

UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet: Pravo migracij in azila
Course title: Migration and Refugee Law

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Prvostopenjski univerzitetni študijski program Pravo			
	Law	2., 3. in 4.	zimski

Vrsta predmeta / Course type

Izbirni predmet

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
45				15	60	4

Nosilec predmeta / Lecturer:

izr. prof. dr. Samo Bardutzky, prof. dr. Saša Zagorc

**Jeziki /
Languages:**

**Predavanja /
Lectures:** slovenski
Vaje / Tutorial:

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

Ni posebnih pogojev.

Prerequisites:

There are no requirements.

Vsebina:

Content (Syllabus outline):

1. Uvod
 - a. Pravo migracij in azila kot preplet nacionalnega, mednarodnega in evropskega prava
 - b. Pravo in politika migracij in azila
2. Pravni vidiki migracij v Evropsko unijo in znotraj Evropske unije
 - a. Prost pretok oseb kot neločljiv del procesa gospodarske integracije
 - b. Državljanstvo Evropske unije kot temeljni pravni status in Direktiva o pravicah državljanov
 - c. Pravica državljanov tretjih držav do prebivanja in zaposlitve v EU
 - d. Združitev družine
 - e. Migracije študentov, raziskovalcev in usposobljenih delavcev v EU
 - f. Pravice dolgoletnih rezidentov
 - g. Nezakonite migracije, Direktiva o vrnitvi in odvzem prostosti v okviru migracij
 - h. Notranje in zunanje meje EU, Schengen, Evropska mejna in obalna straža in vizni sistem
3. Mednarodno in evropsko pravo azila
 - a. Pravice prosilcev za azil po recepcijski direktivi
 - b. Status in definicija begunca po Ženevski konvenciji iz leta 1951 in po kvalifikacijski direktivi
 - c. Subsidiarna zaščita
 - d. Procesni standardi in vprašanja dokazovanja
 - e. Dublinski sistem in sistem EURODAC
 - f. Načelo nevračanja (*non-refoulement*) in prepoved kolektivnih izgonov
4. Praktični vidiki prava migracij in azila
 - a. Delo sodnika na področju prava migracij in azila
 - b. Delo svetovalca za begunce oz. pravnega zastopnika migrantov

1. Introduction
 - a. Migration and Refugee Law: the interplay of national, international and European law
 - b. Migration and Refugee Policy of the European Union: On the Boundaries of Utilitarianism
2. Legal aspects of migration within and to Europe
 - a. Freedom of movement of persons: inseparable part of the process of economic integration
 - b. Citizenship of the European Union as a fundamental legal status and the Citizenship Rights Directive
 - c. Migration to Europe
 - d. Residence and Work in Europe for Third Country Nationals
 - e. Family reunification
 - f. The migration of students, researchers and (highly skilled) workers into Europe
 - g. The rights of long-term residents
 - h. Illegal Migration, Return Directive and Immigration Detention
 - i. Internal borders, external borders, the Schengen System, the European Border and Coast Guard and the Visa System
3. European and International Refugee Law
 - a. Asylum Seekers and their rights under the EU Reception Directive
 - b. Determination of Refugee Status under the 1951 and the EU Qualifications Directive
 - c. Subsidiary protection
 - d. Procedural Standards and Evidentiary Issues: EU Procedural Directive and national law
 - e. The Dublin System and EURODAC
 - f. The principle of non-refoulement and the prohibition of (collective) expulsion
4. The practice of migration and refugee law
 - a. The work of an asylum and refugee judge
 - b. The work of a refugee counsellor

Temeljni literatura in viri / Readings:

Peers, S. EU Justice and Home Affairs Law. Volume I: EU Immigration and Asylum Law, 4th Ed (Oxford University Press, 2016).

Barnard, C. and Peers, S. European Union Law (Oxford University Press, 2014)

Chalmers D., Davies G., Monti G., European Union Law: Text and Materials, 3. ed. (Cambridge University Press, 2014).

Hathaway, J. C., Foster, M., The Law of Refugee Status (Cambridge University Press, 2014)

Upoštevne sodbe Evropskega sodišča za človekove pravice, Sodišča Evropske unije in sodne odločbe slovenskih sodišč.

Cilji in kompetence:

Cilj tega predmeta je seznaniti študenta s področjem prava migracij in azila. Poudarek je na prepletu različnih pravnih sistemov na tem področju (pravo Evropske unije, mednarodno pravo (človekovih pravic), nacionalno pravo. Študentje bodo pridobili razumevanje pravnih problemov na tem področju, s katerim bodo lahko pristopali k praktičnim pravnih problemom in jih kritično razčlenili.

Objectives and competences:

The purpose of the course is to provide a student with knowledge in the field of migration and refugee law. The emphasis of the course is on making the student aware of the interplay of the different legal systems in this area of law (EU Law, international (human rights) law, national law). The students will obtain an understanding of the legal issues in this area that will enable them to approach practical legal problems and critically analyse them.

Predvideni študijski rezultati:

Študentje, ki bodo opravili ta predmet, bodo imeli specializirano znanje in razumevanje pravnih vidikov tega pravnega področja ter pregled nad temeljno sodno prakso in glavnimi zakonodajnimi rešitvami na tem področju.

Intended learning outcomes:

The students who complete the course will have specialized knowledge and an understanding of the legal aspects of the field of migration and refugee law, an overview of fundamental case law in the area and a command of the essential legislative solutions adopted at EU level.

Metode poučevanja in učenja:

Predavanje (podajanje teoretičnih znanj, analiza zakonodaje in sodnih odločb)
Druge oblike študija (priprava predstavitve pravnega problema samostojno ali v skupini)

Learning and teaching methods:

Lectures (theoretical knowledge, analysis of legislation and case law)
Other forms of study (the preparation of a presentation of a legal problem, individually or in small groups)

Načini ocenjevanja:

Način (pisni izpit, ustno izpraševanje, naloge, projekt)

- Ustni izpit

Delež (v %) /

Weight (in %)

Assessment:

Type (examination, oral, coursework, project):

- Oral examination

<p>Študentom je na voljo možnost, da se jim kot del izpitne ocene upošteva udeležba na določenih predavanjih oziroma izdelava krajšega pisnega izdelka.</p>		<p>Students have the option of achieving a part of their exam grade by participating in selected lectures and/or preparing a short written assignment.</p>
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Reference nosilca / Lecturer's references:

Izr. prof. dr. Samo Bardutzky

Albi, A. in Bardutzky, S. (ur.) National Constitutions in European and Global Governance: Democracy, Rights and the Rule of Law (TMC Asser Press, v pripravi)

Fahey, E. in Bardutzky, S. (ur.) Framing the Subjects and Objects of Contemporary EU Law (Edward Elgar Publishing, 2017)

Bardutzky, S. Constitutional Transformations at the Edge of a Bail-Out: The Impact of the Economic Crisis on the Legal and Institutional Structures in Slovenia. *federalismi.it - Rivista di diritto pubblico italiano, comunitario e comparato* 26/2016

Fahey, E. in Bardutzky, S. Who Got to Adjudicate the EU's Financial Crisis and Why? Judicial Review of the Instruments of a Postnational Legal Order: Adjudicating the Practices of the Eurozone. V: Adams, M., Fabbrini, F. in Pierre Larouche, P. (ur.) *The Constitutionalization of European Budgetary Constraints* (Hart Publishing, 2014)

Prof. dr. Saša Zagorc

1. ZAGORC, Saša, BARDUTZKY, Samo. The application of EU law in Slovenia : teething troubles of the blue-eyed boy. V: ŁAZOWSKI, Adam (ur.). *The application of EU law in the new member states : "Brave New World"*. The Hague: T.M.C. Asser Press, 2010, str. 421-452.

2. Franc Grad, Igor Kaučič, Saša Zagorc, *Ustavno pravo*, Ljubljana 2016.

BALODE-BURAKA, Esmeralda, BARDUTZKY, Samo, ZAGORC, Saša, et al., DÖRR, Oliver (urednik). *Staatshaftung in Europa : Nationales und Unionsrecht*. Berlin; Boston: De Gruyter. 2014.