

STUDY PROGRAMME

ECO-ELEA, LAW-ELEA

ACADEMIC YEAR

2020 - 2021

SEMESTER

2

COURSE TITLE

Law and Economics of Data Protection and Privacy

COURSE PROFESSOR

ORLA LYNSEY &amp; CHRISTIAN RUSCHE

COURSE ASSISTANT

DIEGO VILLAFÁÑEZ SAGARDOY

NATURE OF COURSE (COMPULSORY, OPTIONAL)

COMPULSORY

LANGUAGE OF INSTRUCTION

ENGLISH

ECTS CREDITS

4

## 1. COURSE OBJECTIVE

This course aims to provide participants with a basic understanding of the key legal and economic concepts relevant to the regulation of personal and non-personal data processing in the digital environment with a special focus on antitrust regulation. This includes an analysis of the basic characteristics of data as an economic good. Participants are encouraged to use this understanding and the economic principles to analyse critically existing data governance mechanisms and recent legal developments in the European Union.

## 2. LEARNING OUTCOMES

Upon completion of the course, students should have achieved the following outcomes:

- Comprehend what kind of economic good data are and what determines its value;
- Describe the pillars of antitrust regulation and its relations with respect to data;
- Understand foundational legal and economic concepts relevant to data governance in the European Union;
- Apply the relevant legal framework (in particular, the General Data Protection Regulation and antitrust regulations) to distinct factual scenarios and case studies;
- Situate EU data protection law and policy within the broader EU legal order and examine the implications of this setting for data protection policy;



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- Analyse recent and existing regulatory responses to data processing through an economic lens;
- Critically analyse the consequences of recent judgements Court of Justice of the European Union (CJEU) for competition within the European Economic Area (EEA) and for international competition;
- Critically consider alternatives to the existing legal and regulatory frameworks in light of the course materials.

The learning outcomes for this course tie in with the following learning outcomes for the European Economic Studies programme:

- Use economic theory to assess current problems and policies, with specific relationship to data protection and antitrust regulation.
- Understand the normative assumptions, implications and limitations of economic theory and economic policy making.
- Integrate knowledge of related disciplines (e.g. EU law, but also machine learning and computer science) into the domain-specific knowledge of the economics of digital innovation.
- Demonstrate knowledge of the European Union' institutions, competences and substantive principles; as well as their interaction with Member States' legislative powers, and private governance.
- Think innovatively and provide constructive analytical commentary on how the evolution of EU rules and policies may impact on future market development.
- Describe, explain and illustrate the core normative assumptions, implications and limitations of legal theory and political science theory related to economics.
- Use knowledge of economics, legal principles, strategic management and political science to analyse contemporary public policy problems.
- Work together in groups to solve problems, share tasks, prepare assignments, go through case studies and make presentations.
- Recognise, analyse, explain and critique economic developments and economic policies in Europe.
- Find, select, critically evaluate and use references, data and other sources of information within a short amount of time.

### 3. COURSE CONTENTS

This course will be taught over four sessions.



Sessions 1 and 2 (Dr Rusche) will analyse data and its role for competition from an economic perspective. This contains an analysis of what determines the value of data and the relations of data and antitrust regulation. Participants will consider the basic economics of information and data; examine data protection and antitrust law through an economic lens; discuss the consequences of recent judgements of the Court of Justice of the European Union (CJEU) and whether a new competition tool with respect to data is needed.

Sessions 3 and 4 (Dr Lynskey) will provide participants with an introduction to the relevant legal framework governing personal data processing in the EU. During session 1 participants will discuss the scope of application of the EU data protection framework; the rights this framework bestows on individuals and the responsibilities it entails for those who process personal data. The seminar will query whether and how this rights-based approach can be reconciled with an economic perspective. During session 2, we will examine whether a more holistic approach should be taken to the application of relevant legal frameworks – competition, consumer protection and data protection – in the digital environment and examine the consequences of this approach, using two case studies: Google's acquisition of FitBit and the proceedings of the German Bundeskartellamt against Facebook.

#### 4. TEACHING METHOD(S)

The teaching will be delivered in the form of socratic seminars. Participants are required to have completed the relevant readings before the seminar and will be asked for their input on key descriptive and normative issues throughout the seminars.

#### 5. COURSE MATERIAL

Lectures and papers to be distributed before class to the students. The complete reading list will be made available on the course intranet page.

#### 6. EVALUATION

The final grade of the course will be composed of: 100% written open book exam. The evaluation will be based on an open-book written exam, three hours in length, which will take place during the first examination session. The exam paper will consist of five questions of which participants must answer three. The paper will contain a mixture of problem and essay questions.

The evaluation in the second session will be based on a open-book written exam counting for 100% of the final grade.

The College of Europe reserves the right to change the delivery and assessment of the course in case of restrictions related to the Covid-19 pandemic. Any communication from the Department in this regard takes precedence over the information provided in this ECTS card.