

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:	Pravo in filozofija socialne zaščite
Course title:	The Law and Philosophy of Social Protection

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

Vrsta predmeta / Course type

Izbirni (posebni program študijskih izmenjav) / Elective (Special elective course for Erasmus students)

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individual work	ECTS
60	60				60	6

Nosilec predmeta / Lecturer:

Doc. dr. Luka Mišič

Jeziki / Languages:

Predavanja / Lectures:	Angleščina / English
Vaje / Tutorial:	

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

Predmet se izvaja v angl. jeziku.

Prerequisites:

Exchange student at the University of Ljubljana. Basic knowledge of social security law and human rights law with an interest in the field political philosophy and social protection.

Vsebina:

Predmet se izvaja v angl. jeziku.

Content (Syllabus outline):**1. Basic Concepts of Social Protection**

- 1.1. Social Security
- 1.2. Social Assistance
- 1.3. Mixed Schemes
- 1.4. Universal Schemes
- 1.5. The Solidarity Principle
- 1.6. International Legal Sources
- 1.7. European Legal Sources
- 1.8. National Legal Orders
- 1.9. The Social State Principle (Germ. *Sozialstaatsprinzip*)

2. Basic Theories of Political Philosophy

- 2.1. Liberalism
- 2.2. Egalitarianism
- 2.3. Communitarianism
- 2.4. Utilitarianism
- 2.5. Libertarianism

3. Sources of (Social) Solidarity

- 3.1. The (Unitary) State
- 3.2. The Community
 - 3.2.1. The Family
 - 3.2.2. The Insurance Group
 - 3.2.3. Regions, Municipalities
 - 3.2.4. Citizenry
- 3.3. The Individual

4. Justice and Redistribution

- 4.1. Four Types of Justice
 - 4.1.1. Distributive Justice
 - 4.1.2. Procedural Justice
 - 4.1.3. Restorative and Retributive Justice
- 4.2. Equality of Outcome
 - 4.2.1. *Need* and Social Assistance
 - 4.2.2. *Merit* and Social Insurance
 - 4.2.3. *Want* and Private Insurance
 - 4.2.4. Universal Basic Income
- 4.3. Equality of Opportunity
 - 4.3.1. Justice as Fairness (J. Rawls)
 - 4.3.2. The Hypothetical Insurance Market (R. Dworkin)

5. Contemporary Issues

- 5.1. Social Human Rights
 - 5.1.1. The Interdependency of Civil, Political, and Social Rights

	<ul style="list-style-type: none"> 5.1.2. Positive State Obligations 5.1.3. Proprietary Protection of Social Rights 5.1.4. Case-Law of the ECtHR 5.2. Individual Responsibility <ul style="list-style-type: none"> 5.2.1. Sickness and Long-Term Care 5.2.2. Old-Age 5.2.3. Unemployment 5.2.4. Poverty 5.3. Income, Poverty, and Free Movement <ul style="list-style-type: none"> 5.3.1. Directive 2004/38/EC 5.3.2. Regulation (EC) 883/2004 5.3.3. Special Non-Contributory Cash Benefits 5.3.4. Directive 2011/14/EU 5.4. The European Social Model <ul style="list-style-type: none"> 5.4.1. Social Dumping and the “East-West” Divide 5.4.2. Posted and Frontier Workers 5.4.3. Family Benefits and Social Assistance 5.4.4. 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 Eulogy. 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. PENNING, 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. SCHEMMELE, 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.

Cilji in kompetence:

Predmet se izvaja v angl. jeziku.

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:

Intended learning outcomes:

<p>Predmet se izvaja v angl. jeziku.</p>	<p>Knowledge and understanding of:</p> <ul style="list-style-type: none"> • 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
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<p>Metode poučevanja in učenja:</p> <p>Predmet se izvaja v angl. jeziku.</p>	<p>Learning and teaching methods:</p> <ul style="list-style-type: none"> • 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
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Načini ocenjevanja:	Delež (v %) / Weight (in %)	Assessment:
<p>Predmet se izvaja v angl. jeziku.</p>	<p>50% 50%</p>	<p>Oral examinations Individual written assignment</p>

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.