

CHILDREN'S E-RIGHTS IN THE EUROPEAN UNION INFORMATION SOCIETY

Curso 2017/2018

(Código:26602552)

1.PRESENTACIÓN

Presentation

"CHILDREN'S E-RIGHTS IN THE EUROPEAN INFORMATION SOCIETY" is a part of LLM in European Union Law, which is a distance learning programme offered by one of the leading law universities in Spain, the UNED-Spain.

This LLM pathway provides in-depth and up-to-date knowledge of the most important theoretical and practical aspects of EU law focusing on the "Digital Agenda for Europe" within the European Commission Programme titled "Europe 2020" (COM (2010) 245 final) and on the "European Strategy for Better Internet for Children" (COM (2012) 196 final).

"Digital Agenda for Europe" is one of the seven initiatives foreseen in the "Europe 2020 Strategy" to achieve a single digital market. Therefore, it sets out to define the key enabling role that the use of Information and Communication Technologies (ICT) will have to play if Europe wants to succeed in its ambition for 2020. The Commission has identified the seven most significant obstacles to reach this goal (fragmented digital markets, lack of interoperability, rising cybercrime and risk of low trust in networks, lack of investment in networks, insufficient research and innovation efforts, lack of digital literacy and skills and missed opportunities in addressing societal challenges). They have proposed, within the action areas of Digital Agenda concerning "Building digital confidence" not only the review of the EU Data Protection regulatory framework but also the issue of a Code of EU Online Rights by 2012. This Code will summarize existing digital user rights in the EU in a clear and accessible way (Key Action 4).

Although the right to privacy and the protection of personal data are fundamental rights in the EU, and will be included and taken into account in the above mentioned Key Action 4, other specific actions were prepared in parallel, such as the "EU Agenda for Rights of the Child" [(COM (2011) 60 final)] because children have specific needs and vulnerabilities and this difference has to be recognized and a proper strategy should be developed.

Based on this Agenda, the latest Communication from the Commission to other institutions, "European Strategy for a Better Internet for Children", deals with the particular risks of children in ICT and proposes a new Eco-system to support their needs in order to create a safer, enriching environment for all EU children online. This system will ensure the enforcement of existing EU rules and stimulate further self-regulatory measures. Despite the fact that children are "digital natives", they are not aware of the potential consequences of their everyday actions, such as putting photos on the network or of the actions of others, for instance, distributing child sex abuse images. Both legislative approaches will be studied on this course.

Both, rapid technological developments and globalization have brought new challenges for data protection and differences in the way that each EU country implements the law, mainly, the centrepiece of existing EU legislation on personal data protection, Directive 95/46/EC. Therefore, currently, there is different levels of protection for personal data, depending on where an individual lives or buys goods and services. The result is a fragmented legal environment with legal uncertainty and unequal protection for individuals

and, in particular, for the minors.

This is the reason why the Commission has proposed a comprehensive reform of the data protection rules, some of them are special rules for minors and so, it should be them analyzed in this programme.

2.CONTEXTUALIZACIÓN

Context

The topic aims to provide students and professionals with in-depth and up-to-date knowledge of child protection in the field of Information and Communication Technology (ICT) as the most important theoretical and practical aspect of EU law, by focusing on Safer Networking.

The programme will deal in general with the freedom to provide services in the information society; covering also the Directives of data protection and telecommunications and like the form of achieving a single digital market in EU; it concludes with the judicial review of EU law, including the liability of EU industrial self-regulations and the enforcement of both hard and soft-law with regard to the protection of children's rights in national courts and the applicable procedures.

The current digital framework is changing and its rules do not prevent its fragmentation, therefore, the Commission has proposed new legal framework consists of two legislative proposals: a proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), and a proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data. Both of future legislative rules will be analyzed in this Programme in relation to children.

The syllabus covers: an introduction to child protection in safer networking including not only existing EU rules but also the EU legislation made by the industry and the EU: self-regulations, such as *The Safer Social Networking Principles for EU* or the *Direct Marketing: The European Code of Practice for the use of Personal Data in Direct Marketing (FEDMA Code's Annex)*.

3.REQUISITOS PREVIOS RECOMENDABLES

Previous Knowledge

1) The basic requirements for admission to the LLM programme.

2) The English language entry requirements specified in the LLM programme. In order to analyse foreign documents and to follow our programme successfully, knowledge of French or Spanish could be useful.

3) Students must be computer users. The basic book is in digital support and other didactic material will be available in the online course. The "alf platform" will allow interactive student contact, (such as forum, chats...), asking questions on module topics and other activities and tests for student evaluation.

4.RESULTADOS DE APRENDIZAJE

Learning benefits

The module gives an in-depth insight into European Union Law, principles, self-regulation, jurisprudence and practice in child protection in the field of ICT.

5.CONTENIDOS DE LA ASIGNATURA

European Parliament legislative resolution of 12 March 2014 on the proposal for a regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) will be the main rule that involved the following Core programme content:

Module One: Status quo of the Children's risks within ICT:

- Introduction on single digital market : "Digital Agenda for Europe" in the "Europe 2020. A strategy for smart, sustainable and inclusive" and "European Strategy for Better Internet for Children".
- "European Protection Children's Policies and Rules and Modernisation of the Council of Europe Convention 108 on Data Protection Principal rules on EU".
- Children's protection on Information and Communication Technologies (ICT) in Europe: existing EU rules, European Programmes Groups and Forums on Safer Internet such as *Safer Internet Plus Programme*, WT-29 on personal data protection or Forum on Safer-Networking.
- Children's protection on Information and Communication Technologies (ICT) in Spain: existing Spanish rules (statutory rules and autonomus rules) and Spanish Agency on Data Protection and other groups.

Module Two: Towards self-Regulations pathways

i. Principal self-regulations in Europe:

- Internet and mobile technologies areas: *Safer Social Networking Principles for EU* 2009, and *European Framework for Safer Mobile use by Young Teenagers and Children* 2007, *Code of conduct Safer use of mobile phones and services by younger teenagers and children* 2008 and *Statement of Purpose "A better Place for kids "* 2011 and *the Principles for the Safer Use of Connected Devices and Online Services by Children and Young People in the EU* 2012.
- Direct and Interactive Marketing area: *European Code of Practice for the use of Personal Data in Direct Marketing (FEDMA Code* 2002 (2010).
- Interactive software Products area: *Code of Conduct for the European Interactive Software Industry regarding Age rating Labelling, promotion and Advertising of Interactive software products (PEGI Code)*.

ii. Self-regulations in Spain:

- General publicity area: *Código de Conducta Publicitaria y Código Ético de Comercio Electrónico y Publicidad Interactiva* of AUTOCONTROL and AECM.
- Specific publicity areas: *Código Ético de Publicidad en Cine* 2000, *Directrices buenas Prácticas Publicidad de Productos software interactivo*, *Código de Autorregulación de la publicidad de alimentos dirigida a menores, prevención de la obesidad y salud (PAOS Code)*.
- Audiovisual area: *Código de Autorregulación sobre contenidos televisivos e infancia* 2003 (2010).

Module Three: Protections Children's Measures

- Education: Digital Literacy and e-you Guide: your rights on line.
- Jurisprudence of the European Court of Justice (ECT) and the Spanish Court in matters of data protection, services information society and individual's e-rights.
- Institutions on child protection in Europe and Spain, such as INHOPE.
- Towards where?: Model of Children's e-rights Code or Pan-European Children`s Online Privacy Protection Rule or Global Regulation on Children's Online Privacy Protection.

6.EQUIPO DOCENTE

- [MARIA TERESA BENDITO CAÑIZARES](#)

7.METODOLOGÍA

Methodology

The module will be taught following the non presential method of the Open-University. In the online course students will find videos, radio and other interactive activities, such as forums, chats...

8.BIBLIOGRAFÍA BÁSICA

ISBN(13): 9788436265019

Título: SELF-REGULATION: AN OPTION FOR PROTECTION OF ¿DIGITAL NATIVES¿/ LA AUTORREGULACIÓN: UNA ALTERNATIVA PARA LA PROTECCIÓN DE LOS ¿MENORES DIGITALES¿ (1)

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Editorial: U N E D

Buscarlo en librería virtual UNED

Buscarlo en bibliotecas UNED

Buscarlo en la Biblioteca de Educación

Buscarlo en Catálogo del Patrimonio Bibliográfico

Comentarios y anexos:

Basic Bibliography

1. BENDITO CAÑIZARES, *Self-regulation: an option for protection of "digital natives"/ La autorregulación: una alternativa para la protección de los "menores digitales"*, ISBN 978-84-362-6501-9, Código 2660255MR01L01, e-book, Editorial UNED, noviembre 2012.

2. BENDITO CAÑIZARES, *¿Nuevos avances en la ponderación de los intereses legítimos del nativo digital y del responsable en el tratamiento de datos?*, *Revista Aranzadi de Derecho y Nuevas Tecnologías*, núm. 39, septiembre-diciembre 2015, págs. 105-168.

3. EU existing and other EU documents that will be schematised online course and links in order to quick-searching.

Obligatory reading:

Collective books:

1. DIEZ PICAZO, ROCA TRIAS Y A.M. MORALES, *Los Principios del Derecho Europeo de Contratos*, Civitas, Madrid, 2002.
2. Códigos de conducta y actividad económica: una perspectiva jurídica, libro colectivo de los I y II Congresos Internacionales "Códigos de Conducta y Mercado", organizado por la Facultad de Derecho de la Universidad Complutense de Madrid, Coord. Alicia Real Pérez, Pons, 2010:
 - PIÑAR MAÑAS, *Códigos de conducta y espacio digital. Especial referencia a la protección de datos*.
 - RODOTÀ, *Códigos de conducta: entre hard law y soft law*.
 - FLESCHER, *On line Privacy and Code of Conduct*.
 - MASSAGUER, *Aproximación a la autorregulación publicitaria*
 - RODRIGUEZ DE LAS HERAS BALLELL, *Espacio Digital y Autorregulación*.
3. Redes sociales y privacidad del menor, Fundación Solventia, Madrid, 2011:
 - MURILLO DE LA CUEVA, *Observaciones sobre la privacidad del menor ante las nuevas tecnologías, instrumentos jurídicos y competencia judicial*.
 - RODOTÀ, *Sociedad contemporánea, privacidad del menor y redes sociales*.
4. Las actas del VII Congreso Internacional Internet, Derecho y Política (IDP 2011): *Neutralidad de la red y otros retos para el futuro de Internet*:
 - BURNIK, Jelena, *Behavioural Advertising in electronic communications: a benefit to electronic communication development and an intrusion of individual's right to privacy and data protection*.
 - PERE SIMÓN CASTELLANO, *El régimen constitucional del derecho al olvido en Internet*.
 - ORZA LINARES Y RUIZ TARRÍAS, *El derecho al olvido en Internet*.
5. Contenidos y mercado en la regulación de la comunicación audiovisual, El nuevo marco normativo de la Ley 7/2010, General de Comunicación Audiovisual, con la codirección de Belando Garín, Montiel Roig, Tirant lo Blanch, Valencia, 2011:
 - VIDAL BELTRAN, *Regulación y realidades de autorregulación de contenidos audiovisuales en España*
 - PERALES ALBERT y PASTOR PEREZ, *La protección del menor a través de sistemas de regulación voluntaria: El caso del Código de Autorregulación de Contenidos Televisivos e Infancia*.
6. Comentarios a la Ley de Propiedad Intelectual, 3ª ed. Tecnos, Madrid, 2007:
 - DE ENTRE-SOTOS FORNS, *Comentario al art. 44 LPI*.
7. Comentarios a la Constitución española de 1978, dirigidos por Oscar Alzaga Villaamil, Tomo II, artículos 10-23:
 - SEMPERE RODRIGUEZ, *Artículo 18 de la Constitución*
8. Monográfico sobre Protección de datos, Anuario de la Facultad de Alcalá de Henares II, 2009: e_Buah: Biblioteca Digital de la Universidad de Alcalá de Henares:
 - ARTEMI RALLO LOMBARTE, *La protección de datos en España. Análisis de actualidad*.

- ANTONIO TRONCOSO REIGADA, *La Huída de la Administración Pública hacia el Derecho privado y la privatización de los servicios públicos: consecuencias del régimen jurídico de los ficheros de datos personales y en la delimitación del responsable y del encargado del tratamiento.*
- ESTHER MITJANS PERELLÓ, *Impacto de las redes sociales en el derecho a la protección de datos personales.*
- LUCAS MURILLO DE LA CUEVA, *La protección de datos de carácter personal en el horizonte 2010.*
- PÉREZ LUÑO, *La protección de los datos personales del menor en Internet.*
- REBOLLO DELGADO, *La imagen como dato.* [imagen_rebollo_AFDUA_2009.pdf](#).
- SÁNCHEZ CARAZO, *La protección de datos personales de las personas vulnerables.*
- SONIA SÁNCHEZ HERNÁNDEZ, *La protección de datos personales en las Pymes.*
- DAVID LÓPEZ JIMÉNEZ, *La protección de datos personales en el ámbito de las redes sociales electrónicas: el valor de la autorregulación.*
- MÓNICA ARENAS, *El valor de la información personal: protección de datos personales y la sociedad del espectáculo.*
- CARLOS BARRIUSO RUÍZ, *Las redes sociales y la protección de datos hoy.*
- CENTENERA SÁNCHEZ-SECO, *La racionalidad normativa como prevención de resultados no deseados. Una aplicación práctica a un caso de "extravío" de datos personales.*
- RODRÍGUEZ PALENCIA, *La protección de datos en el ámbito de la relación jurídico-administrativa.*

Books and articles by individual authors

1. LUCAS MURILLO, *El derecho a la autodeterminación informática o informativa*, Tecnos, Madrid, 1990.
2. REBOLLO DELGADO, *El derecho fundamental a la intimidad*, Dykinson, Madrid, 2005.
3. LUENGO, *Glosario*, En busca del éxito educativo: realidades y soluciones, Fundación Antena 3, Madrid, 2010.
4. CAVANILLAS MUGICA, *La responsabilidad civil en Internet y su problemática actual*, 2008, <http://vlex.com/vid/responsabilidad-civil-internet-41265155> (19/12/2011).
5. ROSEMBERG HOLCBLAT Y SANCHEZ SANZ, *El Derecho a la Privacidad en Internet*, AR: Revista de Derecho Informático, N° 037- Agosto del 2001.
6. OTERO GARCÍA-CASTRILLÓN, *Autorregulación y establecimiento de estándares en los contratos internacionales*, AEDIPr, Tomo VIII, 2008.
7. ROSELLÓ MALLOL, *Marketing y protección de datos: últimas novedades normativas y autorregulatorias en el marketing online*, Noticias Jurídicas, diciembre 2010: <http://noticiasjuridicas.com/extras/print.php?doc=../articulos/15-Derecho%20Admini> (12/04/2011).
8. MADRID PARRA, *Contratación electrónica y protección de datos personales*, Revista de contratación electrónica nº 94, junio 2008.

9.BIBLIOGRAFÍA COMPLEMENTARIA

Comentarios y anexos:

Complementary Bibliography

All studies, reports and statistics sources, guides, videos, and documents in the above mentioned e-book above in Annexes I and II.

Existing legislation and self-regulations mentioned in Annex III.

10.RECURSOS DE APOYO AL ESTUDIO

Study resources

WEBSITES

<http://codigosdeconducta.com/portal/index.php>

<http://www.privacyrights.org>

http://kidshealth.org/parent/en_espanol/seguridad/

<http://www.margen.org/ninos/derech4a.html>

<http://www.privacyrights.org/spanish/pi21.htm>

<http://seguridad.internautas.org/>

<http://www.seguridadenlared.org/es/index.php>

<http://www.unicef.org/spanish/childsurvival/>

<http://www.inhope.org/gns/home.aspx>

<http://www.globalprivacybook.com/chapters/table-of-chapters>

VIDEO

Click on the play icon to watch the video. *A new Ecosystem online for supporting the Children's needs.*

AUDIO

Click on the title below to access the audio file player. *Toward the single digital market.*

11.TUTORIZACIÓN Y SEGUIMIENTO

Tutorials and Monitoring

For any enquiries related to the programme or admission, please click

[http://portal.uned.es/portal/page?
_pageid=93,635287&_dad=portal&_schema=PORTAL](http://portal.uned.es/portal/page?_pageid=93,635287&_dad=portal&_schema=PORTAL)

For more specific enquiries related to this module please contact

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12.EVALUACIÓN DE LOS APRENDIZAJES

Student Assessment

The evaluation will be carried out via the aIF platform on Friday 3 June and, for those who do not pass this exam, on Friday 2 September. It will be necessary to access the application by clicking the "Tareas" icon that will appear from 9:30 to 13:30.

The exam will consist of two short questions (to be answered in no more than fifteen lines) and a third question where the student must develop one of two proposed topics. Here there is no limit to the length of the student's answer. For all three questions a reference to the chapter or summary of the basic book where they can be found will be given. In this way, if the short questions and/or the topic to be developed are worded in a different way from that used in the title of the chapter where they can be found, they can be easily identified at the time of answering.

To pass the subject, students must achieve a minimum of 5 points out of 10, which will only be obtained if the two short questions are correctly answered. If one of these questions remains unanswered or is answered incorrectly, the topic to be developed will not be evaluated. The answer to the chosen topic will only serve to increase the student's mark if he has already achieved a pass mark with his answer to the two short questions.

The exam will last 90 minutes. It is calculated that 15 minutes are needed to answer each of the short questions and 60 minutes to develop the chosen topic

13.COLABORADORES DOCENTES

Véase equipo docente.