

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	
Course title:	Judicial Cooperation in Civil Matters

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Prvostopenjski univerzitetni študijski program Pravo			
	Law		

Vrsta predmeta / Course type

Posebni program študijskih izmenjav /
Special elective course for Erasmus students

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
20	30			70	60	6

Nosilec predmeta / Lecturer:

Prof. dr. Aleš Galič, prof. dr. Jerca Kramberger Škerl

**Jeziki /
Languages:**

**Predavanja /
Lectures:** English
Vaje / Tutorial:

English

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

Študenti prava višjih letnikov I. bolonjske stopnje ali študenti prava II. bolonjske stopnje

Osnovno poznavanje nacionalnega civilnega procesnega prava in temeljnih načel prava EU, dobro znanje angleščine

Prerequisites:

Law students, senior undergraduate (LL.B.) or post-graduate (LL.M.)

Basic knowledge of national civil procedure law and of basic principles of EU law, good command of English

Vsebina:

1. Razvoj pravosodnega sodelovanja v civilnih zadevah v Evropski uniji – splošni pregled

2. Mednarodna pristojnost in priznavanje ter izvrševanje sodnih odločb v civilnih in gospodarskih zadevah – Uredba Bruselj I (prenovitev) – št. 1215/2012

2.1 Splošen pregled

2.2 Področje uporabe

2.3 Posebna pristojnost

2.4 Izključna pristojnost

2.5 Procesno varstvo šibkejših strank (potrošniki, delavci, zavarovanci)

2.6 Začasni ukrepi

2.7 Sporazum o pristojnosti

2.8 Lis pendens

2.9 Priznavanje in izvrševanje (pogoji in postopek)

3. Pristojnost in priznavanje ter izvrševanje sodnih odločb v zakonskih sporih in sporih v zvezi s starševsko odgovornostjo (Uredba (ES) št. 2019/1111)

3.1 Splošni pregled

3.2 Pristojnost in izvršitev v primerih čezmejne ugrabitve otroka

4. Čezmejno vročanje (Uredba (ES) št. 2020/1784)

5. Čezmejno pridobivanje dokazov (Uredba (ES) št. 2020/1783)

Content (Syllabus outline):

1. Development of judicial co-operation in civil matters in the European Union - a general overview

2. International Jurisdiction and recognition and enforcement in civil and commercial matters - The Brussels I Regulation Recast (No. 1215/2012)

2.1 General overview

2.2 Scope of application

2.3 Special jurisdiction

2.4 Exclusive jurisdiction

2.5 Procedural jurisdictional protection of weaker parties (consumers, workers, the insured)

2.6 Protective (interim) measures

2.7 Jurisdiction agreement

2.8 Lis pendens 2.9 Recognition and enforcement (conditions and procedure)

3. Jurisdiction and recognition and enforcement in matrimonial matters and matters of parental responsibility (Regulation (EC) No. 2019/1111)

3.1 A general overview

3.2 Jurisdiction and enforcement in cases of international child abduction

4. Cross-border Service of Documents in Europe (Regulation (EC) No. 2020/1784)

5. Cross-border Taking of Evidence in Europe (Regulation (EC) No. 2020/1783)

Temeljni literatura in viri / Readings:

- Galič A.: European Civil Procedure – Course Materials with practical cases, Ljubljana, 2016 (*will be sent to all participating students in e-form (PDF) before the commencement of the course*)
- Stone P.: EU Private International Law, Elgar Publishing, 2010
- Gottwald P.: The European Law of Civil Procedure (available at: <http://www.ritsumei.ac.jp/acd/cg/law/lex/rlr22/GOTTWALD37-67.pdf>).
- Dickinson A. and Lein E., The Brussels I Regulation Recast, Oxford University Press, 2015.

- Nielsen P. A., The New Brussels I Regulation, Common Market Law Review, Vol. 50 (2013), Issue 2, pp. 503-528.
- Literature given and/or recommended during classes.

Cilji in kompetence:

Cilj predmeta je omogočiti študentom, da pridobijo poglobljen in kritičen vpogled v področje pravosodnega sodelovanja v civilnih in gospodarskih zadevah v EU, ki je podvrženo hitremu razvoju in rasti. Predmet je namenjen spodbujanju **znanja in razumevanja** narave ter delovanja evropskega kolizijskega prava in civilnega postopka, kot tudi prepletenosti prava EU in nacionalnega prava. Predmet si poleg tega prizadeva, da študenti pridobijo **veščine** glede uporabe teoretičnega znanja pri identifikaciji, analizi ter reševanju praktičnih primerov, kot tudi **vrednote in odnos** do temeljnih načel, kot so medsebojno zaupanje in spoštovanje temeljnih procesnih jamstev.

Objectives and competences:

The course aims to provide students with a thorough and critical insight in the fast growing and developing area of judicial co-operation in civil and commercial matters in the EU. The course aims at promoting **knowledge and understanding** about the nature and operation of legal concepts of European Conflicts of Laws and Civil Procedure and interrelationship between EU law and national law, **skills** in applying theoretical knowledge to identifying, analyzing and solving practical cases as well as **values and attitudes** in regard to underlying principles, such as mutual trust and respect for fundamental procedural guarantees.

Predvideni študijski rezultati:

Po uspešno opravljenih obveznostih pri predmetu bodo študenti pridobili boljše razumevanje instrumentov, pravnih konceptov in temeljnih načel ter strukture Evropskega mednarodnega zasebnega prava. Spoznali bodo vse večjo povezanost med evropskim in nacionalnimi pravnimi redi. Zmožni bodo tudi kritično oceniti načrte za nadaljnji razvoj in poenotenje procesnega ter kolizijskega prava. Pravila in načela prava EU bodo znali uporabiti na praktičnih primerih, torej bodo lahko učinkovito uporabili svoje teoretično znanje. Posledično pa bodo študenti boljše poznali tudi temeljne podobnosti in razlike med nacionalnimi pravnimi sistemi v Evropi.

Intended learning outcomes:

After successfully concluding the course, students will have a better understanding of the instruments, legal concepts and their underlying principles and of the structure of the European Private International Law. They will be aware of the growing interface between European and national legal orders and will be able to critically evaluate the plans of future development and unification of procedural law and conflicts of laws. Students will be able to apply legislative norms and principles of the EU law to practical cases and thus effectively use their theoretical knowledge. Collaterally they will also be more aware of the fundamental similarities and differences in national legal systems in Europe.

Metode poučevanja in učenja:

- Predmet se bo izvajal način, ki spominja na seminar (s poudarkom na diskusiji, reševanju praktičnih primerov ter analizi sodne prakse SEU)

Learning and teaching methods:

- The course will be conducted in a seminar-like manner, focusing on discussing and solving practical cases and analyzing the case law of the CJEU (ECJ)
- individual assignments: study of a ruling of the CJEU (ECJ) and, by discretion, its presentation in

- samostojne zadolžitve: študij odločbe SEU in po presoji profesorjev tudi njena predstavitev (ob pomoči izročkov ali PPT predstavitev)

Študenti se morajo udeleževati predavanj (vsaj 60% obvezna udeležba) in opraviti zaključni ustni izpit. Od študentov se zahteva tudi aktivna priprava in sodelovanje na predavanjih, kar bo upoštevano pri zaključni oceni.

the class (with either handouts or a PPT presentation)

Students should attend lectures (at least 60% participation mandatory) and complete a final oral exam. An active preparation and participation of students during the course will be required and shall be a part of an overall final assessment.

Načini ocenjevanja:

Assessment:

Delež (v %) /
Weight (in %)

Ustni izpit: 65%		Oral exam: 65%
Seminarska naloga: 15%		Individual assignment: 15%
Priprava na predavanje in sodelovanje pri predavanjih: 20%		Preparation and communication in class: 20%

Reference nosilca / Lecturer's references:

- GALIČ, Aleš. The aversion to judicial discretion in civil procedure in post-communist countries : can the influence of EU law change it?. V: BOBEK, Michal (ur.). Central European judges under the European influence : the transformative power of the EU revisited, (EU law in the member states, vol. 2). Oxford; Portland: Hart, 2015, str. 99-124.
- RIJAVEC, Vesna, GALIČ, Aleš. Assessment of evidence regulation. V: RIJAVEC, Vesna (ur.), KERESTEŠ, Tomaž (ur.), IVANC, Tjaša (ur.). Dimensions of evidence in European civil procedure, (European monographs series, vol. 94). Alphen aan den Rijn: Wolters Kluwer: Kluwer Law International, cop. 2016, str. 351-393.
- GALIČ, Aleš. Die Berührungspunkte zwischen Europäischem Zivilverfahrensrechts und dem nationalen Recht in Slowenien am Beispiel des Europäischen Vollstreckungstitels für unbestrittene Forderungen. V: KENGYEL, Miklós (ur.), HARSÁGI, Viktória (ur.). Der Einfluss des Europäischen Zivilverfahrensrechts auf die nationalen Rechtsordnungen, (Heidelberger Schriften zum Wirtschaftsrecht und Europarecht, Bd. 54). 1. Aufl. Baden-Baden: Nomos, 2009, str. 135-154.
- GALIČ, Aleš, BETETTO, Nina. Evropsko civilno procesno pravo. 1. natis. Ljubljana: GV založba, 2011-. Zv. <1->, obrazci. ISBN 978-961-247-189-7.
- KRAMBERGER ŠKERL, Jerca. Choice of court agreements in the Brussels I regulation. V: Recent trends in European private international law - challenges for the national legislations of the south east European countries : collection of papers IX Private International Law Conference, September 23, 2011. SS. Cyril and methodius" University in Skopje, "Iustinianus Primus" Faculty of law, 2011, str. 123-143.
- KRAMBERGER ŠKERL, Jerca. European public policy : (with an emphasis on exequatur proceedings). Journal of private international law, ISSN 1744-1048, Dec. 2011, vol. 7, no. 3, str. 461-490.

- KRAMBERGER ŠKERL, Jerca. The abolition of Exequatur in the proposal for the review of Brussels I Regulation. V: RIJAVEC, Vesna (ur.), IVANC, Tjaša (ur.). Cross-border civil proceedings in the EU : (conference papers). Maribor: Pravna fakulteta, 2012, str. 127-151.
- KRAMBERGER ŠKERL, Jerca. Jurisdiction in on-line defamation and violations of privacy : in search of a right balance. Lexonomica : revija za pravo in ekonomijo, ISSN 1855-7147. [Tiskana izd.], dec. 2017, vol. 9, no. 2, str. 87-108.