

UČNI NAČRT PREDMETA / SUBJECT SPECIFICATION

Predmet: Arbitražno pravo in alternativno reševanje sporov
Subject Title: Arbitration law and alternative dispute resolution

Študijski program Study programme	Študijska smer Study field	Letnik Year	Semester Semester
Študijski program 3. stopnje Pravo Study programme of 3 degree - Law		2.	Zimski ali letni Autumn or Spring

Vrsta predmeta / Course type

izbirni / optional

Univerzitetna koda predmeta / University subject code:

D022

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Lab. vaje Labor work	Teren. vaje Field work	Ind.delo.štud. Individ. work	ECTS
20	10				240	9

Nosilec predmeta / Lecturer:

Tomaž Keresteš

**Jeziki /
Languages:**

Predavanja / Lecture: slovenski / Slovene
Vaje / Tutorial: slovenski / Slovene

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

Znanje s področij civilnega, gospodarskega in mednarodnega prava ter prava EU.

Prerequisites:

Knowledge in civil, commercial, international and EU law.

Vsebina:

- Nedržavno reševanje sporov
- Pravni okviri za nedržavno reševanje sporov
- Mediacija
- Druge metode ARS
- Prednosti in slabosti mediacije in ARS
- Arbitraža
- Pravna narava arbitraže
- Viri arbitražnega prava
- Vrste arbitraž
- Arbitražni dogovor
- Arbitražni postopek
- Pravila dokazovanja
- Uporaba procesnega in materialnega prava
- Arbitražna odločba
- Razveljavitev arbitražne odločbe
- Priznanje in izvršitev arbitražne odločbe
- Večstranske arbitraže
- Arbitraža in intelektualna lastnina
- Investicijski spori
- Arbitraža v delovnem pravu
- Arbitraža in potrošniki
- Spletno reševanje sporov

Content (Syllabus outline):

- Non-state dispute resolution
- Legal framework for non-state dispute resolution
- Mediation
- Other methods of ADR
- Advantages and disadvantages of ADR
- Arbitration
- Legal nature of arbitration
- Sources of Arbitration law
- Types of arbitration
- Arbitration agreement
- Arbitration proceedings
- Rules of evidence
- Applicable procedural and material law
- Arbitration award
- Setting aside of arbitration awards
- Recognition and enforcement
- Multi-party arbitration
- Arbitration and intellectual property
- Investment disputes
- Arbitration in labor law
- Arbitration and consumers
- On-line dispute resolution

Temeljna literatura in viri / Textbooks:

- L. Ude: Arbitražno pravo, GV Založba, Ljubljana 2004.
- E. Gaillard, J. Savage: Fourchard, Gaillard, Goldman on International Commercial Arbitration, Kluwer Law International, The Hague 1999.
- M. Rubino-Sammartano: International arbitration. Law and Practice, Kluwer Law international, The Hague 2001 (ali novejša).
- K. H. Schwab, G. Walter, A. Baumbach: Schiedsgerichtsbarkeit, Systematischer Kommentar, C.H. Beck, München 2005.
- R.A. Baruch Bush, J. P. Folger: The promise of mediation. The transformative approach to conflict, Jossey-Bass, San Francisco 2005.
- C. Croft, C. Kee, J. Waincymer: A guide to the UNCITRAL arbitration rules, Cambridge University Press, Cambridge 2013.
- N. D. O'Malley: Rules of Evidence in international arbitration: An annotated guide, Routledge, London - New York 2012.
- A. E. Barsky: Conflict Resolution for the Helping Professions, Brooks/Cole 2002.
- N. Shelkopyas: The Application of EC Law in Arbitration Proceedings, Europe Law Publishing, Groningen 2003.
- Zakon o arbitraži, Zakon o mediaciji v civilnih in gospodarskih zadevah, Zakon o alternativnem reševanju sodnih sporov, Zakon o pravnem postopku, Zakon o nepravdnem postopku, Zakon o mednarodnem zasebnem pravu in postopku, pravilniki Stalne arbitraže pri GZS, Arbitraže pri Zavarovalnici Triglav, ICC/MZT, UNCITRAL, Vzorčni zakon UNCITRAL o mednarodni trgovinski arbitraži ter druga veljavna zakonodaja in mednarodne pogodbe ter druga literatura.

Cilji:

- Cilj tega predmeta je doseči poglobljeno poznavanje in razumevanje različnih alternativnih načinov reševanja sporov s poudarkom na arbitraži ter doseči poglobljeno poznavanje pravnih instrumentov s tega področja.

Objectives:

- The objective of this course is to acquire profound knowledge and comprehension of various methods of alternative dispute resolution with emphasis on arbitration, and to acquire profound knowledge of legal instruments in this field of law.

Predvideni študijski rezultati:

Znanje in razumevanje:

Po zaključku tega predmeta bo študent sposoben:

- izkazati razumevanje in poznavanje različnih načinov alternativnega reševanja sporov in arbitraže,
- prepoznati prednosti in slabosti izbire določenega tipa reševanja spora,
- samostojno dogovarjati ustrezen način alternativnega reševanja spora in arbitražo,
- svetovati, zastopati in sodelovati v različnih postopkih alternativnega reševanja sporov in arbitraži.

Prenesljive / ključne spretnosti in drugi atributi:

- sposobnost poglobljene pisne in ustne argumentacije o problemih arbitražnega prava in alternativnega reševanja sporov,
- sposobnost uporabe metod reševanja sporov v družbenih razmerjih,
- sposobnost abstraktnega razmišljanja o najzahtevnejših pravnih problemih nedržavnega reševanja sporov.

Intended learning outcomes:

Knowledge and Understanding:

Upon completion of this subject a student will be able to:

- demonstrate understanding and knowledge of different methods of alternative dispute resolution and arbitration,
- recognize advantages and disadvantages of choosing a specific type of dispute resolution,
- independently agree upon a specific method of alternative dispute resolution and arbitration,
- give advice, represent and be involved in different proceedings of alternative dispute resolution and arbitration.

Transferable/Key Skills and other attributes:

- capacity of profound written and oral argumentation on problems of arbitration law and alternative dispute resolution,
- capacity of applying methods of conflict resolution in social interaction,
- capacity of abstract contemplation about the most sophisticated legal problems of non-state dispute resolution.

Metode poučevanja in učenja:

<ul style="list-style-type: none"> • Predavanja, • seminar, • samostojno delo, • domače naloge.

Learning and teaching methods:

<ul style="list-style-type: none"> • Lectures, • seminar, • individual work, • homework assignments.
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Načini ocenjevanja:Delež (v %) /
Weight (in %)**Assessment:**

<ul style="list-style-type: none"> • Opravljen seminar (opravljen seminar je pogoj za pristop k ustnem izpitu) • Ustni izpit 	40%	<ul style="list-style-type: none"> • Completed seminar (a prerequisite for the oral part of the exam) • Oral examination
	60%	

Reference nosilca predmeta:

- REPAS, Martina, KERESTEŠ, Tomaž. The certification mark as a new EU-wide industrial property right. *IIC : International review of industrial property and copyright law*, ISSN 0018-9855, Mar. 2018, vol. 49, iss. 3, str. 299-317, doi: [10.1007/s40319-018-0671-9](https://doi.org/10.1007/s40319-018-0671-9). [COBISS.SI-ID [5565739](#)]
- KERESTEŠ, Tomaž, REPAS, Martina. Grounds for refusal of recognition and enforcement in the Brussels I Recast. V: RIJAVEC, Vesna (ur.), et al. *Remedies concerning enforcement of foreign judgements : Brussels I Recast*, (European monographs, Vol. 104). Alphen aan den Rijn, The Netherlands: Wolters Kluwer. cop. 2018, str. 195-226. [COBISS.SI-ID [5657643](#)]
- KERESTEŠ, Tomaž, CAMELO GOMES, José. Common core after all?. 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. 321-349. [COBISS.SI-ID [5011243](#)]