

UČNI NAČRT PREDMETA / SUBJECT SPECIFICATION

Predmet:	Pravni izzivi notranjega trga EU
Subject Title:	Legal challenges of EU internal market

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

Univerzitetna koda predmeta / University subject code: D030

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: Janja Hojnik

Jeziki / Predavanja / Lecture: Slovenski in angleški / Slovene and English
 Languages: Vaje / Tutorial: /

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

Poznavanje osnov institucionalne zgradbe EU, temeljnih načel prava EU, osnov delovanja notranjega trga EU in sodnih postopkov pred Sodiščem EU.

Prerequisites:

Basic knowledge of EU institutional structure, basic principles of EU law, basic knowledge of EU internal market functioning and of proceedings before the EU Court of Justice.

Vsebina:

- Zamegljene ločnice med svoboščinami notranjega trga EU (sodobno razlikovanje med delavci in samozaposlenimi, zamegljeno razlikovanje med blagom in storitvam; servitizacija);
- Prizadevanja za konvergenten pravni pristop k vsem štirim svoboščinam;
- Protekcionizem na notranjem trgu EU;
- Ločnica med zahodom in vzhodom – a la carte notranji trg;
- Konkurenca med pravnimi redi držav članic na področju notranjega trga;
- Dostop na trg kot nov pristop k presoji ovir na notranjem trgu;
- Notranji trg in zasebna avtonomija, horizontalni neposredni učinek določb o svoboščinah;
- Delitev pristojnosti za urejanje trga med institucijami EU in državami članicami;
- Sodobne dimenzije javnega interesa držav članic na področju notranjega trga;
- Notranji trg in samoregulacija gospodarskih akterjev;
- Notranji trg in temeljne pravice;
- Vpliv državljanstva EU na svoboščine notranjega trga;
- Vpliv širjenja pravic državljanov tretjih držav na obseg svoboščin notranjega trga;
- Digitalni enotni trg in prepoved geoblokiranja;
- Ekonomska analiza pravnih pravil notranjega trga EU;
- Težave z izvrševanjem pravil notranjega trga v

Content (Syllabus outline):

- Blurred distinctions between internal market freedoms (contemporary distinctions between workers and self-employed; blurred distinction between goods and services; servitization);
- Arguments in favour of convergent legal approach to the four freedoms;
- Protectionism on the EU single market;
- East/West divide – internal market a la carte;
- Competition between legal orders of the Member States in the field of the internal market;
- Market access as a new approach to dealing with internal market restrictions;
- Internal market and private autonomy, horizontal direct effect of fundamental freedoms;
- Division of powers to regulate the market between EU institutions and Member States;
- Contemporary dimensions of public interest of the Member States in the field of the internal market;
- Internal market and self-regulation of business actors;
- Internal market and fundamental rights;
- EU citizenship impact upon internal market freedoms;
- Impact of broader rights of third country nationals upon internal market freedoms;
- Digital single market and prohibition of geo-blocking;
- Economic analysis of internal market rules;
- Enforcement difficulties of EU internal market rules in practice.

Temeljna literatura in viri / Textbooks:

Adams M and others, *Judging Europe's Judges: The Legitimacy of the Case Law of the European Court of Justice* (A&C Black 2014)

Baeten R, 'EU Competition and Internal Market Law in the Healthcare Sector' (2014) 39 *European Law Review* 595

Barnard C, 'Derogations, Justifications and the Four Freedoms: Is State Interest Really Protected?', *The outer limits of European Union law* (Hart Publishing 2009)

—, 'Trailing a new approach to free movement of goods?' (2009) 68 *The Cambridge Law Journal* 288

—, *The Substantive Law of the EU: The Four Freedoms* (Oxford University Press 2016)

Barnard C and Scott J, *The Law of the Single European Market: Unpacking the Premises* (Hart Publishing 2002)

Cherednychenko O and Reich N, 'The Constitutionalization of European Private Law: Gateways, Constraints, and Challenges', *European Review of Private Law*, 2015, 23, 5, p. 797.

Davies G, *Nationality Discrimination in the European Internal Market* (Kluwer Law International 2003)

Gormley LW, 'Competition and Free Movement: Is the Internal Market the Same as a Common Market' (2002) 13 *European Business Law Review* 517

Gormley LW, *EU Law of Free Movement of Goods and Customs Union* (OUP Oxford 2009)

Hatzopoulos V, *Regulating Services in the European Union* (OUP Oxford 2012)

Janssens C, *The Principle of Mutual Recognition in EU Law* (OUP Oxford 2013)

Khan A, 'Corporate Mobility, Market Access and the Internal Market' (2015) 40 *European Law Review* 371

Koutrakos P and Snell J, *Research Handbook on the Law of the EU's Internal Market* (Edward Elgar Publishing 2017)

Krenn C, 'A Missing Piece in the Horizontal Effect "Jigsaw": Horizontal Direct Effect and the Free Movement of Goods' (2012) 49 *Common Market Law Review* 177

Leczykiewicz D and Weatherill S, *The Involvement of EU Law in Private Law Relationships* (Bloomsbury Publishing 2013)

Lianos I, 'Shifting Narratives in the European Internal Market; Efficient Restrictions of Trade and the Nature of Economic Integration' (2010) 21 *European Business Law Review* 705

Maduro M, *We the Court: The European Court of Justice and the European Economic Constitution* (Bloomsbury Publishing 1998)

Maduro MP, 'Harmony and Dissonance in Free Movement' (2001) 4 *Cambridge Yearbook of European Legal Studies* 315

McGee A and Weatherill S, 'The Evolution of the Single Market – Harmonisation or Liberalisation' (1990) 53 *The Modern Law Review* 578

Müller-Graff P-C, 'Basic Freedoms—Extending Party Autonomy across Borders', *Party autonomy and the role of information in the internal market*, vol 2001 (De Gruyter)

Oliver P, 'When, If Ever, Can Restrictions on Free Movement Be Justified on Economic Grounds?' (2016) 41 *European Law Review* 147

Oliver P and Roth W-H, 'The Internal Market and the Four Freedoms' (2004) 41 *Common Market Law Review* 407

Perišin T, *Free Movement of Goods and Limits of Regulatory Autonomy in the EU and WTO* (TMC Asser Press 2008)

Ramaekers E, 'Classification of Objects by the European Court of Justice: Movable Immovables and Tangible Intangibles' (2014) 39 *European Law Review* 447

Reich N, 'Competition between Legal Orders; A New Paradigm of EC Law; (1992) 29 *Common Market Law Review* 861

—, *Understanding EU Law: Objectives, Principles and Methods of Community Law* (Intersentia nv 2003)

—, 'Horizontal Liability in EC Law; Hybridization of Remedies for Compensation in Case of Breaches of EC Rights' (2007) 44 *Common Market Law Review* 705

—, 'Free Movement v. Social Rights in an Enlarged Union: The Laval and Viking Cases Before the European Court of Justice' (2008) 9 *German LJ* 125

Sadeleer N de, *EU Environmental Law and the Internal Market* (OUP Oxford 2014)

Saydé A, *Abuse of EU Law and Regulation of the Internal Market*, (Bloomsbury Publishing 2014)

Shuibhne NN, 'Free Movement of Persons and the Wholly Internal Rule: Time to Move On?' (2002) 39 *Common Market Law Review* 731

—, *Regulating the Internal Market* (Edward Elgar Publishing 2006)

—, *The Coherence of EU Free Movement Law: Constitutional Responsibility and the Court of Justice* (OUP Oxford 2013)

Shuibhne NN and Gormley LW, *From Single Market to Economic Union: Essays in Memory of John A. Usher* (OUP Oxford 2012)

Snell J, *Goods and Services in EC Law: A Study of the Relationship Between the Freedoms* (Oxford University Press 2002)

Sousa PC de, *The European Fundamental Freedoms: A Contextual Approach* (OUP Oxford 2015)

Tryfonidou A, *Reverse Discrimination in EC Law* (Kluwer Law International 2009)

Vries S de, Bernitz U and Weatherill S, *The Protection of Fundamental Rights in the EU After Lisbon* (Bloomsbury Publishing 2013)

Weatherill S, 'Recent Case Law Concerning the Free Movement of Goods: Mapping the Frontiers of Market Deregulation' (1999) 36 *Common Market Law Review* 51

—, *Law and Values in the European Union* (Oxford University Press 2016)

—, *The Internal Market As a Legal Concept* (Oxford University Press 2017)

Woods L, *Free Movement of Goods and Services Within the European Community* (Ashgate 2004)

Tridimas T and Nebbia P, *European Union Law for the Twenty-First Century: Internal Market and Free Movement Community Policies* (Hart Publishing 2004)

Študenti bodo o novejši literaturi obveščeni tudi na predavanjih / konzultacijah.

Cilji:

Cilj tega predmeta je, da študenti pridobijo najbolj poglobljeno znanje o sodobnih pravnih izzivih regulacije notranjega trga, da razvijejo sposobnost razumevanja pravne literature na višji zahtevnosti stopnji in razumevanja poglobljenih pravnih problemov, povezanih z delovanjem in prihodnostjo notranjega trga EU.

Objectives:

The objective of this course is that students acquire in-depth knowledge of the contemporary legal challenges for regulation of the internal market, to develop the ability of understanding the legal literature on a higher level of complexity and in-depth understanding of legal issues related to the operation and future of the EU internal market.

Predvideni študijski rezultati:Znanje in razumevanje:

Po zaključku študija predmeta bo študent sposoben

- na znanstveni ravni izkazati razumevanje sodobnih problemov pravnega varstva notranjega trga EU, razumeti delitev pristojnosti na tem področju, vplive globalizacije, politični in ekonomski kontekst v katerem deluje sodobni notranji trg EU, povezavo med pravom in politiko ter pravom in ekonomijo na tem področju;
- razumeti sodobne znanstvene in strokovne diskusije pri razvoju novih pravnih aktov ter v povezavi s sodobno sodno prakso Sodišča EU in nacionalnih sodišč na področju notranjega trga;
- diskutirati o sodobnih dilemah na tem področju in jih prenašati v pisni obliki v znanstvena dela.

Prenesljive / ključne spretnosti in drugi atributi:

Ustno in pisno izražanje na znanstvenem nivoju o najzahtevnejših pravnih problemih povezanih z delovanjem notranjega trga EU.

Intended learning outcomes:Knowledge and Understanding:

Once accomplishes the teaching subject the student will be able to:

- to demonstrate an understanding of the contemporary problems of the legal protection of the EU internal market on a scientific level, to understand the division of competences in this area, the effects of globalization, political and economic context in which the contemporary EU internal market operates, the link between the law and policy and law and economics in this field;
- to understand the contemporary scientific and professional discussions in the development of new legislation and in connection with the case-law of the EU Court of Justice and national courts in the field of the internal market;
- to discuss contemporary dilemmas in this area and put up with them in scientific writing.

Transferable/Key Skills and other attributes:

Scientifically speaking, oral and written demonstration of legal issues related to the functioning of EU internal market.

Metode poučevanja in učenja:

- Predavanja,
- seminarji,
- seminarske vaje,
- samostojno delo,
- obravnava sodnih odločitev in predlogov zakonodaje EU.

Learning and teaching methods:

- Lectures,
- seminars,
- tutorial,
- individual work,
- discussion of case law and proposals of EU legislation.

Načini ocenjevanja:

- ustni izpit
- seminarska naloga na znanstvenem nivoju

Delež (v %) /
Weight (in %)

60 %
40 %

Assessment:

- oral exam
- scientific written paper

Opomba:

Navedene sestavine so obvezna sestavina učnega načrta predmeta kot ga določajo Merila za akreditacijo visokošolskih zavodov in študijskih programov v 7. členu (Ur. l. RS, št. 101/2004).

Reference nosilca / Lecturer's references:

Hojnik J, *Prosti pretok blaga v EU* (GV Založba 2010)

—, *Decentralizacija pristojnosti za urejanje notranjega trga EU* (GV založba 2011)

—, 'Free Movement of Goods in a Labyrinth: Can *Buy Irish* Survive the Crises?' (2012) 49 *Common Market Law Review* 291

—, 'EU Internal Market and National Tradition and Culture: Any Room for Market Decentralisation?' (2013) 8 *Croatian Yearbook of European Law and Policy* 117

—, 'Slovenian Ten-Year Experience with the EU Internal Market' (2015) 26 *European Business Law Review* 613

—, 'The Servitization of Industry: EU Law Implications and Challenges' (2016) 53 *Common Market Law Review* 1575

—, 'Technology Neutral EU Law: Digital Goods within the Traditional Goods/Services Distinction' (2017) 25 *International Journal of Law and Information Technology* 63

—, 'Tell Me Where You Come From and I Will Tell You the Price: Ambiguous Expansion of Prohibited Geographical Price Discrimination under EU Law' (2019) 56 *Common Market Law Review*

Hojnik J and Knez R, *Svoboščine notranjega trga EU* (IUS Software, GV založba 2015)