RISKS AND REGULATION OF NEW TECHNOLOGIES NEGOTIATION BOOTCAMP

Professor: **Raphaële Xenidis**
Language of instruction: **English**
Number of hours of class: **22h**

Objective of the Course

New technologies are used increasingly in many areas of life both in the private and in the public sector: to support medical diagnoses and healthcare; to predict systemic risks such as earthquakes, fires and climatic events; to help human resource services to hire job candidates; to assist banks and financial institutions when they provide credits and insurance policies; to generate hyper-realistic text and images or even art; to predict crime and shape policing strategies or to make recommendations to judges about sentences, etc. Combined with big data and AI, new technologies offer a lot of opportunities, for example by optimizing decision-making processes, providing new insights into complex phenomena, making risk assessments or recommendations more reliable, automating costly or dangerous tasks, and making goods or services more accessible to consumers. However, new technologies also present numerous risks for human safety, security and fundamental rights. This course delves into those risks and their regulation by European and international law- and policy-makers.

This course has a triple objective.
(1) It aims to familiarize students with negotiating practices and law-making processes. Students will discover and experience the complexity of multilateral law- and policy-making, with a focus on the Council of Europe and the European Union (EU).
(2) Second, the course aims to provide a general understanding of the main contemporary issues linked to the risks and the regulation of new technologies, artificial intelligence and big data. It also aims to raise awareness on how complex it is to regulate technology-related risks without stifling innovation.
(3) Third, the course aims to introduce the students to human rights and the regulation of technology in Europe, and the main theories that underpin these subjects. It will enable students to acquire a general understanding of the foundations of European fundamental rights law as well as the emerging field of law and technology. The course

will also introduce students to the regulatory dilemmas that arise when policy-makers attempt to respond legally to emerging risks in multilateral settings where diverging interests are at stake.

Summary

The general aim of this course is to explore the global issues and regulatory challenges linked to new technologies and the related law- and policy-making processes through both a practical and a theoretical point of view. This course will be hybrid and will be composed of sessions dedicated to negotiation simulations combined with theoretical sessions dedicated to introducing European fundamental rights law and technology regulation, the theories underpinning such laws and reflections on related policy dilemmas.

Three rounds of negotiations will be held, during which students will be in charge of embodying an actor at the European Parliament. Each round of negotiations will be dedicated to a specific regulatory challenge (AI, online platforms, the metaverse). The sessions will be composed of informal and formal negotiations between the participants. Participants will make proposals that will be discussed, amended and voted. The final aim of the rounds of negotiation is to agree on and vote on amended legislative proposals.

The theoretical sessions will be held after each round of negotiation. The theoretical sessions will be divided in two main parts. On one hand, a collective discussion will be engaged to debrief the negotiation that preceded. Students will be given the opportunity to reflect on their experience and the discussion will be enriched by theoretical insights. On the other hand, students will be introduced to the main theories and concepts of European fundamental rights law and technology regulation. This will enable students to put their practical experience into perspective, to locate it in the more general spectrum of EU law and technology regulation and global challenges and to analyze it in the light of theories of fundamental rights.

Organization of the course

OPENING LECTURES

Session 1
Human rights in the age of new technologies, AI and big data: what risks and opportunities?

This session introduces students to the opportunities and risks of new technologies, AI and big data with concrete examples of global issues at the macro level and zooms in on real problem scenarios at the micro-level. It introduces theories of digital constitutionalism in accessible terms.

Session 2
What can the European Union do about it? A journey into EU law- and policy-making

This session introduces students to EU law- and policy-making by presenting the main institutions and actors involved in the legislative process. It offers examples of major tech regulation initiatives in Europe.

Session 3
Preparatory session

Section 1: Introduction to the course
- Introduce ourselves
- Presentation of the organization of the sessions
- Presentation of the aims course
- Presentation of the modalities of evaluation

Section 2: Preparation to the negotiation simulation
- Presentation of the simulation and its tools
- Distribution of the delegations
- Guidelines and instructions for the negotiations
- Distribution of introductory speeches

Session 4
Round 1 of negotiations: Regulating artificial intelligence

Session 5
European fundamental rights law 1: The right to non-discrimination in the age of algorithms

Section 1: Debrief of the first round of negotiation

Section 2 – Equality and non-discrimination law: a European approach
- What is discrimination?
- How do algorithms discriminate?
- The fundamental right to non-discrimination
- Concepts and definitions
- Regulatory gaps
- Legislative developments (e.g. EU AI Act)

Section 3: Activity / Discussion with an invited speaker on face recognition (Palmiotto/Mendes/Toh? Or the Schufa case) (TBC)

Session 6
Round 2 of negotiations: Regulating online platforms

Session 7
European fundamental rights law 2: Freedom of expression and information in the age of online platforms

Section 1: Debrief of the second round of negotiation

Section 2: Introduction to freedom of expression and information
- What is freedom of expression and information?
- How do new technologies create risks of disinformation, dark patterns and online violence (hate speech, cyber harassment, online censorship)?
- Concepts and definitions
- Legal framework
- Regulatory gaps
- Legislative developments (e.g. DSA)

Section 3: Group activity on Chat GPT/Open AI (covering questions of authorship, intellectual property and copyrights or Weerts on the ways in which it presents itself as human) (TBC)

Session 8
Round 3 of negotiations: Regulating the metaverse

Session 9
European fundamental rights law 3: The right to privacy and data protection in the age of big data

Section 1: Debrief of the third round of negotiation

Section 2: Introduction to privacy and data protection
- What is privacy and data protection?
- How do new technologies and big data create risks of privacy and data protection breaches?
- Concepts and definitions
- Legal framework (GDPR, Charter…)
- Regulatory gaps
- Legislative developments

Section 3: Group activity (TBC) on policing or the Syri case (e.g. Nadia?)

Session 10
European fundamental rights law 4: The right to work in the age of algorithmic management

Section 1: Introduction to labour rights
- What are labour rights?

- How does platform work threatens the rights of workers? What risks do algorithmic surveillance and algorithmic management pose?
- Concepts and definitions
- Legal framework
- Regulatory gaps
- Legislative developments (e.g. Platform work directive)

Section 2: Group activity (TBC) on platform workers (Antonio or AlgorithmWatch?)

Section 3: conclusion of the course

Requirements for validation

Introductory speech / position statement (30%): At the beginning of each negotiation, we will go around the table and for each delegation a designated representative will make a 2-minute speech in which the position of the delegation will be presented. Students will be evaluated on their capacity to identify the main objectives of the represented actor, on their capacity to synthesize the position of the represented actor and on their presentation skills.

Final essay (40%): At the end of the program, students will work on a short essay (between 1000 and 1500 words). In this essay, students will choose a regulatory/policy challenge related to the rise of new technologies, AI and big data and will assess how European law-makers have addressed it. They will rely on concrete examples to explain the risks involved, will identify existing or ongoing legislative and policy developments and will evaluate their adequacy or effectiveness. Students will be evaluated on their understanding of EU fundamental rights law and technology regulation, on their ability to build a coherent argumentation and on their capacity to explain and analyse concrete phenomena with theoretical tools.

Participation (30%): students' overall involvement in the course and the performance during the negotiations will be evaluated.

NB: During the preparatory session, we will determine who the delegation's representative is, in charge of the introductory speech for each negotiation round. Every student will have to be the delegation's representative at least once during the course.

NB: None of the evaluations will take into account the English level.

Professor’s Biography

Raphaële Xenidis is an assistant Professor in European Law at Sciences Po Law School. She holds a PhD in law from the European University Institute and she received Master’s degrees from Sciences Po Lille in France, the Westfälische Wilhelms-Universität in Germany and SAIS Europe, Johns Hopkins University in Italy. Raphaële has also been a Fulbright-Schuman visiting researcher at Columbia Law School in New York. Her current research focuses on European discrimination and equality law, and in particular problems of algorithmic discrimination, bias in automated decision-making systems and data-driven inequality.