidence law and evidence - personal evidence - material evidence
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<ul style="list-style-type: none"> - Stvarni dokazi - Indici - Dokazne prepovedi in izločitev nedovoljenih dokazov 8. Potek kazenskega postopka - Splošno o delitvi kazenskega postopka na stadije - Predkazenski postopek - Preiskava (utemeljen sum, preiskovalni sodnik in razmerje z državnim tožilcem; potek in konec preiskave) - Pogajanja in sporazum o priznanju krivde - Obtožba in preizkus obtožnega akta - Predobravnavni narok - Glavna obravnavna (pogoji za glavno obravnavo; potek glavne obravnave; - Odločanje o glavni stvari (razmerje med obtožbo in sodbo; vrste sodb) - Postopek s pravnimi sredstvi (pritožba kot redno pravno sredstvo zoper sodbo in sklep; izredna pravna sredstva) 9. Skrajšani postopki 10. Postopek proti mladoletnikom 11. Temeljno o posebnih vrstah postopkov 12. Temeljno o kazenskem (procesnem) pravu EU 	<ul style="list-style-type: none"> - circumstantial evidence - evidentiary barriers and exclusion of illegally obtained evidence 8. Course of criminal procedure - general on phases of criminal procedure - preliminary procedure - investigation (probable cause; investigating judge and its relation to state prosecutor; course of investigation and its conclusion) - plea bargaining and plea agreement - indictment and its initial evaluation - pre-trial hearing - main hearing (conditions, course of the main hearing) - decision-making (the charge and the judgement; types of judgements) - legal remedies (appeal as a regular legal remedy against judgements and decisions; extraordinary legal remedies) 9. Summary procedure 10. Procedure against minors 11. Introduction to special types of procedure 12. Introduction to European criminal (procedure) law
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Temeljni literatura in viri / Readings:

ŠUGMAN STUBBS, Katja, GORKIČ, Primož, FIŠER Zvonko: Temelji kazenskega procesnega prava, GV Založba, Ljubljana 2020.

GORKIČ, Primož, in ŠUGMAN STUBBS, Katja: Dokazovanje v kazenskem postopku, GV Založba, Ljubljana, 2011 (izbrana poglavja).

GORKIČ, Primož: Praktikum za kazensko procesno pravo: tretja, spremenjena in dopolnjena izdaja, Pravna fakulteta v Ljubljani, Ljubljana 2020.

Cilji in kompetence:

Cilj predmeta je, da študent pridobi teoretična in praktična znanja s področja kazenskega procesnega prava. Na teoretični ravni se študent (1) spozna s pravnimi podlagami, ki urejajo kazenski postopek, (2) osvoji poglobljeno znanje o vseh elementih kazenskega postopka ter (3) se sooča z vrednostnimi vprašanji, ki se nanašajo na razmerja med pravicami posameznika in države v kazenskem postopku.

Na praktični ravni se študent (1) seznanja s ključnimi sodbami (tako mednarodnih sodišč, kot tujih ter domačih sodišč), (2) analizira

Objectives and competences:

The goal of the course is to present students with theoretical and practical knowledge in the field of criminal procedural law. On a theoretical level, students will obtain knowledge of legal sources of criminal procedure, obtain in-depth knowledge of the particularities of criminal procedure, and confront value-based issues related to the individual's rights vis-a-vis the state in criminal procedure.

On the practical level, students will (i) become acquainted with key court decisions of domestic and foreign courts, (ii) be able to analyse and respond to hypothetical cases, and (iii) attend a main hearing.

hipotetične procesne probleme; (3) običejo glavno obravnavo na sodišču.
Ves čas se spodbuja kritično mišljenje.

Critical thinking is encouraged at all times.

Predvideni študijski rezultati:

Znanje in razumevanje:
Študent bo pridobil tako teoretično kot praktično znanje s področja in bo sposoben analizirati in interpretirati pravne podlage, jih argumentirano povezovati v smiselne celote in reševati manjše konkretne kazensko procesne probleme. Poznal bo relevantno sodno prakso in bo sposoben uporabljati pravne norme na hipotetičnih problemih. Razumel bo tesno prepletanje kazenskega procesnega prava s področjem varstva človekovih pravic.
Pridobljeno znanje je mogoče neposredno uporabiti v pravosodni praksi: pri delu tožilstva, kazenskega pravosodja, odvetništva, nevladnih organizacij, ki se ukvarjajo s kazenskim področjem (žrtve nasilja, droge, trgovina z ljudmi ipd.) ter na drugih področjih, ki imajo stik s kazenskim pravom (zapori, centri za socialno delo ipd.).
Ustno in pisno izražanje o različnih pravnih vprašanjih, sposobnost pravnikega sklepanja, sposobnost kritičnega mišljenja, sposobnost tehtanja med vrednotami, izdelava manjših problemskih tekstov, prenos znanja v različne oblike vlog v postopkih
Študenti povezujejo pridobljeno znanje predvsem z drugimi predmeti s področja kazenskega in ustavnega prava, predvsem pa je pomembno povezovanje s predmeti kazensko pravo, gospodarsko kazensko pravo, izvršilno pravo, kriminalistika, ustavno pravo in evropsko ustavno pravo.

Intended learning outcomes:

Knowledge and understanding:
Students will gain theoretical and practical knowledge in the field, be able to analyse and interpret legal sources, be able to form comprehensive arguments and apply his/her knowledge to simpler issues of criminal procedure. Students will be acquainted with relevant case law and will be able to apply the legal norms to hypothetical problems. The students are expected to understand the interrelationship of criminal procedural law with human rights law.
The acquired knowledge will benefit students in their future practice as a part of prosecution service or criminal court system, as attorney-at-law, or if involved in NGOs dealing with criminal justice issues (victims of crime, drug-related issues, trafficking in human beings etc.) and other areas related to criminal procedure (prisons, social services...)
Other skills involve the ability to communicate effectively in writing or orally, the engage in legal analysis, to think critically, to balance values at stake, to produce problem-solving texts and to apply their knowledge in a different procedural settings or roles.
Students will be able to transfer their knowledge to other areas in the field of criminal law and constitutional law, particularly to the courses on economic criminal law, sentencing, criminal investigation, constitutional law and European constitutional law.

Metode poučevanja in učenja:

Learning and teaching methods:

<ul style="list-style-type: none"> - predavanja z razpravo - vaje (preučevanje sodne prakse in reševanje hipotetičnih problemov) - uporaba spletnih kvizov (Socrative.com) - drugo delo (obisk glavne obravnave na sodišču, konzultacije v zvezi s pripravo seminarske naloge) 	<ul style="list-style-type: none"> - lectures with discussion - tutorials (study of case law and hypothetical cases) - online quizzes (Socrative.com) - other (attending a main hearing of a criminal trial; consultations related to preparing the student paper) 	
Načini ocenjevanja:		Delež (v %) / Weight (in %)
<p> - Seminarska naloga - Pisni izpit </p> <p>Izpit se oceni z ocenjevalno lestvico od 5 - 10: od 6-10 (pozitivno) oziroma 5 (negativno).</p>		Assessment: <p> - student paper - written exam </p> <p>Exam will be graded on the scale 5-10: 5 fail, 6-10 pass. </p>

Reference nosilca / Lecturer's references:

prof. dr. Katja Šugman Stubbs

- ŠUGMAN STUBBS, Katja, GORKIČ, Primož, FIŠER Zvonko: Temelji kazenskega procesnega prava, GV Založba, Ljubljana 2020.
- ŠUGMAN, Katja, GORKIČ, Primož. Dokazovanje v kazenskem postopku. 1. natis. Ljubljana: GV založba, 2011.
- ŠUGMAN, Katja. Tendencies for efficiency and their influence on the model of Slovenian criminal procedure. V: MASSÉ, Michel (ur.). *Un droit pénal postmoderne? : Mise en perspective de certaines évolutions contemporaines*. Poitiers: Faculté de droit et des sciences sociales de l'Université de Poitiers, 2007, str. 225-239.
- ŠUGMAN, Katja. Criminal procedure in Slovenia. V: *Criminal procedure in Europe*, (Schriftenreihe des Max-Planck-Instituts für Ausländisches und Internationales Strafrecht, Reihe S., Strafrechtliche Forschungsberichte, 112). Berlin: Duncker & Humblot; Freiburg i.Br.: Max-Planck-Institut, 2008, str. 483-539.

izr. prof. dr. Primož Gorkič

- ŠUGMAN STUBBS, Katja, GORKIČ, Primož, FIŠER Zvonko: Temelji kazenskega procesnega prava, GV Založba, Ljubljana 2020.
- GORKIČ, Primož. Policing Organised Crime: A Paradox of Transition? V: ŠELIH, Alenka), ZAVRŠNIK, Aleš (ur.), *Crime and transition in Central and Eastern Europe*. New York [etc.]: Springer, 2012, str. 97-116
- ŠUGMAN, Katja, GORKIČ, Primož. Dokazovanje v kazenskem postopku. 1. natis. Ljubljana: GV založba, 2011.
- GORKIČ, Primož. Slovenia. V: LIGETI, Katalin (ur.). *Toward a prosecutor for the European Union*. Vol. 1, A comparative analysis, (Modern Studies in European Law, Vol. 34). Oxford; Portland: Hart, cop. 2013, str. 652-701.

Doc. dr. Miha Hafner

- HAFNER, Miha. Judging homicide defendants by their brains : an empirical study on the use of neuroscience in homicide trials in Slovenia. *Journal of law and the biosciences*. oct. 2019, vol. 6, iss. 1, str. 226-254.
- HAFNER, Miha, ŠUGMAN STUBBS, Katja. Slovenia. V: *Encyclopedia of Criminal Law and Criminal Justice*, Edward Elgar Publishing, v tisku.
- HAFNER, Miha. Komentar členov 248-267. V: ŠEPEC, Miha (ur.) *Komentar Zakona o kazenskem postopku*, Ljubljana: GV Založba, 2022 (v tisku).
- HAFNER, Miha. Premoščanje mej v glavi in premeščanje mej v pravu: koncept duševne zasebnosti in sorodnih pravic ter njihov pomen v kazenskem pravu. V: SALECL, Renata (ur.)

Premeščanje mej v kriminologiji in kriminalitetni politiki. Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti, 2020 str. 351-393.