

## UČNI NAČRT PREDMETA/COURSE SYLLABUS

<b>Predmet:</b>	Alternativno reševanje civilnih in gospodarskih sporov
<b>Course title:</b>	Alternative Dispute Resolution in Civil and Commercial Matters

Študijski programi in stopnja	Študijska smer	Letnik	Semestri
Pravo, prva stopnja, univerzitetni	Ni členitve (študijski program)		Letni
Law, First-cycle, University Study Programme in Law			

Univerzitetna koda predmeta/University course code:

Predavanja	Seminar	Vaje	Klinične vaje	Druge oblike študija	Samostojno delo	ECTS
20	30	0	0	70	60	6

**Nosilec predmeta/Lecturer:**

**Vrsta predmeta/Course type:**

**Jeziki/Languages:**

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

Exchange student of the University of Ljubljana  
Good command of English

### Vsebina:

#### 1. Vrste alternativnega reševanja sporov

- 1.1 Mediacija
- 1.2 Konciliacija
- 1.3 Med-Arb
- 1.4 Arb-Med
- 1.5 Zasebni sodnik
- 1.6 Zgodnja nevtralna ocena
- 1.7 Poravnalni narok
- 1.8 Sumarna porotna obravnava
- 1.9 Drugi

#### 2. Mediacija

- 2.1 Opredelitev
- 2.2 Primerjava z arbitražo in sodnim postopkom
- 2.3 Zgodovina mediacije
- 2.4 Splošna načela mediacije
- 2.5 Vrste mediacije
- 2.6 Konflikt kot predmet mediacije
- 2.7 Sporazum o mediaciji
- 2.8 Postopek mediacije
- 2.9 Vloga odvetnikov pri mediaciji
- 2.10 Učinek sporazuma, doseženega v mediaciji

### Content (Syllabus outline):

#### 1. Types of alternative dispute resolution

- 1.1 Mediation
- 1.2 Conciliation
- 1.3 Med-Arb
- 1.4 Arb-Med
- 1.5 Rent-a-judge
- 1.6 Early Neutral Evaluation
- 1.7 Settlement Conference
- 1.8 Summary Jury Trial
- 1.9 Others

#### 2. Mediation

- 2.1 Definition
- 2.2 Comparison with Arbitration and Court Proceeding
- 2.3 History of Mediation
- 2.4 General Principles of Mediation
- 2.5 Types of Mediation
- 2.6 Conflict as a Subject of Mediation
- 2.7 Agreement on Mediation
- 2.8 Mediation Procedure
- 2.9 Role of Lawyers in Mediation
- 2.10 Effect of the Agreement reached in Mediation

<p><b>3. Tehnike mediacije</b></p> <p>3.1 Aktivno poslušanje</p> <p>3.2 Postavljanje vprašanj</p> <p>3.3 Preokvirjanje</p> <p>3.4 Ločeni sestanki</p> <p>3.5 Lupljenje čebule</p> <p>3.6 Preverjanje resničnosti</p> <p>3.7 Drugo</p> <p><b>4. Simulacija mediacije - delavnica s študenti</b></p>	<p><b>3. Mediation Techniques</b></p> <p>3.1 Active Listening</p> <p>3.2 Questioning</p> <p>3.3 Reframing</p> <p>3.4 Separate Meetings (Caucus)</p> <p>3.5 Peeling the Onion</p> <p>3.6 Reality Testing</p> <p>3.7 Others</p> <p><b>4. Mock Mediation - workshops with students</b></p>
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**Temeljna literatura in viri/Readings:**

<ul style="list-style-type: none"> <li>• Roger Fisher and William Ury, Getting to yes: Negotiating Agreement Without Giving In, Harvard Negotiation Project, New York, Penguin Books, 1991</li> <li>• J. J. Alfini, S. B. Press, J. R. Sternlight, J. B. Stulberg, Mediation Theory and Practice, 3rd ed, LexisNexis, 2013</li> <li>• G. Dwight, Mediating Legal Disputes, 2nd ed., American Bar Association, 2022</li> <li>• J. Nolan-Haley, Alternative Dispute Resolution in a Nutshell, 5th edition, West Academic Publishing, 2021</li> <li>• Literature given and/or recommended during classes</li> </ul> <p>Recommended Readings:</p> <ul style="list-style-type: none"> <li>• Carlos Esplugues Mota, José Luis Iglesias Buhigues, Guillermo Palao Moreno, Civil and commercial mediation in Europe. Vol. 1, National mediation rules and procedures, Cambridge ; Antwerp ; Portland : Intersentia, cop. 2013</li> <li>• Carlos Esplugues Mota, Civil and commercial mediation in Europe. Vol. 2, Cross-border mediation, Cambridge ; Antwerp ; Portland : Intersentia, cop. 2014</li> <li>• Bruce Patton, Douglas Stone, Sheila Heen, Difficult Conversations: How to discuss what matters most, Harvard Negotiation Project, New York, Penguin Books, 2010</li> <li>• Roger Fisher, Daniel Shapiro, Beyond Reason: Using Emotions as You Negotiate Paperback, Harvard Negotiation Project, New York, Penguin Books, 2006</li> </ul>
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**Cilji in kompetence:**

	<p><b>Objectives and competences:</b></p> <p>The aim of the course is to provide students with a thorough knowledge of alternative dispute resolution (ADR), which is of immense importance as a cheaper and faster way to resolve disputes and as an alternative to court proceedings. The aim of the course is to promote knowledge and understanding of the nature and structure of different forms of alternative dispute resolution, with a particular focus on mediation. One of the main objectives of the course is to introduce students to the different mediation techniques and to master them through practicing them in workshops where students will try out their roles as mediators, parties and lawyers.</p>
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**Predvideni študijski rezultati:**

	<p><b>Intended learning outcomes:</b></p> <p>After successfully concluding the course, students will have a good understanding of different forms of alternative dispute resolution and its' core principles. They will understand overall framework of mediation, its' advantages and disadvantages, the mediation procedure, its' structure and the role of all of its participants. They will be aware of the importance of communication skills and use of appropriate language in ADR and will know how to apply several mediation</p>
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	techniques. They will possess experiences with preparing for and conducting mediation and participating in the roles of mediator, lawyer and client.
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<b>Metode poučevanja in učenja:</b>	<b>Learning and teaching methods:</b>
	<ul style="list-style-type: none"> <li>• Presentation of basic theoretical knowledge through lectures</li> <li>• Individual assignments with which each student will have to prepare for a specific mediation</li> <li>• Workshops – Mock Mediations in Family, Civil and Commercial cases</li> <li>• Students are required to attend the course seminars, as written preparation and personal attendance of the seminars (workshops) will be assessed and will form part of the final grade.</li> </ul>

<b>Načini ocenjevanja:</b>	<b>Delež/Weight</b>	<b>Assessment:</b>
znanje in razumevanje – ustni izpit	40,00 %	Oral exam
raziskovanje	30,00 %	Individual assignment – written preparation for workshop
Sodelovanje na delavnici	30,00 %	Communication and Participation at Workshops

<b>Reference nosilca/Lecturer's references:</b>
<p>POGORELČNIK VOGRINC, Neža. Alternativno reševanje sporov v pravu EU in Sveta Evrope. V: <i>48. Dnevi slovenskih pravnikov, 10. in 11. oktober 2022, Portorož</i>. Ljubljana: LEXPERA, 2022. 48, [št.] 6/7, str. 1184-1195. Podjetje in delo, [letn.] 48, [št.] 6/7. ISSN 0353-6521.</p> <p>POGORELČNIK VOGRINC, Neža. Terminološki izzivi na področju alternativnega reševanja sporov. V: JEMEC TOMAZIN, Mateja (ur.), et al. <i>Med jasnostjo in nedoločenostjo : pravna terminologija v zgodovini, teoriji in praksi</i>. 1. natis. Ljubljana: Lexpera, GV založba: Pravna fakulteta, 2019. Str. 273-301, 445-446, 488. Zbirka Pravna obzorja, 54. ISBN 978-961-247-411-9.</p> <p>POGORELČNIK VOGRINC, Neža. Spletno reševanje potrošniških sporov. V: VLAHEK, Ana (ur.), DAMJAN, Matija (ur.). <i>Varstvo potrošnikov pri spletnem poslovanju</i>. Ljubljana: IUS Software, GV založba: Inštitut za primerjalno pravo pri Pravni fakulteti, 2017. Str. 211-222, 241, 249. ISBN 978-961-247-367-9.</p> <p>POGORELČNIK VOGRINC, Neža. Implementacija Direktive 2013/11 o alternativnem reševanju potrošniških sporov v slovenski pravni red. V: VLAHEK, Ana (ur.), DAMJAN, Matija (ur.), AHTIK, Meta. <i>Pravo in politika sodobnega varstva potrošnikov</i>. 1. natis. Ljubljana: IUS Software, GV založba: Inštitut za primerjalno pravo pri Pravni fakulteti, 2015. Str. 251-282, 481, 493-494. ISBN 978-961-247-317-4.</p>