

Course: Right to Good Administration
Teachers: Bogoljub Milosavljević, Jelena Jerinić
Course type: elective
ECTS: 12
Prerequisites: completion of courses in constitutional law and administrative law on the previous level of university studies; proficiency in English.
<p>Course Description</p> <p>The course aims to provide students with further theoretical knowledge in the field of administration and administrative law, as well as to familiarize them with the basic directions in development of the concept of good administration, especially from the perspective of citizens and their right to good governance. The course covers both theoretical concepts and characteristics of national administrative systems, primarily in European countries, as well as EU administrative law. Students should independently and critically reflect on these topics, and apply the knowledge acquired to analysis of Serbian and foreign legislation and caselaw in the field of administrative law.</p>
<p>Learning Outcomes</p> <p>Upon course completion, students are supposed to have acquired in-depth knowledge administrative law doctrine and caselaw concerning selected topics and be able to independently and critically consider theoretical views, determine the relevant legal rules and apply them to specific facts. Also, students are expected to gain a more thorough understanding of the nature of the right to good administration and the challenges of its application in everyday life.</p>
<p>Topics</p> <ol style="list-style-type: none"> 1. Good administration – concept, main aspects and elements 2. Principles of good administration 3. Good administration in constitutional texts 4. The right to good administration – Charter of Fundamental Rights of the EU 5. Caselaw of European and national courts concerning application of principles of good administration 6. The role of independent bodies in establishment of principles of good administration – examples of the European Ombudsman and national ombudsperson institution 7. Multilevel governance – the principles of decentralization in the service of good administration 8. Good administration in policies and legislation of the Republic of Serbia 9. Principles of good administration in the context of public administration reform 10. Public administration reform in Serbia: between wishes and reality 11. Local government reform: aspirations towards decentralization 12. Public services 13. Delegated public services and their role in securing the principles of good administration 14. Principles of administrative procedure and judicial review of administrative action significant for good administration 15. Legal remedies for protection of principles of good administration
<p>Recommended literature</p> <ol style="list-style-type: none"> 1. Denković D., 2010, Dobra uprava, Pravni fakultet Univerziteta u Beogradu, Beograd. 2. Pusić, E., 1985, Upravni sistemi 1 - Uvod, razvoj upravljanja, Pravni fakultet, Zagreb. 3. Pusić, E., 1985, Upravni sistemi 2 – Upravni sistem u Jugoslaviji, Pravni fakultet, Zagreb. 4. Lane, J.E., 2012, Državno upravljanje: razmatranje modela javne uprave i javnog upravljanja, Službeni glasnik, Megatrend univerzitet, Beograd. 5. Paul, C., 2006, <i>EU Administrative Law</i>, Oxford University Press, Oxford. 6. Seerden, R. (ed.), 2007, <i>Administrative law of the European Union, its member States and the United States: a comparative analysis</i>, Antwerpen. 7. Rose-Ackerman, S., Lindseth, P. (eds.), 2010, <i>Comparative Administrative Law</i>, Cheltenham. 8. Davinić, M., 2010, Pojam dobre uprave: između klasičnog i „mekog” prava, <i>Pravni život</i>, 10, str. 389-404. 9. Lozina, D., Klarić, M., 2012, „Dobra uprava“ kao upravna doktrina u Europskoj uniji, <i>Pravni vjesnik: časopis za pravne i društvene znanosti Sveučilišta J.J. Strossmayera u Osijeku</i>, 2, str. 23-37, https://hrcak.srce.hr/121026 9. Milosavljević, B., 2019, Upravno pravo, Pravni fakultet UUUB, Službeni glasnik, Beograd. 10. Seerden, R. (ed.), 2007, <i>Administrative law of the European Union, its member States and the United States: a comparative analysis</i>, Antwerpen. 11. Rose-Ackerman, S., Lindseth, P. (eds.), 2010, <i>Comparative Administrative Law</i>, Cheltenham. 12. Milosavljević, B., 2012, Reforma lokalne samouprave u Srbiji, <i>Hrvatska komparativna i javna uprava</i>, 3, str. 749-768, https://hrcak.srce.hr/130609

13. Jerinić, J., 2012, *Sudska kontrola uprave*, Pravni fakultet UUUB, Službeni glasnik, Beograd.
14. European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>
15. European Ombudsman, 2015, *The European Code of Good Administrative Behaviour*, <https://europa.eu/!Gx99WU>
16. Council of Europe, Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration, <https://rm.coe.int/16807096b9>
17. European Commission for Democracy through Law (Venice Commission), 2011, *Stocktaking on the notions of "good administration"*, CDL(2011)006, [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL\(2011\)006-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL(2011)006-e)
18. Mendes, J., 2009, *Good Administration in EU Law and the European Code of Good Administrative Behaviour*, *EUI Working Papers Law*, 9, <https://ssrn.com/abstract=1554907> or <http://dx.doi.org/10.2139/ssrn.1554907>
19. Reichel, J., 2008. *Between Supremacy and Autonomy - Applying the Principle of Good Administration in the Member States*, u: Bernitz, U. and ors (eds.), *General principles of EC law in a process of development: reports from a conference in Stockholm, 23-24 March 2007, organised by the Swedish Network for European Legal Studies*. Wolters Kluwer Law & Business, <https://studentportalen.uu.se/uusp-filearea-tool/download.action?nodeId=933427&toolAttachmentId=179404>

Number of classes 5 (a week)	Teaching: 5	Practicum: -
Teaching methods Lectures and consultations, presentations and class discussion, text analysis, analysis of legislation, caselaw and theoretical sources, individual research tasks and their presentation, writing short essays		
Grading The final grade (max. 100 points) is determined on the basis of student performance: a) in completing pre-exam obligations (max. 40 points) consisting of active class participation (10 points); completion of a research assignment and essay (15 points each); b) final written exam (max. 60 points)		

Course: Human Rights in Medical Context
Teachers: Prof. Violeta Beširević, PhD; Prof. Jelena Simić, PhD
Course type: elective
ECTS: 12
Prerequisite: Compliance with conditions for entry into PhD studies of law at UU School of Law
<p>Course description:</p> <p>The aim of the course is to work on classic and the latest bioethical dilemmas in the context of human rights. The issues of the legal protection of basic human values (life, bodily integrity, human dignity, privacy) are becoming increasingly relevant given the progress in medicine and biology. Ethical and legal problems that arise at different levels in connection with new biological knowledge and the development of medical technology through their application in the field of organ transplantation, genetic engineering, assisted reproduction and controversial issues related to the beginning and end of life of a natural person (from embryonic legal status to euthanasia), but also the life of a natural person in the context of variations of gender identity or health care in cases of infectious or rare diseases, require serious and well-argued legal answers in the 21st century. By analyzing the relevant legal solutions and examining the existing case law of the legal systems of different countries, the course will explore these complex ethical and legal issues.</p>
<p>Learning outcomes:</p> <ol style="list-style-type: none"> 1. Developing the ability to analyze and understand human rights in the context of bioethical dilemmas; 2. Strengthening the ability to understand modern legal challenges in health and biotechnology; 3. Encouraging analytical skills and critical thinking in the context of relevant court decisions with special emphasis on conflicting interests such as the right to life and personal autonomy and the right to self-determination; 4. Introducing students to basic international and national human rights protection mechanisms in the context of bioethics.
<p>Topics:</p> <ol style="list-style-type: none"> 1. Human rights in the medical context: challenges of legal regulation 2. Informed patient's right to consent to medical research or medical treatment 3. Legal dilemmas at the beginning of life: reproductive and therapeutic cloning 4. Legal dilemmas at the beginning of life: reproductive rights and freedom of birth 5. Case study: Abortion as a means of family planning: USA, Romania, China, Serbia 6. New technologies and genetic research in the context of human rights protection 7. The human body as a commodity: modern challenges of the right regulation of organ transplantation 8. Case study: prohibition of human trafficking 9. Human rights and transgender identity 10. Legal dilemmas at the end of life: for and against the legalization of voluntary euthanasia 11. Case study: palliative care instead of voluntary euthanasia? 12. Public health and human rights in the context of controlling communicable diseases 13. Case study: COVID-19 virus pandemic 14. The rights of person with mental disabilities 15. 15. Human First and Artificial Intelligence: Contemporary Challenges
<p>Recommended reading:</p> <ul style="list-style-type: none"> - Beširević, Violeta, <i>Euthanasia: Legal Principles and Policy Choices</i>, Firenca: European Press Academic Publishing, 2006; - Beširević, Violeta, "End-Of-Life Care in XXI Century: Advance Directives in Universal Rights Discourse", <i>Bioethics</i>, vol. 24, no. 3, 2010, pp. 105-112; - Beširević, Violeta, EULOD: The EU-funded Project on Living Organ Donation in Europe, with F. Ambagtsheer et. al., <i>Transplant International</i>, vol. 26, no. 2, 2013, pp. 139-140; - Beširević, Violeta, "Bioethics in Democracy: Transforming the Clash of Absolutes into Human Rights Issues," in: Walter Schweidler (ed.), <i>Bioethik –Medizin –Politik/Bioethics -Medicine -Politics</i>, Sankt Augustin, Germany: Academia Verlag, 2012, pp. 79-89; - Beširević, Violeta, "Mission (Im)Possible: Defending A Right to Die", in: Kenneth Himma, Bojan Spaić (eds.), <i>Fundamental Rights: Justification and Interpretation</i>, The Hague, Eleven Publishing International, 2016, pp. 149-177; - Beširević, Violeta, "Unlocking Human Cloning: Does Constitution Help?" in <i>Perfect Copy? Law and Ethics of Reproductive Medicine</i>, J. Sándor, (ed.), Budapest: CEU Center for Ethics and Law in Biomedicine, 2009, pp. 97-116; - Beširević, Violeta, "Organ Trafficking, Organ Trade. Recommendations for a more Nuanced Legal Policy", with J. Sandor et al., in: <i>The EULOD Project: Living Organ Donation in Europe: Results and Recommendations</i>, Ambagtsheer, F., Weimar, W. (eds.) (Lengerich, Germany: Pabst Science Publishers, 2013), pp. 147-174;

- Beširević, Violeta, “Discourses of Autonomy in International Human Rights Law: Has the Age of a Right to Die Arrived?“, *Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol*, no. 62/63, 2008, pp. 19-34;
- Beširević, Violeta, “Basic Norms of Bioethics: Informed Consent in UNESCO Bioethics Declarations,“ *The Annals of the Faculty of Law Belgrade -Belgrade Law Review*, vol. III, 2008, pp. 257-265;
- Беширевић Виолета, “Богови су пали на теме: о уставу и биоетици,“ *Анали Правног факултета у Београду*, бр. 2/2006, стр. 205-229;
- Беширевић Виолета, “Право на достојанствену смрт“, *Гласник адвокатске коморе Војводине*, бр. 12/2008, стр. 527-541;
- Simić, Jelena, Life in legal limbo - Trans* persons in Serbia, (pp.155-173.) U: *Contemporary Issues and Perspectives on Gender Research*, (L. Čičkarić i Z. Mršević (ur.), p.235, Institute of Social Sciences, Belgrade, 2109. ISBN 978-86-7093-226-5; CIP 305(082); 316.662-055.2(082); COBISS.SR-ID 280838924;
- Симић Јелена, Медицинскоправни аспекти транссексуалности – У сусрет признавању правних последица промене пола у Србији, *Правни записи*, бр.2/2012, Правни факултет Универзитета Унион у Београду, 2012; стр. 299-322; UDK 616.89-008.442:342.7 ; ISSN2217-2815, COBISS.SR-ID – 515705276
- Симић, Ј., Узети своје тело у своје руке: Интерсекс особе и изазови стварања интерсекс заједнице у Србији, (стр. 66-85). У: *У мрежама другости: Интерсекционалност и ЛГБТ активизам у Србији и Хрватској*, Б. Билић (ур.), Нови Сад, Mediterran Publishing, CIP 342.726-055.3(497.11) ; ISBN 978-86-6391-112-3.
- Симић Јелена, Правни проблеми дефинисања поља правне заштите *pondum conceptus-a*, *Страни правни живот*, бр.3/2018. Институт за упоредно право, Београд, 2018; стр. 25-42; ISSN 00392138 (штампано издање); UDK 347.15/.17; ISSN 2620-1127 (Online). COBISS.SR-ID – 517914812
- Simić Jelena, The protection of *nasciturus* within the Civil law, *Pravni zapisi*, 2/2018, Правни факултет Универзитета Унион у Београду, 2018; стр.255-270; UDK 342.721-051.1; ISSN 2217-2815 (штампано издање); ISSN 2406-1387 (Online). COBISS.SR-ID – 517905084;
- Јелена Симић, Права у области здравствене заштите за особе које живе са ХИВ/сидом, у: *ПОЗИТИВАН живот*, В. Јовановић и Д. Макојевић (ур.), Институт за јавно здравље Србије „Др Милан Јовановић Батут“ и Човекољубље, Добротворна фондација Српске православне цркве, Београд, 2019, стр. 29-60. ISBN 978-86-88757-08-9; COBISS.SR-ID 281173260;
- Симић Јелена, ’Корак напред, два корака назад – годину дана од усвајања Закона о заштити лица са менталним сметњама’, *Зборник радова: Права особа са менталним сметњама - У сусрет новим правним правилима*, књига III, (Гајин С., ур.), Центар за унапређивање правних студија, Београд, 2014, стр. 15-65, ISBN 978-86-7546-089-3; COBISS.SR-ID 513639857;
- Ракић Војин, Иван Младеновић, Рада Дрезгић (прир.), *Биоетика*, Београд: Службени гласник, 2012;
- Judit Sandor (ed.), *Studies in Biopolitics*, Budapest: CEU Center for Ethics and Law in Biomedicine, 2013;
- Judit Sandor (ed.), *Perfect Copy? Law and Ethics of Reproductive Medicine*, J. Sándor, (ed.), Budapest: CEU Center for Ethics and Law in Biomedicine, 2009;
- Judit Sandor (ed.), *Society and Genetic Information: Codes and Laws in the Genetic Era*, Budapest: CEU Press, 2003;
- Mason, John Kenyon; Laurie, Graeme T., *Mason and McCall Smith's Law and Medical Ethics*, 9th ed., Oxford : Oxford University Press, 2013, ISBN - 978-0-19-965990-6; COBISS.SR-ID – 516220860;
- Jackson, E., *Medical Law: text, cases, and materials*, 3rd ed., Oxford : Oxford University Press, 2013, ISBN - 978-0-19-969360-3, COBISS.SR-ID – 516286652;
- Herring, J., *Medical law and ethics*, 3rd ed., Oxford : University Press, 2010, ISBN - 978-0-19-957648-7 , COBISS.SR-ID – 512076465.

Number of classes: 5 a week	Teaching: 5	Practicum: -
Teaching methods: Theoretical classes, practical classes and consultations (presentation method, Power Point presentations, interview method, method of working on papers, analyses of court decisions and scientific papers, independent research tasks and their presentation, writing short essays).		
Grading (max. points: 100) The final grade consists of the points achieved by fulfilling the pre-examination obligations and the final written exam. The final grade is formed on the basis of the results achieved by the student: (a) in fulfilling pre-examination obligations (maximum 45 points): active participation in classes (15 points), preparation of a research task and essays (each of which carries 15 points); (b) on the final written examination - essay (maximum 55 points).		

Pre-examination obligations	Points	Final exam	Points
In-class activity (during lessons)	15	Final written examination - essay	55
Out-of-class activity (additional, self-induced: writing texts, preparation of a research task and essays, etc.)	30		

Course: Theory of Law and Methodology of Legal Research		
Professor: Marko Božić, Assistant Professor Aleksa Radonjić		
Course type: mandatory		
ECTS: 12		
Prerequisite: None.		
Course Description Theory of Law makes students aware of the relativity of the legal concepts and of different scholarly approaches to main problems of legal science. The idea of the subject is to develop the ability of critical thinking and to get PhD students familiar with the use of basic methods of legal research and scholarly writing.		
Learning outcomes Expected outcome of this subject is two folded. Its first aim is to improve PhD students' capability to discern scholarly controversies and to advance their ability to interpedently resolve the legal problems by using all those methodological skills and technics that they have been thoughted during the lecturers. Secondly, the goal of the subject is to prepare PhD students for writing scholarly works as well as for public speaking and defending their PhD thesis.		
Topics: <ol style="list-style-type: none"> 1. General Theory of Law – Law as a science. Legal and Scientifical reasoning. 2. Natural Law Theories – Idealism in Law. A historical perspective (From Sophocles' Antigone to Human rights) and contemporary critics. 3. Social Law Theory – Law as a social phenomenon. Historical perspective (from Sociology of Law to Marxism) and contemporary critics. 4. Legal Normativism – Law as an autonomous system of norms. Historical perspective (Hans Kelsen's Pure Theory of Law) and contemporary critics. 5. Legal Realism – Law as a court ruling. Historical perspective (from Alf Ross to Michel Troper) and contemporary critics. 6. Analytical theory of Law – Law as a legal discourse. Historical perspective (Herbert A.L. Hart and Norberto Bobbio) and contemporary critics. 7. Topic – Law as an argumentation. Historical perspective (Viehweg and Perelman) and contemporary critics. 8. Theory of world system and General Theory of Law – The Rule of Law and Dynamics of Capitalism. 9. Legal writing – Use of sources and literature. 10. Legal writing – Methodological framework of scholarly article. 11. Legal writing – Structure of a scholarly article. 12. Legal writing – Scholarly style. 13. Writing of a research project. 14. Addressing to conference. 15. A workshop. 		
Recommended reading Students taking the course in English will be provided with a list of recommended reading.		
Number of classes 6 (a week)	Teaching: 4	Students'individual research: 2
Teaching Methods Interactive lecturers as a main model of teaching work (student presentations and discussion forums included), followed by two hours of practical workshop aiming at developing the ability to recognize, explain and use legal arguments in scholar texts and		

debates. The idea of the subject is to advance students discursive and cognitive skills throughout individual research tasks and projects.

Grading

The final grade consists of the points (max. 100) achieved by completing a research project (30) and the final written exam (70).

Course: Public International Law and Contemporary World
Professor: Tatjana Papić
Course type: elective
ECTS: 12
Requirements for enrolment: (a) proficiency in English, and (b) the completion of the basic course in public international law at the previous level of university studies.
<p>Course Description</p> <p>This course aims at providing students with an in-depth understanding of public international law, both in respect its theory and practice. The course aspires to enhance students' grasp of the origins, nature and limits of international law and to prepare them to engage with contemporary challenges in the field. Additionally, it strives to strengthen critical and independent consideration of the application of international law in different settings. In that way, the course empowers students to recognise and tackle international law aspect of legal questions they might encounter for the purposes of their doctoral thesis research.</p>
<p>Learning outcomes</p> <p>Learning outcomes include: (1) acquiring in-depth theoretical and practical knowledge of international law; (2) the ability to research, analyse and discuss different issues in international law, including those which relate to its contemporary challenges; (3) understanding of the interaction between international and national legal frameworks; and (4) the competence in recognising and confronting international law aspect of their doctoral research.</p>
<p>Topics:</p> <ol style="list-style-type: none"> 16. International law in the diplomatic history 17. How To Approach International Law? 18. What is a Purpose of International Law? 19. What Type of Law? 20. The Notion of Sovereignty in International Law 21. Sources of International Law 22. The Nature of International Law 23. The Rule of International Law 24. Application of International Law in Domestic Legal Order 25. International Law and International Politics 26. International Courts 27. State Responsibility in the light of the Right to Life – Case Study <i>Makuchyan and Minasyan Case</i> 28. International Huma Rights Law 29. International Law in the Digital Age Freedom of Expression – Viral Misinformation and the Freedom of Expression 30. <i>Ius ad bellum</i> and <i>ius ad bello</i> in the Contemporary Context
<p>Recommended Literature</p> <ol style="list-style-type: none"> 1. ICJ, <i>Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo</i>, Advisory Opinion of 22 July 2010, ICJ Reports 2010, p. 403. https://www.icj-cij.org/files/case-related/141/141-20100722-ADV-01-00-EN.pdf 2. ICJ, <i>Barcelona Traction, Light and Power Company Limited (Belgium v. Spain) (Second Phase)</i>, Judgment of 5 February 1970, ICJ Report 1970, p. 3. https://www.icj-cij.org/files/case-related/50/050-19700205-JUD-01-00-EN.pdf

3. ICJ, *Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment of 26 February 2007, ICJ Reports 2007, p. 43. <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>
4. ICJ, *Case Concerning the Arrest Warrant of 11 April 2000* (Democratic Republic of Congo v. Belgium), Judgment of 14 February 2002, ICJ Reports 2002, p. 3. <https://www.icj-cij.org/files/case-related/121/121-20020214-JUD-01-00-EN.pdf>
5. ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of 8 July 1996, ICJ Reports 1996, p. 226. <https://www.icj-cij.org/files/case-related/95/095-19960708-ADV-01-00-EN.pdf>
6. ICJ, *Military and Paramilitary Activities in and against Nicaragua* (Nicaragua v. United States), Judgment of 27 June 1986, ICJ Reports 1986, p. 14. <https://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf>
7. ICJ, *Nottebohm Case* (Lichtenstein v. Guatemala) (Second Phase), Judgment of 6 April 1955, ICJ Reports 1955, p. 4. <https://www.icj-cij.org/files/case-related/18/018-19550406-JUD-01-00-EN.pdf>
8. ICJ, *Nuclear Test Case* (Australia v. France; New Zealand v. France), Judgment of 20 December 1974, ICJ Reports 1974, p. 253. <https://www.icj-cij.org/files/case-related/58/058-19741220-JUD-01-00-EN.pdf>
9. ICJ, *Reparation for Injuries Suffered in the Service of the UN*, Advisory Opinion of 11 April 1949, ICJ Report 1949, p. 174. <https://www.icj-cij.org/files/case-related/4/004-19490411-ADV-01-00-EN.pdf>
10. ICJ, *Reservations to the Convention on Genocide*, Advisory Opinion of 28 May 1951, ICJ Reports 1951, p. 15. <https://www.icj-cij.org/files/case-related/12/012-19510528-ADV-01-00-EN.pdf>
11. ICJ, *United States Diplomatic and Consular Staff in Teheran* (US v. Iran), Judgment of 24 May 1980, ICJ Reports 1980, p. 3. <https://www.icj-cij.org/files/case-related/64/064-19800524-JUD-01-00-EN.pdf>
12. ICTY, Trial Chamber, *The Prosecutor v. Furundžija*, IT-95-17/1T, Judgment of 10 December 1998. <https://www.refworld.org/cases,ICTY,40276a8a4.html>
13. International Law Commission, 2001, *Articles on Responsibility of States for International Wrongful Acts with Commentaries*. https://legal.un.org/docs/?path=../ilc/texts/instruments/english/commentaries/9_6_2_001.pdf&lang=EF
14. EctHR, *Handyside v. UK*, no. 5493/72, Judgment of 7 December 1976 [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-57499%22\]}](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57499%22]})
15. Ginsburg, T., 2020, "Authoritarian International Law", *AJIL*, Vol 101, p. 221, <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/authoritarian-international-law/FEE3604900EE3EF547B5A87BEA265571>
16. Discussion on Anthea Roberts' book *Is International Law International?*, 2017, OUP, <https://www.youtube.com/watch?v=eSAu2FZNcpo>
17. Chesterman, S., 2005, "An International Rule of Law", *Max Planck Encyclopedia of Public International Law*, <https://www.iilj.org/wp-content/uploads/2017/03/Chesterman-An-International-Rule-of-Law-2005.pdf>
18. Peters, A., 2009, "Humanity as the A and Ω of Sovereignty", 29 *EJIL*, Vol. 29, p. 513, <https://academic.oup.com/ejil/article/20/3/513/402328>
19. Hakimi, M., 2017, "The Work of International Law", *Harvard International Law Journal*, Vol. 58, pp. 1-46. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2865&context=articles>

20. Hakimi, M., 2020, Why Should We Care About International Law?, Michigan Law Review, Vol. 118, pp. 1283-1306. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=5828&context=mlr>
21. Milanović, M., Papić, T., 2009, As Bad As It Gets: The European Court of Human Rights's Behrami and Saramati Decisions and General International Law, International and Comparative Law Quarterly, Vol. 58, pp. 267-296.
22. Papić, T., 2021, Derecognition of States: The Case of Kosovo, Cornell Journal of International Law, Vol. 53, pp. 101-153.
23. Montevideo Convention on the Rights and Duties of States, 1933, 135 LNTS 19. <https://www.jus.uio.no/english/services/library/treaties/01/1-02/rights-duties-states.xml>
24. PCIJ, *SS Lotus Case* (France v. Turkey), Judgment of 7 September 1927, Series A, No. 10, p. 1. https://www.icj-cij.org/files/permanent-court-of-international-justice/serie_A/A_10/30_Lotus_Arret.pdf
25. Milanović, M., 2016, The Impact of the ICTY on the Former Yugoslavia: An Anticipatory Postmortem, AJIL, Vol. 110, p. 233, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2755505
26. General Assembly, Report of the the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, UN Doc. A/68/382 (13 September 2013), <https://digitallibrary.un.org/record/758638?ln=en>
27. Human Rights Council, Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, UN Doc. A/HRC/47/25 (13 April 2021), <https://undocs.org/A/HRC/47/25> Supreme Court of Canada, *Reference Re Secession of Quebec*, 1998 CanLII 793 (SCC), [1998] 2 SCR 217. <https://www.canlii.org/en/ca/scc/doc/1998/1998canlii793/1998canlii793.html>
28. UN Human Rights Committee (HRC), *CCPR General Comment No. 24: Issues Relating to Reservations Made upon Ratification or Accession to the Covenant or the Optional Protocols thereto, or in Relation to Declarations under Article 41 of the Covenant*, UN dok. CCPR/C/21/Rev.1/Add.6 (4 November 1994). <https://www.refworld.org/docid/453883fc11.html>
29. UN Security Council Resolution 1244 (1999). <https://digitallibrary.un.org/record/274488>
30. UN Security Council Resolution 1368 (2001). https://avalon.law.yale.edu/sept11/unsecres_1368.asp
31. UN Security Council Resolution 1373 (2001). <https://www.refworld.org/docid/3c4e94552a.html>
32. UN Security Council Resolution 678 (1990). <https://digitallibrary.un.org/record/102245>
33. UN Security Council Resolution 2249 (2015). <https://www.refworld.org/docid/5656a4654.html>

Number of classes	Teaching:	Practicum:
5 (a week)	5	-
Teaching Methods		
Interactive lectures, class discussion, case studies, individual research assignments and presentations, essays, practical exercises and consultations		
Grading		
A. Students' performance will be primarily graded on the basis of the final paper submitted at the end of the course.		

- B. In addition, students will write one reflection paper during the course of the semester.
- C. Class participation will be taken into consideration.
- D. The final grade will be 65% final paper, 20% reflection paper, and 15% participation.

Course Title: Constitutionalism and Democracy
Teaching Instructors: Professor Violeta Beširević ; Associate Professor Marko Božić
Course Type: Elective
ECTS: 12
Prerequisite: None
<p>Course Description</p> <p>The course deals with theoretical issues concerning constitutional design and constitutional adjudication. The topics and related comparative research deals with classical and arising issues of constitutional study, including the relationship between democracy and constitutionalism, rule of law, separation of powers, constitutional review, constitutional rights, EU constitutionalism, militant democracy, erosion of democracy and populism, etc. The course will focus on comparisons of selected topics in different jurisdictions, critical analysis of the constitutional solutions and related theoretical assumptions.</p>
<p>Learning Outcomes</p> <p>After studying this course, the students should be able to:</p> <ul style="list-style-type: none"> • Recognize the relevance of underlying issues in modern constitutional democracies. • Identify key issues concerning fundamental constitutional solutions in different jurisdictions and compare it with international standards. • Understand the influence of politics and political actors on democratic processes in contemporary constitutional democracies.
<p>Topics:</p> <ol style="list-style-type: none"> 1. Constitutionalism, Constitution and Democracy: Definitions and Mutual Relations 2. Constitutional Patriotism and Constitutional Identity 3. Adoption and Change: Universal Principles in the Historical Context; Migration of Constitutional Solutions; Procedure for Enacting and Amending the Constitution in a Comparative Perspective 4. Student Debate: Does the Republic of Serbia Need to Change Its Constitution in the Process of European Integration? 5. Global Constitutionalism: State Sovereignty in a Contemporary Perspective; Global Governance and Global Laws; The Problem of Democratic Legitimacy 6. European Constitutionalism: EU Constitutionalization; The Legal Nature of the EU; Why the EU Has a Constitution; EU and Democratic Deficit; The Relationship Between the Member States' National Constitutions and the EU Constitution. 7. The Rule of Law and Separation of Powers: Politics and Law; Legal, Political, and Normative Characteristics of the Rule of Law; Separation of Powers: Personnel, Functional and Organizational Demarcations; Checks and Balances. 8. Constitutionalism in the Age of Populism: Case Study: USA; Hungary, Poland, Turkey, Serbia 9. What Rights are Constitutional? What are We Talking About When We Talk About Human Rights: Moral or Political Categories? Conflict of Rights, Recognition of New Human Rights. 10. Are Group, Social and Economic Rights Anti-Democratic? 11. Militant Democracy: Concept and Dilemmas 12. Religion and the Secular State: Can the State be too Secular? 13. Constitutional Review: Constitutional Review and Democracy; The Constitutional Judiciary as a Political Actor; Interpretation and the Constitutional Amendments; The Problem of The Counter-Majoritarian Mechanism; The Political Question Doctrine in The Constitutional Courts' Jurisprudence. 14. Constitutional Judiciary in the Age of Populism: Constitutional Courts as Opponents or Allies of Populist Regimes; Case Study: USA; United Kingdom; Israel, Poland, Serbia 15. State of Emergency in Response to a Crisis: Defending or Compromising Democracy; Security against Freedom; the State of Emergency in the legal limits: for and against.
<p>Required and Optional Reading</p> <p>V. Beširević (ed.), <i>New Politics of Decisionism</i>, The Hague, Eleven International Publishing, 2019.</p> <p>V. Beširević (ed.), <i>Public Law in Serbia: Twenty Years After</i>, London, EPL & Esperia Publications Ltd, 2012.</p> <p>V. Beširević, N. Udombana (eds.) <i>Rethinking Socio-Economic Rights in an Insecure World</i>, Budapest, CEU Center for Human Rights, 2006.</p> <p>V. Beširević (ur.), <i>Militantna demokratija - nekada i sada</i>, Beograd, Sl. glasnik & PFUUB, 2013.</p> <p>V. Beširević, "Governing Without Judges": The Politics of the Constitutional Court in Serbia," <i>International Journal of Constitutional Law</i> (I-CON), vol. 12, no. 4, 2014, pp. 954-979.</p> <p>V. Beširević, Making Sense of Political Question Doctrine: the Case of Kosovo, <i>Review of Central and East European Studies</i>, 2020, u štampi.</p> <p>V. Beširević, "If Schmitt were alive...Adjusting Constitutional Review to Populist Rule in Serbia," in V. Beširević (ed.), <i>New Politics of Decisionism</i>, The Hague, Eleven International Publishing, 2019, pp. 193-207.</p> <p>V. Beširević, A. Trbović, "New Challenges of Democracy in Serbia: Global Issues in Local Perspective," in <i>New Challenges of Democracy, European Review of Public Law</i>, London: EPL & Esperia Publications, 2015, pp. 435-481.</p> <p>V. Beširević, "Constitutional Review in a Democratic Deficit Setting: The Case of the European Union," in: M. Jovanović (ed.), <i>Constitutional Review and Democracy</i>, The Hague, Eleven Publishing International, 2015, pp. 83-107</p> <p>V. Beširević, "The Constitution in the European Union: The State of Affairs," in: A. Dupeyrix, G. Raullet (eds.), <i>European Constitutionalism. Historical and Contemporary Perspectives</i>, Brussels, Peter Lang, 2014, pp. 15-35.</p> <p><i>Beširević, Violeta, "Уставно судство у земљама у транзицији: лекције из упоредног права," у: Б. Ненадић (ур.), Улога и значај Уставног суда у очувању владавине права, Београд, Уставни суд РС, 2013, стр.268-289.</i></p>

V. Beširević, "Ko se boji federalne Evrope? Kritički osvrt na „lisabonsku“ odluku Saveznog ustavnog suda Nemačke," (2011) *Pravni zapisi* br. 1, str. 53-79.

M. Božić, *Laička Republika*, Beograd, Pravni fakultet, 2014.

M. Božić, "Sistem državne crkve u Evropi," *Pravni život*, br. 14, 2009, str. 457- 489.

M. Božić, G. Mitrović, "Načelo laiciteta u Ustavu Evrope", *Pravni život*, br. 12, 2005, str. 643-656

F., *Carl, Konstitucionalna demokratija : teorija i praksa u Evropi i Americi*, Podgorica : CID, 2005.

N. Dimitrijević, *Ustavna demokratija shvaćena kontekstualno*, Beograd : Fabrika knjiga, 2007.

J. Баста Флајнер, *Политика у границама права : студија о англосаксонском конституционализму*, Београд , Сл. гласник, 2012.

M. Rosenfeld, Sajó, A, *The Oxford handbook of comparative constitutional law*, Oxford, Oxford University Press, 2012.

A. Sajó, R. Uitz, *The constitution of freedom : an introduction to legal constitutionalism*, Oxford, Oxford University Press, 2017.

R. Dvorkin, *Suština individualnih prava : novo izdanje sa odgovorom kritičarima*, Beograd, Sl. list SRJ, Podgorica, CID, 2001.

Dž. Vajler, *Ustav Evrope: "Ima li novo odelo svoga cara?" i drugi eseji o evropskoj integraciji*, Beograd, Filip Višnjić, 2002.

J. W. Müller, *Ustavni patriotizam*, Beograd, Fabrika knjiga, 2010.

J. W. Müller, *Šta je populizam?*, Beograd, Fabrika knjiga, 2017

J. Raz, *Etika u javnom domenu : ogledi iz moralnosti prava i politike*, Podgorica, CID, 2005.

О.Бо, *Држава и њена власт*, Београд : Сл. Гласник, Правни факултет, 2016.

R. Dal, *Demokratija i njeni kritičari*, Podgorica, CID, 1999.

S. Flogaitis, G. Timsit (eds.), *New Challenges to Democracy*, Athens, European Public Law Organization, 2015.

A. Tocqueville, *Democracy in America*, New York [etc.]: Harper and Row, 1966.

H. Kelsen, *О суштини и вредности демократије*, Београд, Центар за унапређивање правних студија, 1999.

Number of Classes 5 (a week)	Teaching 5	Practicum -	
Teaching Methods According to the so-called Socratic teaching method, lectures are based on interactive teaching. The development of doctrinal positions, comparative constitutional solutions of legislation, and court practice are approached through the dialogue of a teacher and students. During the classes, discussions are organized on given topics and performed through specific research tasks assigned to students in case studies. Students will have the opportunity to present the results of their research publicly and defend them in a public discussion.			
Grading (maximum 100 points). The final grade consists of the points achieved by fulfilling class assignments and the final written exam.			
CLASS ASSIGNMENTS	POINTS	FINAL EXAM	POINTS
Research and Class Presentation	30	Written exam essay type	60
Class Performance	10		