UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

# SYLLABUS DEL CORSO

# Diritto a Internet e Diritti Fondamentali in Internet nell'Era dell'Algoritmo

**2526-4-A5810285**

## Learning objectives

Nowadays, the protection of human rights and the definition itself of democracy cannot be separated from the Internet Governance. The Net has become one of the main means of communication and information, as well as a progressively important instrument of political participation. The ongoing and fast-paced change of the digital world generates a lively juridical activity where, in addition to the individual States, the European Union plays a key role on both the legislative and the jurisdictional levels.

The Internet regulation has acquired an increasingly constitutional importance, as many fundamental rights (such as are Freedom of speech) are exercised on-line and other fundamental rights (such as the Right to privacy) can be threatened by the digital evolution. In particular, the guarantee of Freedom of speech and of the right to information is one of the pillars of a democratic society. However, since the Net has naturally a cross-border dimension, its regulation at national level proved to be difficult or not very effective. Therefore, the issue gained a central position in European policies, regulations and case law.

The course “Right to the Internet and Human Rights on the Internet in the algorithmic era” aims to analyze deeply the law of the Internet in its various aspects and levels (national and European), especially in relation to the issue of Human rights protection.

The course is designed for students who wish:

- to acquire a thorough legal knowledge of the Internet and digital regulation;
- to deepen their knowledge of the Fundamental rights protection in an area which is of the greatest importance in life today.

By the end of the course, the student should have acquired

- Knowledge and understanding of the fundamental principles of Internet law
- Ability to apply the notions learned to the analysis of concrete cases and in the resolution of related legal problems
- Autonomy of judgement in the interpretation of norms and in the identification of the most appropriate legal solutions
- Communication skills in the presentation and discussion of legal arguments, both in written and oral form.
- Ability to learn independently, also by consulting normative, doctrinal and jurisprudential sources.

## Contents

The course cover four main topics.

The first part serves as a general introduction describing the structure of the multilevel protection of fundamental rights in Europe.

The second part focuses on Internet regulation on both European and Member States levels: it describes the current regulatory framework and underlines how its evolution over time mirrors the rise of the constitutional dimension of the EU.

The third part consists in the in-depth analysis of Human rights on the Internet, such as Free Speech, the right to Privacy, the right to Anonymity and the right to the Oblivion. The aim is to explain the novelty and the specificity of the Human rights protection in the digital environment. One of the main issues will be the role and the responsibilities of Internet service providers in relation to the rights and freedoms of users, comparing the more liberal American approach with the more Fundamental Rights-based approach adopted over time by EU.

The last part will address the issue of the Internet itself as a human right and the legal challenges posed by the development and the use of algorithms.

## Detailed program

Part 1. How the protection of human rights works in Europe? The general European framework

1. How many levels? An introduction to the multilevel protection of human rights in the European framework

2. The European Union and Italian legislative framework

3. Other actors in the field of pan-European standards: European Convention of Human Rights, Council of Europe Recommendations, Venice Commission opinions

Part 2. The European path toward a constitutional statute of the Internet

4. From self-regulation to a cyber sovereignty?

5. Unity and diversity: the current regulatory European framework and the space of national legislation

6. The shape of things to come: from the Digital Single Market to an European digital constitutionalism

Part 3. The impact of the Internet on human rights: new protections or the arising of new rights?

I section: The right to inform and the right to have information

7. Who shapes the boundaries of Free speech in the digital space? The European approach to the online platforms role

8. The American approach to the online platforms role

9. The Hate speech on line and the Freedom of Expression: European case studies

10. The Hate speech on line: Italian case studies

11. The regulation of fake news

12. The Journalist's Rights in the Net between the duty to truth and the protection of the sources

13. The notion of "press" in the digital era and its legal implication / The responsibility of the editor online

II section: Other personal rights

14. The Right to Privacy evolution: from the paper to the bit

15. The Data retention issue

16. The Right to the Oblivion: the Google Spain ECJ decision

17. The Right to the Anonymity

Part 4. A brave new world: open questions facing the rise of the algorithm

18. Is Internet a fundamental right or a universal public service?

19. The Right to Access and the Digital Divide

20. From Net Neutrality to Algorithm Neutrality?

21. Algorithm and responsibility: rights and AI in the administrative procedure and in adaptive cruise control systems

## Prerequisites

Basic knowledge of Italian Constitutional Law and European Union Law.

## Teaching methods

17 lectures of two hours each in presence;

4 case-studies analysis; of two hours each in presence.

## Assessment methods

Written examination in which it will answer open questions and possibly comment on a specific case.

Ability to understand and apply concepts, autonomy of judgement and ownership of language will be assessed.

## Textbooks and Reading Materials

The materials will be provided during the lectures or writng an e-mail at the following address: palmina.tanzarella@unimib.it

## Sustainable Development Goals

QUALITY EDUCATION