

Law in Cyberspace 20201-2022

NWI-IMC006

Living Syllabus, V. 1

Please check Brightspace for the most recent version

Teachers

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NB: Please ask questions in the discussion forum, not by email.
Only email us if you cannot find your answer on the Radboud and
Brightspace websites.

Introduction

This course aims to provide computer and information scientists with an overview of the legal domain and a reflection on the fundamental changes in the legal system due to the emerging computational infrastructure. After the course, you will be able to:

- Detect legal issues and distinguish them from the ethical, political, and technical dimensions of a problem
- Locate and interpret relevant legal sources (e.g. statutes, case law, international conventions, EU Directives)
- Apply legal rules, for instance regarding privacy and data protection, in situations that are relevant for computer scientists.

Required study material

Each week, you are required to read texts. Each week, we will upload slides that help you to identify the main themes of the texts. For the exam, you must study both the both the slides and the reading materials. The slides can contain material which is not in the reading material, and vice versa.

Among other material, we will read the first 8 chapters of this book:

Hildebrandt, M. (2020). *Law for Computer Scientists and other folk*. Oxford University Press.

The PDF of the book is available, open access, here:

<https://global.oup.com/academic/product/law-for-computer-scientists-and-other-folk-9780198860884?cc=us&lang=en&>

We *strongly* advise you to print the reading materials. People can focus better when they read from paper. And studying law requires reading, and focusing on, considerable amounts of text.

Discussion forum

To enable us to discuss topics from the reading materials and the slides, we have opened a discussion forum on Brightspace. If anything is unclear from the reading materials, or if you'd like to discuss the reading materials: please start a thread! You are also encouraged to react to questions from other students.

We will keep an eye on the discussion forum, to answer questions etc.

You can also discuss law-related or privacy-related topics that are not directly part of the course topics. If you come across fun or interesting news with a legal angle: please start a thread!

For the forum, go to: 'Activities' → 'Discussions'.

1 Week 1, introduction, legal sources (10 Sep.)

- Read this syllabus and the table of contents of the book by Prof. Hildebrandt. As noted, we advise you to print (or buy) the book.

2 Week 2, legal effects, legal reasoning, Data Retention judgment (17 Sep.)

- From the book by Prof. Hildebrandt:
 - Chapter 1 (Section 1.1 - 1.4 you can skim-read.)
 - Chapter 2

3 Week 3, domains of law, chapter 3 (24 Sep.)

- From the book by Prof. Hildebrandt: chapter 3

4 Week 4, international and EU law (1 Oct.)

- From the book by Prof. Hildebrandt: chapter 4

5 Week 5, human rights, privacy (8 Oct.)

- From the book by Prof. Hildebrandt, chapter 5, section 5.1 until (and including) section 5.4.

6 Week 6, data protection, part 1 (15 Oct.)

- C.J. Hoofnagle, B. van der Sloot, Bart, and F.J. Zuiderveen Borgesius, 'The European Union General Data Protection Regulation: what it is and what it means', Information & Communications Technology Law, 2019, Vol. 28, No. 1, p. 65–98. <https://doi.org/10.1080/13600834.2019.1573501>
- Article 1 - 22 of the GDPR. Pay extra attention to article 1 - 6. <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679#d1e2244-1-1>

7 Week 7, data protection, part 2 (22 Oct.)

- From the book by Prof. Hildebrandt, chapter 5: section 5.5 - end of the chapter.
- Re-read article 1 - 22 of the GDPR.
- Look at the websites of the EDPB and the EDPS. Read about the function and activities of the EDPB and the EDPS, and browse the documents published by both of them.

<https://edpb.europa.eu>

<https://edps.europa.eu>

No lecture on 29 Oct. & 5 Nov.

8 Week 8, a judgment about the GDPR: Voetbal TV (12 Nov.)

This week, you must read a judgment by a Dutch court, which was translated to English by a law firm (Rechtbank Midden-Nederland, 23 November 2020, ECLI:NL:RBMNE:2020:5111, VoetbalTV/Autoriteit Persoonsgegevens).

- Here is the judgment
https://www.brinkhof.com/app/uploads/2020/11/Unofficial_translation_VoetbalTV_AP_23_November_2020-2.pdf
 When reading, pay extra attention to paragraph 11- 24. As you can see, the Court interprets the 'legitimate interests provision' (article 6(1(f) of the GDPR) in a different way than the Dutch Data Protection Authority. While reading: assess whether you agree with the court or not.
- 'Opinion 06/2014 on the notion of legitimate interests of the data controller under Article 7 of Directive 95/46/EC' by the Article 29 Working Party, but only these parts:
 - a) The table of contents
 - b) Section III.2. Article 7(a)-(e), so page 16 - 23.https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2014/wp217_en.pdf

The Opinion is also in the content section.

The 'legitimate interests provision' is almost the same in the GDPR and its predecessor (the Data Protection Directive 95/46/EC). Therefore, the opinion by the Article 29 Working Party is still relevant. Now the Article 29 Working Party has been replaced by the European Data Protection Board.

- Re-read the materials about a legal basis for processing (article 6 GDPR) from week 6 and 7.
- This is optional, but probably helpful:
You can read this press release for a quick idea of the judgment, before you read the judgment itself. <https://www.brinkhof.com/en/news/brinkhof-scores-victory-for-voetbal-tv-in-first-dutch-case-on-gdpr-fines/>

9 Week 9, cybercrime (19 Nov.)

- From the book by Prof. Hildebrandt, chapter 6

10 Week 10, Intellectual property, copyright, private law liability (26 Nov.)

- From the book by Prof. Hildebrandt, chapter 7
- Week From the book by Prof. Hildebrandt, chapter 8

11 Week 11, freedom of expression (3 Dec.)

- S. Kulk and F.J. Zuiderveen Borgesius, 'Privacy, Freedom of Expression, and the Right to Be Forgotten in Europe', chapter in Cambridge Handbook of Consumer Privacy, eds. Jules Polonetsky, Omer Tene, and Evan Selinger (Cambridge University Press, 2018), <https://ssrn.com/abstract=2923722> / <https://works.bepress.com/frederik-zuiderveenborgesius/16/>

12 Week 12, AI and discrimination (10 Dec.)

- 'Discrimination, artificial intelligence, and algorithmic decision-making', report for the European Commission against Racism and Intolerance (ECRI), Council of Europe, 2019. <https://rm.coe.int/discrimination-artificial-intelligence-and-algorithmic-decision-making/1680925d73>

13 Week 13, to be confirmed (17 Dec.)

- To be confirmed

14 Week 14, to be confirmed (24 Dec.)

- To be confirmed

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