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FAKULTETA
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UČNI NAČRT PREDMETA / COURSE SYLLABUS

Predmet:

Pravo javnih služb

Course title:

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Javna uprava – 1. stopnja		3	5
Public Administration – 1 st degree		3	5

Vrsta predmeta / Course type

obvezni /mandatory

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
40	0	20	0	0	135	7

Nosilec predmeta / Lecturer:

doc. dr. Breda Mulec, izr. prof. dr. Petra Ferk

**Jeziki /
Languages:**

Predavanja / Lectures:

slovenski /
slovenski

Vaje / Tutorial:

slovenski / slovenski

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

Vpis v 3. letnik.
Vsaj 80% prisotnost na predavanjih.

Prerequisites:

Enrollment in the 3rd year of study.
At least 80% attendance at lectures.

Vsebina:

Content (Syllabus outline):



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Javne službe in javni sektor. Javne službe in javni interes. Proces javnega upravljanja. Funkcije javnega sektorja. Funkcije javne uprave. Pojem javne službe. Nastanek in razvoj javnih služb. Primerjalni pregled. Javne službe v novi slovenski ureditvi. ZGJS kot sistemski zakon. Kdaj ustanoviti javno službo. Pravni režim javne službe. Spreminjanje pravnega režima javnih služb. Vrste in oblike izvajanja javnih služb. Negospodarske javne službe. Nekateri primeri negospodarskih javnih služb. Zdravstvena dejavnost in javne službe. Koncesije kot oblika izvajanja. Liberalizacija in privatizacija v zdravstvu. Javni zavodi. Privatizacija negospodarskih dejavnosti. Lekarniška dejavnost kot mejna javna služba. Gospodarske javne službe. Način določanja GJS. Oblike izvajanja GJS. Režijski obrat. Javni gospodarski zavod. Javno podjetje. Javno podjetje:

- opredelitev po slovenskem pravu;
- status oz. razmerje do pravne ureditve; gospodarskih družb;
- način upravljanja;

Koncesije. Postopek podelitve. Vpliv prava EU na ureditev in delovanje javnih podjetij.

Koncesije. Vrste koncesij. Javne službe in konkurenčno pravo. Nekateri primeri liberalizacije, deregulacije in privatizacije gospodarskih javnih služb. Dimnikarske storitve. Pogrebna dejavnost. Nadzor nad izvajanjem gospodarskih javnih služb. Računsko sodišče. Proračunska inšpekcija. Strokovni nadzor.

Izzivi na področju prenovitve sistemske zakonodaje. Evropska direktiva o koncesijah.

Javne službe v pravu EU

Nastanek EGS kot ekonomske integracije držav članic. Javne službe od Rimske pogodbe do Lizbonske pogodbe. Institucije EU. Primarni in sekundarni pravni viri EU, javne službe v mehki zakonodaji EU. Delitev pristojnosti in načelo subsidiarnosti. Javne službe in varstvo konkurence.

Public services and the public sector. Public services and public interest. Public management process. Functions of the public sector. Functions of the public administration.

The concept of public service. The formation and development of public services. Comparative overview. Public services in the new Slovenian legislation. ZGJS as a conceptual law. Establishing a public service. Legal regime of public service. Changing the special legal regime of public services. Types and forms of public service performing. Non - economic services. Some examples of non – economic services. Health and public services. Concessions as a form of performing public service. Liberalization and privatization in health care. Public institutions. Privatization of non – economic services. Pharmacy activity as a public service. Services of general economic interest. Method of determining SGEI. Forms of implementation of the SGEI. Municipal public utility plant. Public economic institute. Public company. Public company:

- definition according to Slovenian law;
- public company / private company;
- management.

The impact of EU law on the regulation and operation of public companies. Concessions. Concession award procedure. Types of concessions. Public services and competition law. Some examples of liberalization, deregulation and privatization of services of general economic interest. Chimney services. Funeral public services. Control of the performance of public services. Court of Audit. Budget inspection. Professional supervision. New challenges in the field of recasting systemic legislation. European directive on concessions.

Public services in the EU Law

The emergence of the EEC as an economic integration of the Member States. Public services from the Treaty of Rome to the Treaty of Lisbon. EU institutions. Primary and secondary EU legal sources, public services in EU soft law. The division



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Liberalizacija, privatizacija, deregulacija, reregulacija, agencifikacija. Odpiranje trga.

Pojem, pomen, pravna podlaga:

- javna služba storitve splošnega pomena;
- negospodarske storitve splošnega pomena;
- storitve splošnega gospodarskega pomena obveznosti javnih služb;
- univerzalna storitev;
- posebne in izključne pravice (pojem, dopustnost podeljevanja),

Kaj opredeljuje storitev splošnega gospodarskega pomena? Preko eksemplifikativnega pristopa.

of competences and the principle of subsidiarity. Public services and competition. Liberalization, privatization, deregulation, re-regulation, agency. Opening of the market.

Concept, meaning, legal basis:

- public service;
- services of general interest;
- non-economic services of general interest;
- services of general economic interest;
- public service obligations (PSO);
- universal service;
- special and exclusive rights (concept, how to award).

What constitute SGEI? Beyond exemplificatoty approach. Constitutive elements step-by-step.

Pogoj za pristop k izpitu:

Vsaj 80% prisotnost na predavanjih in vajah.

At least 80% attendance at lectures and tutorials.

Temeljni literatura in viri / Readings:

Pečarič, Mirko&Bugarič, Bojan: Javne službe, Fakulteta za upravo, Ljubljana 2011

Mulec, Breda, Zajc, Katarina. Pravna ureditev izvajanja dimnikarske službe v RS s poudarkom na ekonomski (ne)učinkovitosti. *Pravna praksa: PP*, 26. sep. 2013, leto 32, št. 37, str. II-VI

ZAJC, Katarina, MULEC, Breda. New challenges in the field of ambient air protection, with an emphasis on the economic efficiency of chimney-sweeping services. *Lex localis: revija za lokalno samoupravo*, jul. 2013, letn. 11, št. 3, str. 311-324.

Mulec, Breda & Trpin, Gorazd: Tržna dejavnost in preoblikovanje javnih zavodov – primer nelojalne konkurence pri izvajanju lekarniške dejavnosti, v: Javna uprava, Letn. 48, št. 1/2 (2012), str. 49-63;

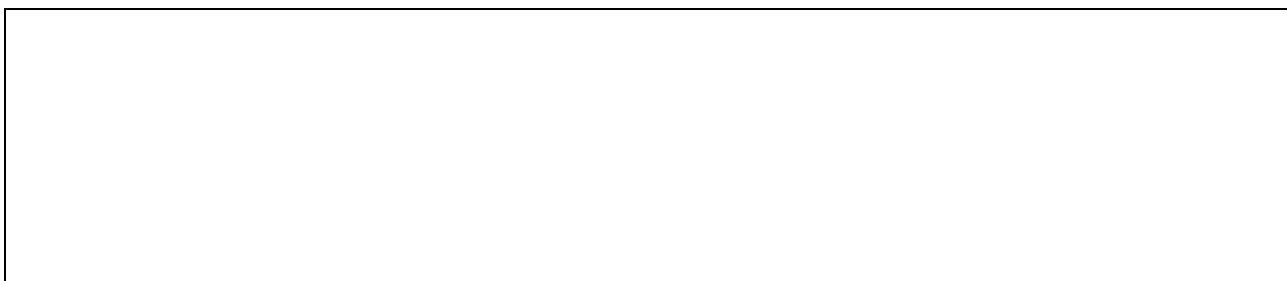
Čebulj, Janez: Oblike izvajanja javnih služb in koncesionirana javna služba, članek v zborniku Nova ureditev javnih služb, Bled, junij 1991.



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Cilji in kompetence:

Cilj predmeta je študentom posredovati znanje o vlogi, pomenu in organizaciji javnih služb na ravni države in na ravni lokalne samouprave. Obravnavani bodo kriteriji za opredelitev javnih služb ter njihove značilnosti ter vrste javnih služb. Zlasti je poudarek na razumevanju pomena gospodarskih in negospodarskih javnih služb ter javnih služb na ravni države in javnih služb na ravni lokalne samouprave ter njihov pomen za usmerjanje gospodarskega in družbenega razvoja.

Posebna pozornost bo namenjena obravnavi liberalizacije javnih služb, načinu njihovega upravljanja in financiranja ter njihovem delovanju v pogojih EU.

Objectives and competences:

The aim of the lecture is to provide students with knowledge about the role, importance and organization of public services at the state level and at the level of local self-government. The criteria for defining public services and their characteristics and types of public services will be discussed. In particular, the emphasis is on understanding the importance of economic and non-economic public services and public services at the state level and public services at the level of local self-government, and their importance for directing economic and social development.

Particular attention will be paid to addressing the liberalization of public services, the way they are managed and financed, and their functioning under EU conditions

Predvideni študijski rezultati:

Znanje in razumevanje delovanja javnih služb.
Razumevanje in razlikovanje med učinkovitim in neučinkovitim izvajanjem javnih služb.
Uporaba teoretičnega znanja v praksi.

Intended learning outcomes:

Knowledge and understanding

Knowledge and understanding of the functioning of public services.

Understanding and distinguishing between efficient and inefficient performance of public services.

Using theoretical knowledge in practice.

Metode poučevanja in učenja:

Learning and teaching methods:



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Predavanja bodo potekala v aktivnem dialogu s študenti, ob pomoči sokratske metode ter z diskusijo, vprašanji in odgovori na vprašanja. Manjši del predavanj lahko poteka po klasični metodi. Seminarska naloga kot oblika sprotnega preverjanja znanja in pogoj za pristop k izpitu. E-učenje.

Lectures will take place in an active dialogue with students, with the help of the Socratic method and with discussion, questions and answers to questions. A minor part of the lectures can be performed according to the classical method. Seminar work as a form of on-line examination of knowledge and condition for entering the exam. E-learning.

Delež (v %) /

Weight (in %)

Assessment:

Načini ocenjevanja:

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

Seminarska naloga, pisni izpit.

100%

Type (examination, oral, coursework, project):

Reference nosilca / Lecturer's references:

**ŽIVLJENJEPIS
(BREDA MULEC)**

Breda Mulec se je rodila 29. maja 1975 v Mariboru. Diplomirala je na Pravni fakulteti Univerze v Mariboru. Magistrirala je na Fakulteti za politične znanosti, pravo in javno administracijo Univerze v Atenah (2001) in na Pravni fakulteti Univerze v Mariboru (2002). V letih 2001 in 2002 je sodelovala z **Inštitutom za etnične, regionalne in sociološke študije (ECERS)** v Mariboru ter **ISCOMET mednarodno organizacijo**, kjer se je ukvarjala z manjšinsko problematiko v Sloveniji in širom po Evropi. Njena raziskovalna področja so bila etnična in verska vprašanja, človekove pravice, čezmejno sodelovanje, politični, jezikovni, kulturni in etničnimi vidiki evropske integracije ter dileme učinkovitega delovanja institucij EU. Leta 2002 se je za nekaj let zaposlila v **Državnem zboru RS**, kjer je bila sekretarka **Komisije za odnose s Slovenci v zamejstvu in po svetu**.

Sodelovala je tudi pri izvajanju mednarodne dejavnosti v Državnem zboru in pri prvem predsedovanju Slovenije EU na področju kulture.

Osrednji poudarek obeh magistrskih študijev je bil na varstvu manjšin in evropskih integracijah.

Tako je npr. magistrski študij na Pravni fakulteti v Mariboru sklenila z magistrsko nalogo na temo Political, Ethnic, Cultural and Linguistic Aspects of the EU Integration.

Doktorirala je na Pravni fakulteti Univerze v Ljubljani iz ekonomske analize prava in evropskih integracij na temo Kohezijska politika EU in problemi njene implementacije s posebnim poudarkom za Republiko Slovenijo ter države Jugovzhodne Evrope. Od novembra 2007 se je kot **vodja sektorja za pravne zadeve in vodenje javnih naročil na Ministrstvu za okolje in prostor** tudi v praksi ukvarjala s področjem evropske kohezijske politike ter izvajanjem večjih investicijskih okoljskih projektov ter javnih služb varstva okolja. Od 2009-2011 je bila zaposlena v **kabinetu ministra, pristojnega za Slovence v zamejstvu in po svetu** akad. dr. Boštjana Žekša, kjer se je ukvarjala s strateškimi projekti, s poudarkom na kroženju možganov, gospodarskim sodelovanjem in kulturno dediščino. Od 18. februarja 2013 do novembra 2018 je vodila **Sektor za investicije in**



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ekonomsko upravljanje na Ministrstvu za okolje in prostor. Odgovorna je bila za pravna, finančna in ekonomska vprašanja ter kontrole na področjih izvajanja večjih okoljskih investicijskih projektov, sofinanciranih s sredstvi EU.

Od novembra 2018 do marca 2019 je vodila **Službo za mednarodno sodelovanje na Ministrstvu za javno upravo.** V času službovanja na MJU je za skoraj leto dni prevzela tudi **vođenje službe za stike z javnostmi.**

Od 16.3.2020 do 31.5.2022 je bila **vodja kabineta ministra zaposlena na Ministrstvu za kulturo.**

V času predsedovanja Slovenije Svetu EU je bila uradna govorka ministrstva za kulturo.

Trenutno je zaposlena na **Uradu za razvoj in kakovost izobraževanja na Ministrstvu za izobraževanje, znanost in šport.**

Dr. Mulec sodeluje pri pedagoškem delu v okviru predmetov Pravo javnih služb, Okoljsko in urbano pravo, Uslužbeno pravo in Upravno poslovanje na **Fakulteti državnih in evropskih študij** Nove Univerze v Ljubljani ter pri predmetu Socialni dialog in reševanje konfliktov na **Evropski pravni fakulteti.**

Kot gostujoča predavateljica je predavala večkrat tudi v tujini (Španija, Latvija, Češka, Madžarska, Francija) in sicer v angleškem ter v španskem jeziku.

Dr. Mulec je avtorica številnih strokovnih člankov in dveh znanstvenih monografij. V prostem času piše tudi literaturo, med drugim tudi otroške pravljice.

Poznavanje tujih jezikov: angleški, španski, italijanski, francoski, srbski, hrvaški in nemški jezik.

Njena bibliografija je dostopna na:

http://www.sicris.si/public/jqm/search_basic.aspx?lang=slv&opdescr=search&opt=2&subopt=1&code1=cmn&code2=auto&search_term=breda+mulec.

CURICULUM VITAE (MULEC BREDA, PH. D)

Breda Mulec, PH.D was born on 29 May 1975 in Maribor. She graduated from the Faculty of Law at the University of Maribor. She received her Masters Degree from the Faculty of Political Science, Law and Public Administration at the University of Athens (2001) and the Faculty of Law at the University of Maribor (2002). Breda Mulec earned a PhD in law from Ljubljana University. Her thesis is titled, »Economic Analysis of law with Emphasis on EU Cohesion policy and its Implementation Problems, with particular Emphasis on the Republic of Slovenia and the Countries of South Eastern Europe.« The main focus of the postgraduated studies was the protection of minorities and European integration.

In 2001 and 2002 she worked at the **Institute for Ethnic, Regional and Sociological Studies (ECERS)** in Maribor and **ISCOMET** organization, where she was involved in minority issues and projects regarding interregional cooperation in Slovenia and throughout Europe.

Her research areas were ethnic and religious issues, cross-border cooperation, political, linguistic, cultural and ethnic aspects of European integration and the dilemmas of the effective functioning of the EU institutions. Afterwards, she was working a few years for the **National Assembly.**



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Since November 2007, as a Head of the department for Legal Affairs and the public procurement at the **Ministry of Environment and Spatial Planning** she was dealing in practice with the EU Cohesion Policy. From 2009-2013 she worked in the **Minister Office responsible for Slovenians Abroad** akad. dr. Boštjan Žekš, where she worked on strategic projects, with an emphasis on the brain talent circulation and economic cooperation. From 18 February 2013 – november 2018, she was employed at **Ministry of Environment and Spatial planning** as a Head of the Department of the environmental investments. She was dealing with legal, financial and economic issues and control over the major environmental investment projects co-financed by EU funds. From November 2018 to March 2019, she headed the International Cooperation Service at the **Ministry of Public Administration**. During her service at the MPA, she was for almost a year also responsible for the public relations of the Ministry. She was the Head of the Minister's Cabinet at the **Ministry of Culture** (15.3.2020-31.5.2022). During Slovenian Presidency of the EU Council (1.7.2021-31.12.2021) she was also spokesperson for the ministry. Currently, she is employed at **the Ministry of Education, Science and Sports**.

Dr . Mulec also teaches at the **Graduate School of Government and European Studies in Kranj** and **European law school in Ljubljana**. She is author of several articles and the books on the topics of public administration. However, her bibliography can be found at http://www.sicris.si/public/jqm/search_basic.aspx?lang=slv&opdescr=search&opt=2&subopt=1&code1=cmn&code2=auto&search_term=breda+mulec.

She also writes children's literature, historical fiction novels and comedies. She speaks fluently several languages, English, Spanish, Italian, French, German, Serbian, Croatian.

Petra Ferk je kot izredna profesorica za javno upravo habilitirana in predava na Fakulteti za državne in evropske študije, kjer sodeluje pri pedagoškem delu v okviru predmetov javno-zasebna partnerstva, pravne osebe javnega in zasebnega prava, upravni sistemi na dodiplomski in podiplomski stopnji, posebni upravni postopki in pravo javnih služb. Petra Ferk je soustanoviteljica Inštituta za javno zasebno partnerstvo ter družbe S-Procurement, družbe za elektronske nabavne platforme, d.o.o.. Je avtorica več strokovnih in znanstvenih člankov doma in v tujini, med drugim je v soavtorstvu z Boštjanom Ferkom napisala monografijo z naslovom Javne službe, državne pomoči in javno-zasebna partnerstva. Leta 2008 je prejela priznanje Zveze društev pravnikov za mlado pravnico. Med daljšimi študijskimi aktivnostmi v tujini je treba omeniti raziskovalno delo, ki ga je opravila za magistrsko nalogo in za doktorsko disertacijo kot štipendistka na Inštitutu Maxa Plancka za mednarodno in primerjalno pravo v Hamburgu. Stažirala je na Sodišču Evropske Unije v Luksemburgu, in se v Dublinu na Irskem izpopolnjevala v angleškem jeziku ter opravljala tudi raziskovalno delo za doktorsko disertacijo. Petra Ferk je generalna sekretarka Slovenskega društva



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za evropsko pravo in sodeluje pri njegovih aktivnosti že od ustanovitve naprej. Hkrati je tudi članica upravnega odbora Mednarodnega združenja za evropsko pravo (Federation Internationale du droit Europeen – FIDE) in članica upravnega odbora Mednarodne akademije za primerjalno pravo (International Academy of Comparative Law – IACL). Petra Ferk je nacionalna korespondentka za European Procurement & Public Private Partnership Law Review. V okviru Upravne akademije pri Ministrstvu za javno upravo pa nastopa kot izvajalka seminarjev in izobraževanj na temo javno-zasebnega partnerstva. V zadnjem času se ukvarja zlasti s projekti pogodbenega zagotavljanja prihranka energije, zagotavljanjem in financiranjem izvajanja javnih služb in izgradnje javne infrastrukture ter s tem povezanim vprašanjem državnih pomoči ter aktualnimi vprašanji elektronskega javnega naročanja.

Petra Ferk is an Associate Professor for Public Administration at the Faculty of Government and European Studies, Slovenia. She is one of the Founders at the Institute for Public-Private Partnership, Slovenia and company S-Procurement, providing one of the leading global e-procurement solutions based on SaaS model to Contracting Authorities. Petra is the co-author of a legal monograph and also the author of numerous articles, including a legal monograph »Public Services, State Aids, and Public-Private Partnerships«. In 2008, she was also awarded the “Young Lawyer Award” by the Slovenian Law Association. Among her activities abroad, her most prominent work is a research, conducted in Dublin as well as research for her master’s and doctoral theses at the Max Planck Institute for Comparative and International Private Law in Hamburg, Germany, for which she received scholarship. She additionally improved her professional skills as a stagier at the European Court of Justice in the cabinet of Judge of the Court of First Instance of European Communities, Mrs. Ingrida Labucka. Petra is the Secretary General of the Slovenian Association for European Law and participates in its activities since its establishment. She also holds the positions of a member of the management board at Federation Internationale du droit Europeen – FIDE and International Academy of Comparative Law – IACL. Petra is the national correspondent for European Procurement & Public Private Partnership Law Review, and is active in promoting best practices on PPPs within the trainings organised by the UNECE International PPP Centre of Excellence. She is on the list of lecturers for public-private partnerships at the Academy for Administration of the Slovenian Ministry of Public Administration. Recently, she has been actively engaging in discussions on e-procurement, energy performance contracting projects, provision and financing of public services, public infrastructure, and the related issue of state aid.