

**UČNI NAČRT PREDMETA / COURSE SYLLABUS**

Predmet:	Spolno kazensko pravo
Course title:	<i>Sexual Criminal Law</i>

Študijski program in stopnja Study programme and level	Študijska smer Study field	Letnik Academic year	Semester Semester
Prvostopenjski UN študij program Pravo		2, 3, 4	4, 6, 8
		2 <sup>nd</sup> , 3 <sup>rd</sup> , 4 <sup>th</sup>	4 <sup>th</sup> , 6 <sup>th</sup> , 8 <sup>th</sup>

Vrsta predmeta / Course type Izbirni predmet / Elective course

Univerzitetna koda predmeta / University course code:

Predavanja Lectures	Seminar	Vaje Tutorial	Klinične vaje work	Druge oblike študija	Samost. delo Individ. work	ECTS
39		21			60	4

Nosilec predmeta / Lecturer: prof. dr. Damjan Korošec

Jeziki / Languages:	Predavanja / Lectures: Vaje / Tutorials:	Slovenski / Slovenian Slovenski / Slovenian
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Pogoji za vključitev v delo oz. za opravljanje  
študijskih obveznosti:

Predmet lahko vpišejo študirajoči katerekoli članice UL, pri čemer imajo prednost pri vpisu študirajoči Pravne fakultete v skladu s splošnimi omejitvami Pravne fakultete glede najvišjega števila vpisanih študentov prava na izbirnih predmetih, ki jih ponuja Pravna fakulteta.

Any student of University of Ljubljana may be enrolled in the course. Students of the Faculty of Law have priority in enrolling in the course in accordance with the general rules of the Faculty of Law on the maximum number of law students enrolled in the facultative courses offered by the faculty.

Vsebina:

1. Temeljni pojmi spolnega kazenskega prava na prepletu nacionalnega, mednarodnega in evropskega prava
2. Zgodovina spolnega kazenskega prava
  2. 1. Splošni del (kronološki pregled)
    2. 1. 1. Stari vek in antika
    2. 1. 2. Srednji vek
    2. 1. 3. Novi vek
    2. 1. 4. Novejša zgodovina
  2. 2. Posebni del (obravnava izbranih kaznivih dejanj v luči pravnozgodovinskega razvoja)
3. Primerjalnopravni vidiki
  3. 1. Nemčija, Avstria, Švica
  3. 2. Finska

Content (Syllabus outline):

1. Fundamental concepts of sexual criminal law at the intersection of national, international, and European law.
2. History of sexual criminal law
  2. 1. General part (chronological order)
    2. 1. 1. Ancient History and Classical Antiquity
    2. 1. 2. Middle Ages
    2. 1. 3. Early Modern Period
    2. 1. 4. Modern Period
  2. 2. Special part (Analysis of selected criminal offenses in legal-historical Dimension)
3. Comparative legal aspects
  3. 1. Germany, Austria, Switzerland
  3. 2. Finland

<p>3. 3. Vzhodna in jugovzhodna Evropa</p> <p>3. 4. Evropska unija</p> <p>4. Dogmatika sodobnega spolnega kazenskega prava</p> <p>4. 1. Kazenskopravne dobrine spolnih kaznivih dejanj</p> <p>4. 1. 1. Spolna samoodločba</p> <p>4. 2. Spolno ravnanje</p> <p>4. 3. Spolno prisiljenje in posilstvo</p> <p>4. 3. 1. Tri glavne oblike razmerja med spolnim prisiljenjem in posilstvom</p> <p>4. 3. 2. Prisilitveno in manipulativno ravnanje (nasilje, sila, grožnja, izraba nemočnega položaja, zvijača, presenečenje)</p> <p>4. 3. 2. 1. Diskriminatory nature of coercive and manipulative behavior</p> <p>4. 3. 2. 2. Privileged circumstances of sexual coercion and rape</p> <p>4. 3. 3. Sexual conduct of rape and sexual coercion</p> <p>4. 3. 4. Issues of attempt</p> <p>4. 4. Sexual abuse of vulnerable adult persons</p> <p>4. 5. Sexual abuse of children</p> <p>4. 6. Exploitation of prostitution</p> <p>4. 7. Trafficking in persons for the purpose of sexual exploitation and forced marriage</p> <p>4. 8. Pornographic crimes</p> <p>4. 9. Other sexual offenses (exhibitionism, incest, workplace harassment, sexual stalking)</p> <p>4. 10. Non-consensual dissemination of intimate (private) sexual images</p> <p>4. 11. Relationship of sexual offenses to certain other criminal offenses</p> <p>4. 11. 1. Femicide in a sexual context</p> <p>4. 11. 2. Sexist hate speech</p> <p>4. 11. 3. Genital mutilation and other non-consensual forms of genital interventions, sexual transmission of diseases, pregnancy and borders between sexual and medical criminal law</p> <p>5. Spolno kazensko pravo Evropske Unije in mednarodnih organizacij</p> <p>5. 1. Primarni viri Evropske Unije</p> <p>5. 2. Sekundarni viri Evropske Unije</p> <p>5. 2. 1. Direktiva 2011/36/EU</p> <p>5. 2. 2. Direktiva 2011/93/EU</p> <p>5. 3. Akti Sveta Evrope</p> <p>5. 4. Akti Organizacije združenih narodov</p>	<p>3. 3. Eastern and Southeastern Europe</p> <p>3. 4. European Union</p> <p>4. Dogmatics of modern sexual criminal law</p> <p>4. 1. Criminal goods of sexual offenses</p> <p>4. 1. 1. Sexual self-determination</p> <p>4. 2. Sexual conduct</p> <p>4. 3. Sexual coercion and rape</p> <p>4. 3. 1. Three main forms of the relationship between sexual coercion and rape</p> <p>4. 3. 2. Coercive and manipulative behavior (violence, force, threat, abuse of a helpless situation, deceit, surprise)</p> <p>4. 3. 2. 1. Discriminatory nature of coercive and manipulative behavior</p> <p>4. 3. 2. 2. Privileged circumstances of sexual coercion and rape</p> <p>4. 3. 3. Sexual conduct of rape and sexual coercion</p> <p>4. 3. 4. Issues of attempt</p> <p>4. 4. Sexual abuse of vulnerable adult persons</p> <p>4. 5. Sexual abuse of children</p> <p>4. 6. Exploitation of prostitution</p> <p>4. 7. Trafficking in persons for the purpose of sexual exploitation and forced marriage</p> <p>4. 8. Pornographic crimes</p> <p>4. 9. Other sexual offenses (exhibitionism, incest, workplace harassment, sexual stalking)</p> <p>4. 10. Non-consensual dissemination of intimate (private) sexual images</p> <p>4. 11. Relationship of sexual offenses to certain other criminal offenses</p> <p>4. 11. 1. Femicide in a sexual context</p> <p>4. 11. 2. Sexist hate speech</p> <p>4. 11. 3. Genital mutilation and other non-consensual forms of genital interventions, sexual transmission of diseases, pregnancy and borders between sexual and medical criminal law</p> <p>5. Sexual criminal law of the European Union and international organizations</p> <p>5. 1. Primary sources of the European Union</p> <p>5. 2. Secondary sources of the European Union</p> <p>5. 2. 1. Directive 2011/36/EU (On preventing and combating trafficking in human beings and protecting its victims)</p> <p>5. 2. 2. Directive 2011/93/EU (On combating sexual abuse and sexual exploitation of children and child pornography)</p>
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6. Slovenija v svetu spolnega kazenskega prava

5. 3. Council of Europe acts  
5. 4. United Nations acts

6. Slovenia in the world of sexual criminal law – detailed comparative legal analysis

Temeljni literatura in viri / Readings:

Gradivo s predavanj in vaj

Izbrana poglavja iz:

Damjan Korošec, Sabina Zgaga Markelj, Vid Žepič (pravnozgodovinske vsebine), *Spolno kazensko pravo. Od starega veka do današnjega kazenskopravnega obvladovanja spolnosti*, Uradni list, Ljubljana, 2024.

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*Selected Chapters from:*

Damjan Korošec, Sabina Zgaga Markelj, Vid Žepič (legal-historical content), [*Sexual Criminal Law. From Antiquity to Contemporary Criminal Regulation of Sexuality*], Uradni list, Ljubljana, 2024.

Cilji in kompetence:

Zgodovinski kontekst: Raziskati zgodovinski razvoj spolnega kazenskega prava v evropski pravni zgodovini. Vključiti pravno-zgodovinske in primerjalne pravne izlete za zagotavljanje niansiranih vpogledov v razvoj pravnega okvira. Predstaviti tipične epizode razvoja namesto zasledovanja časovne in prostorske popolnosti.

Theoretski deli: Poudariti sodobne izzive znotraj spolnega kazenskega prava v izbranih članicah EU. Obravnavati vprašanja, kot so spolno nasilje, nadlegovanje, spolna zloraba otrok, sovražni govor glede na spol, nasilje na podlagi spola ter razširitev koncepta posilstva. Raziskati izzive pri obvladovanju soglasja, spolne zlorabe otrok ter vpliv novih tehnologij na kazniva dejanja v zvezi s pornografijo in prostitucijo.

Primerjalni pristop: Prevzeti primerjalni pristop in izbrati pravne sisteme na podlagi zgodovinsko-kultурне primerljivosti s Slovenijo. Osredotočiti se na globino doktrinalnega razvoja in nedavne reforme v izbranih pravnih sistemih. Vključiti primerjalno pravno analizo kot nepogrešljiv del predstavitev posameznih problematičnih področij. Interdisciplinarno razumevanje: Poglobiti se v koncept spola in spolnosti znotraj medosebnih odnosov. Raziskati spolno breme specifičnih medosebnih dejanj ali odnosov skozi

Objectives and competencies:

Historical Context: Examine the historical development of sexual criminal law in European legal history. Incorporate legal-historical and comparative legal excursions to provide nuanced insights into the evolution of the legal framework. Present typical episodes of development rather than aiming for temporal and spatial completeness.

Contemporary Theoretical Issues: Emphasize contemporary challenges within sexual criminal law in selected EU Member states. Address issues such as sexual violence, harassment, child sexual abuse, sexual hate speech, gender-based violence, and expanding the concept of rape. Explore challenges in managing consent, child sexual abuse, and the impact of new technologies on pornography and prostitution offenses.

Comparative Approach: Adopt a comparative approach selecting legal systems based on historical-cultural comparability with Slovenia. Focus on depth of doctrinal development and recent reforms in selected legal systems. Integrate comparative legal analysis as an integral part of presenting individual problematic areas.

Interdisciplinary Understanding: Delve into the concept of gender and sexuality within interpersonal relations. Explore the sexual

meddisciplinarne leče (sociologija, psihologija, psihopatologija, študije spola, kriminologija). Ocenjevanje vpliva mednarodnega prava: Oceniti vpliv mednarodnega in evropskega spolnega kazenskega prava na slovensko zakonodajo in sodne prakse. Predstaviti celovito analizo, ki povzema prednosti in slabosti trenutnega slovenskega spolnega kazenskega prava znotraj okvira Evropske unije in Sveta Evrope. Poudariti usklajenost z razvijajočimi se standardi in prioritetami, določenimi s strani Evropske unije in Sveta Evrope.

burden of specific interpersonal actions or relationships through interdisciplinary lenses (sociology, psychology, psychopathology, gender studies, criminology). Evaluation of Impact of international law: Evaluate the impact of international and European sexual criminal law on Slovenian legislation and judicial practices. Present a comprehensive analysis summarizing the strengths and weaknesses of current Slovenian sexual criminal law within the framework of the European Union and the Council of Europe. Highlight the alignment with evolving standards and priorities set by the European Union and the Council of Europe.

#### Predvideni študijski rezultati:

Po študiju tega predmeta bo študent poznal in razločeval spolna kazniva dejanja. Pridobil bo poglobljeno znanje o vprašanjih splošnega in posebnega dela kazenskega prava v jurisdikcijah zunaj in znotraj EU, še posebej tudi v Republiki Sloveniji. Znanja bo študent lahko uporabil za opravljanje prakse in kasneje pravnega poklica (tožilec, odvetnik, sodnik, pravnik v nevladni organizacij itd.). Tematika je tesno povezana s kazenskim materialnim pravom in pravno zgodovinskimi predmeti (pravna zgodovina, rimska pravo). Ker je tematika urejena tudi na ravni EU, je v tem okviru pomembno tudi poznavanje osnov prava EU in razmerij med nacionalnimi pravnimi redi in pravom EU.

#### Intended learning outcomes:

After studying this subject, the student will be familiar with and able to distinguish sexual offenses. They will gain in-depth knowledge of general and specific aspects of criminal law in jurisdictions outside and within the EU, especially in the Republic of Slovenia. This knowledge can be applied by the student in practical settings and later in their legal profession (prosecutor, lawyer, judge, legal professional in a non-governmental organization, etc.). The subject matter is closely linked to substantive criminal law and legal-historical subjects (legal history, Roman law). As the topic is also regulated at the EU level, it is crucial to have an understanding of the basics of EU law and the relationships between national legal systems and EU law.

#### Metode poučevanja in učenja:

Interaktivna predavanja in vaje, kjer se študentje seznanijo s historičnimi, primerjalnopravnimi in dogmatičnimi problemi spolnega kazenskega prava v državah članicah EU in v Sloveniji ter pridobijo teoretično razumevanje vprašanj na tem področju.

#### Learning and teaching methods:

Interactive lectures and tutorials where students become acquainted with historical, comparative legal, and dogmatic issues of sexual criminal law in EU member states and in Slovenia, acquiring a theoretical understanding of the issues in this field.

#### Delež (v %)

#### Načini ocenjevanja:

#### Weight (in %)

#### Assessment:

Pisni ali ustni izpit. Študentom je na voljo možnost, da se jim kot del izpitne ocene upošteva udeležba na določenih predavanjih oziroma izdelava krajšega pisnega izdelka.	100%	Written or oral exam. Students have the option of achieving a part of their exam grade by participating in selected lectures and/or preparing a short written assignment.
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Reference nosilca / Lecturer's references:

- KOROŠEC, Damjan. *Spolnost in kazensko pravo : od prazgodovine do t. i. modernega spolnega kazenskega prava*. Ljubljana: Uradni list Republike Slovenije, 2008. 518 str. ISBN 978-961-204-397-1.
- KOROŠEC, Damjan, NOVAK, Barbara, ZGAGA MARKELJ, Sabina. Posilstvo : 170. člen. V: KOROŠEC, Damjan (ur.), et al. *Veliki znanstveni komentar posebnega dela Kazenskega zakonika (KZ-1)*. Posodobljena izd. Ljubljana: Uradni list Republike Slovenije: Pravna fakulteta Univerze v Ljubljani, 2023. Knj. 1, str. 1047-1173. Zbirka predpisov. ISBN 978-961-204-704-7, ISBN 978-961-204-705-4, ISBN 978-961-204-706-1, ISBN 978-961-204-707-8.
- KOROŠEC, Damjan. Sistemske anomalije slovenskega spolnega kazenskega prava : kakšne spremembe spolnega kazenskega prava potrebuje Slovenija?. V: ŠELIH, Alenka (ur.), MIHELJ PLESNIČAR, Mojca (ur.), AMBROŽ, Matjaž (ur.). *Odzivanje na spolno kriminaliteto : modeli, spremenjanje in družbeni kontekst*. Ljubljana: Slovenska akademija znanosti in umetnosti: Inštitut za kriminologijo pri Pravni fakulteti, 2022. Str. 63-76, 180, 188. Razprave, 40. ISBN 978-961-268-083-1.
- ŠOŠIĆ, Miha, KOROŠEC, Damjan. Izkoriščanje kot izrecen del biti obprostitujskih kaznivih dejanj v sodobnem primerjalnem kazenskem pravu. *Pravnik : revija za pravno teorijo in prakso*. [Tiskana izd.]. 2019, letn. 74, št. 9/10, str. 545-568, 643-644.
- KOROŠEC, Damjan. Spolno kazensko pravo. V: *Dnevi slovenskih pravnikov : 13. do 15. oktober 2016, Portorož : DSP*. Ljubljana: IUS Software, GV založba, 2016. 42, [št.] 6/7, str. 935-944. Podjetje in delo, [letn.] 42, 6-7.