Privacy Law
SURV699F
1 credit/2 ECTS
Fall 2018

Instructor
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Short Course Description
The course will acquaint the students with the origins and basic principles of privacy law mainly in Europe. Furthermore, it will contrast the European privacy foundations with the U.S. approach. At the core of this course stands the new European General Data Protection Regulation (GDPR) and its applicability to specific cases and basic principles. Moreover, the course will cover current challenges to the existing privacy paradigms by big data and big data analytics.

Course and Learning Objectives
By the end of the course, students will...

- have a basic knowledge on the foundations of privacy law in Europe and the U.S.;
- have an understanding why privacy issues are treated differently in Europe and the U.S.;
- have a basic knowledge on the applicability of the General Data Protection Regulation (GDPR) and its basic principles;
- be aware of privacy issues and potential legal limitations when processing data;
- be aware of current challenges to the existing privacy paradigms by big data and big data analytics;
- be aware of currently discussed new approaches to privacy (e.g. privacy by design).

Prerequisites
No prerequisites.

Class Structure and Course Concept
This is an online course using a flipped classroom design. It covers the same material and content as an on-site course but runs differently. In this course, you are responsible for watching video recorded lectures and reading the required literature for each unit and then “attending” mandatory weekly one-hour online
meetings where students have the chance to discuss the materials from a unit with the instructor.

Although this is an online course where students have more freedom in when they engage with the course materials, students are expected to spend the same amount of time overall on all activities in the course – including preparatory activities (readings, studying), in-class-activities (watching videos, participating in online meetings), and follow-up activities (working on assignments and exams) – as in an on-site course. As a rule of thumb, for each credit offered by a course, students can expect to spend one hour per week on in-class activities and three hours per week on out-of-class activities over the span of a full 12-week term. This is a 1-credit course that runs for 4 weeks. Hence, the total average workload is about 12 hours per week.

**Mandatory Weekly Online Meetings**

Wednesday, noon – 12:50 (EST)/18:00 – 18:50 (CET)

Meetings will be held online through Zoom. Follow the link to the meeting sessions on the course website on [https://www.elms.umd.edu/](https://www.elms.umd.edu/). If video participation via Internet is not possible, arrangements can be made for students to dial in and join the meetings via telephone.

In preparation for the weekly online meetings, students are expected to watch the lecture videos and read the assigned literature before the start of the meeting. In addition, students are encouraged to post questions about the materials covered in the videos and readings of the week in the forum before the meetings (deadline for posting questions is Tuesday, noon (EST)/18:00 (CET)).

Students have the opportunity to use the Zoom meeting room set up for this course to connect with peers outside the scheduled weekly online meetings (e.g., for study groups). Students are encouraged to post the times that they will be using the room to the course website forum to avoid scheduling conflicts. Students are not required to use Zoom and can of course use other online meeting platforms such as Google Hangout or Skype.

**Grading**

Grading will be based on:

- Participation in discussion during the weekly online meetings and submission of questions via e-mail demonstrating understanding of the required readings and video lectures (10% of grade)
- Weekly online exercises reviewing specific aspects of the material covered (60% of grade)
- A final open-book online exam (30% of grade)
Dates of when assignment will be due are indicated in the syllabus. Extensions will be granted sparingly and are at the instructor's discretion.

**Technical Equipment Needs**
The learning experience in this course will mainly rely on the online interaction between students and the instructor during the weekly online meetings. Therefore we encourage all students in this course to use a web camera and a headset. Decent quality headsets and web cams are available for less than $20 each. We ask students to refrain from using built-in web cams and speakers on their desktops or laptops. We know from our experience in previous online courses that this will reduce the quality of video and audio transmission and therefore will decrease the overall learning experience for all students in the course. In addition, we suggest that students use a wire connection (LAN), if available, when connecting to the online meetings. Wireless connections (WLAN) are usually less stable and might be dropped.

**Long Course Description**
The course will start with an introduction to the historical and constitutional roots of privacy law in Europe. It will contrast those foundations with the concepts of privacy under U.S. law in order to demonstrate why privacy issues sometimes create tensions or at least misunderstandings between Europe and the U.S. The course deals with informational privacy law only, which mainly in Europe is also called “data protection law”. Data protection law addresses the question who might process personal data (collect, use, store, and transfer personal data to third parties). This points to two important limitations: First, data protection law is overlapping with data security law but has a different scope: While data protection law deals with the question under which circumstances personal data can be processed legally, data security law regulates how the integrity of data against manipulation and data theft must be secured. Data security law will only be covered in the course as far as security measures are demanded by data protection laws. Second, data protection law deals only with personal data, meaning any kind of information that can be linked to a human being, but not with pure machine data. However, it should be noted that due to new data processing capabilities arguably the majority of data can be linked to human beings and is, therefore, potentially within in the scope of data protection laws.

In a second part, the course will cover the European General Data Protection Regulation. The course will introduce the students to general principles of the GDPR: Under which circumstances is it applicable? This question is relevant in a geographical regard as well as in respect to which data is personal data for the purpose of the regulation. Who is responsible for complying with the GDPR? This is especially important if third parties are involved in the processing of personal data. Moreover, the course will deal with three most relevant ways to process personal
data legally: Anonymization/pseudonymization, consent by the individual and statutory permissions. In this part, the course will also deal with individual’s private enforcement rights and public enforcement of data protection law.

Finally, the course will also introduce the students to current challenges to the established privacy paradigms posed by big data and big data analytics. The course will also give an overview on currently discussed alternative privacy concepts (e.g. privacy by design and enhancing digital sovereignty).

Readings

Primary readings will be from the following volumes:

- Decision by the German Constitutional Court ("Bundesverfassungsgericht") “Census Act”, BVerfGE 65,1
- Whitman, The Two Western Cultures of Privacy, 113 Yale Law Journal 1151

Interested students might find the following additional recommended books helpful in preparing for the course:

- Lane/Stoddern/Bender/Nissenbaum, Privacy, Big Data, and the Public Good: Frameworks for Engagement
- Schwartz/Pfeiffer, Transatlantic Data Privacy Law, 106 Geo. L.J. 115 (2017)
- Warren/Brandeis, The right to privacy, 4 Harvard Law Review 193 (1890)

Additional required and recommended readings will be made available on the course website: https://www.elms.umd.edu/

Academic Conduct

Clear definitions of the forms of academic misconduct, including cheating and plagiarism, as well as information about disciplinary sanctions for academic misconduct may be found at

http://www.graduate.umd.edu/policies/misconduct.html (University of Maryland) and


Knowledge of these rules is the responsibility of the student and ignorance of them does not excuse misconduct. The student is expected to be familiar with these
guidelines before submitting any written work or taking any exams in this course. Lack of familiarity with these rules in no way constitutes an excuse for acts of misconduct. Charges of plagiarism and other forms of academic misconduct will be dealt with very seriously and may result in oral or written reprimands, a lower or failing grade on the assignment, a lower or failing grade for the course, suspension, and/or, in some cases, expulsion from the university.

**Accommodations for Students with Disabilities**

In order to receive services, students at the University of Maryland must contact the Disability Support Services (DSS) office to register in person for services. Please call the office to set up an appointment to register with a DSS counselor. Contact the DSS office at 301.314.7682; [http://www.counseling.umd.edu/DSS/](http://www.counseling.umd.edu/DSS/).

Students at the University of Mannheim should contact the Commissioner and Counselor for Disabled Students and Students with Chronic Illnesses at [http://www.uni-mannheim.de/studienbueros/english/counselling/disabled_persons_and_persons_with_chronic_illnesses/](http://www.uni-mannheim.de/studienbueros/english/counselling/disabled_persons_and_persons_with_chronic_illnesses/).

**Course Evaluation**

In an effort to improve the learning experience for students in our online courses, students will be invited to participate in an online course evaluation at the end of the course (in addition to the standard university evaluation survey). Participation is entirely voluntary and highly appreciated.

**Class Schedule**

*Please note that assignments and dates are subject to change. Information (e.g., articles and assignments) posted to the course website supersedes the information noted here.*

**Unit 1: Introduction to privacy law**

- Online meeting (Thomas Fetzer): Wednesday, October 10, noon (EST)/18:00 (CET)
- Quiz 1: due Friday, October 12, noon (EST)/18:00 (CET)
- Video lecture (Thomas Fetzer): available online October 3

Readings:

*Whitman, The Two Western Cultures of Privacy*, 113 Yale Law Journal 1151
[http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1647&context=fss_papers](http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1647&context=fss_papers)

Decision by the German Constitutional Court ("Bundesverfassungsgericht")

Recommended (optional):

Unit 2: The GDPR I
Online meeting (Thomas Fetzer): Wednesday, October 17, noon (EST)/18:00 (CET)
Quiz 2: due Friday, October 19, noon (EST)/18:00 (CET)
Video lecture (Thomas Fetzer): available online October 10
Readings:

Unit 3: The GDPR II
Online meeting (Thomas Fetzer): Wednesday, October 24, noon (EST)/18:00 (CET)
Quiz 3: due Friday, October 26, noon (EST)/18:00 (CET)
Video lecture (Thomas Fetzer): available online October 17
Readings:
Please keep in mind that winter time begins in Europe on October 28, 2018 and clocks are turned back 1 hour. Winter time begins in the US on November 4, 2018. Therefore, look carefully at the times of meetings and deadlines!

**Unit 4: The GDPR III and current challenges to the existing privacy paradigms**

- **Online meeting (Thomas Fetzer):** Wednesday, October 31, 1:00 pm (EST)/18:00 (CET)

- **Video lecture (Thomas Fetzer):** available online October 24

**Readings:**


**Recommended reading:**

*Lane/Stodden/Bender/Nissenbaum*, Privacy, Big Data, and the Public Good: Frameworks for Engagement (2014)

**Final Exam**

- Due: Friday, November 9, noon (EST)/18:00 (CET)

**Note:** Student access to the course website will be revoked two weeks after the final exam.