

23-24

MÁSTER UNIVERSITARIO EN UNIÓN
EUROPEA

GUÍA DE ESTUDIO PÚBLICA



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

CÓDIGO 26602552

UNED

23-24

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UNION INFORMATION SOCIETY

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Nombre de la asignatura	CHILDREN'S E-RIGHTS IN THE EUROPEAN UNION INFORMATION SOCIETY
Código	26602552
Curso académico	2023/2024
Título en que se imparte	MÁSTER UNIVERSITARIO EN UNIÓN EUROPEA
Tipo	CONTENIDOS
Nº ETCS	5
Horas	125.0
Periodo	SEMESTRE 2
Idiomas en que se imparte	CASTELLANO

PRESENTACIÓN Y CONTEXTUALIZACIÓN

“CHILDREN’S E-RIGHTS IN THE EUROPEAN INFORMATION SOCIETY” is a part of LLM in European Union Law, which is a distance learning program 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 “European Strategy for Better Internet for Children” (BIK-COM (2012) 196 final), now in its updated version “A Digital Decade for children and youth: the new European strategy for a better internet for kids (BIK+ or COM (2022) 212 final)”, whose announcement was made by the Commission when adopting its first-ever comprehensive “EU strategy on the rights of the child, 24 March 2021 (Strategy 2021- COM/2021/142 final).

Although the right to privacy and the protection of personal data are fundamental rights in the EU, and were included and taken into account in the Key Action 4 of “Digital Agenda for Europe”, (one of the seven initiatives foreseen in the “Europe 2020 Strategy” (COM (2010) 245 final), 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 “Digital Agenda 2010”, BIK dealt with the risks of children in ICT and proposed a new Eco-system to support their needs to create a safer, enriching environment for all EU children online. Even though children are “digital natives”, they are not aware of the potential consequences of their everyday actions, such as posting photos on social networks. The purpose of BIK these eight years has been to ensure the development and enforcement of existing EU rules for minors, encouraging further self-regulatory measures to avoid legal loopholes in the face of the rapid development and changes of the ICT.

The convergence process of the digital sectors of the Digital Space (audiovisual, information society and telecommunications) and the advance digital technologies, such as Artificial Intelligence, have produced a proliferation of rules and large fragmentation of the digital acquis for minors. To clarify this regulatory panorama, two compilation for formal text concerning children in digital world have been made by different Directorates General of the European Commission: The “EU Acquis and policy documents on the right of the child 2019”, more general and made by Directorate-General for Justice and Consumers, and the “European Strategy for a Compendium of legislation 2022” made by Directorate-General for Communications Networks, Content and Technology.

As it can't be otherwise, the "chapeau" of this whole set of rules is the "General Data protection Regulation" or Regulation (EU) 2016/679 of the European Parliament and of the Council, of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. This European regulation is crucial because it regulates both, the minimum age of minors to access the digital space and their protection, even to the point of ensuring their right to be forgotten. Aspects, among others, such as the prevention of illegal content, that are developed in other legal and self-regulatory rules and will be studied.

In view of the above, this programme we will address the question "Are children protected in the digital world?" by two actions: first, introducing ourselves in the web of legal and non-legal regulations that affect digital minors in order to locate them and give a vision of the evolution in which they are constantly; and secondly, bringing the student closer to the main issues in which the digital minor is involved.

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 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: european and domestic 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 2010)* or *El Código de autorregulación sobre contenidos televisivos e infancia (CACTI 2002)*.

REQUISITOS Y/O RECOMENDACIONES PARA CURSAR ESTA ASIGNATURA

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.

EQUIPO DOCENTE

Nombre y Apellidos
Correo Electrónico
Teléfono
Facultad
Departamento

MARIA TERESA BENDITO CAÑIZARES
mtbendito@der.uned.es
91398-8078
FACULTAD DE DERECHO
DERECHO CIVIL

HORARIO DE ATENCIÓN AL ESTUDIANTE

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

For more specific enquiries related to this module please contact

MARIA TERESA BENDITO CAÑIZARES

Professor in Civil Law Department

Tuesday: 9-13 hs. a.m.

Boureau: 5.29

Secretary no: +34 (0) 91 3 98 61 29

Secretary Fax no: +34 (0) 91 3 98 61 89

Telephone no: +34 (0) 91 3 98 80 78

email: sdcivil@pas.uned.es

Postal address

Faculty of Law
2 Obispo Trejo Street
28080-Madrid
SPAIN

COMPETENCIAS QUE ADQUIERE EL ESTUDIANTE

COMPETENCIAS BÁSICAS Y GENERALES:

CG01 - Saber resolver problemas en entornos multidisciplinares relativos a la Unión Europea.

CG02 - Saber comunicar ideas y opiniones basadas en conocimientos específicos y avanzados sobre Unión Europea y emitir juicios razonados sobre las mismas.

CG03 - Interpretar el contenido de los textos y documentos de la Unión Europea de forma que el alumno sea capaz de adoptar decisiones y formular opciones sobre ellos en el

entorno complejo de la estructura y ordenamiento de la Unión Europea.

CB6 - Poseer y comprender conocimientos que aporten una base u oportunidad de ser originales en el desarrollo y/o aplicación de ideas, a menudo en un contexto de investigación

CB7 - Que los estudiantes sepan aplicar los conocimientos adquiridos y su capacidad de resolución de problemas en entornos nuevos o poco conocidos dentro de contextos más amplios (o multidisciplinares) relacionados con su área de estudio

CB8 - Que los estudiantes sean capaces de integrar conocimientos y enfrentarse a la complejidad de formular juicios a partir de una información que, siendo incompleta o limitada, incluya reflexiones sobre las responsabilidades sociales y éticas vinculadas a la aplicación de sus conocimientos y juicios

CB9 - Que los estudiantes sepan comunicar sus conclusiones y los conocimientos y razones últimas que las sustentan a públicos especializados y no especializados de un modo claro y sin ambigüedades

CB10 - Que los estudiantes posean las habilidades de aprendizaje que les permitan continuar estudiando de un modo que habrá de ser en gran medida autodirigido o autónomo.

COMPETENCIAS ESPECÍFICAS:

CE04 - Encontrar, analizar y aplicar la legislación emanada de las diferentes instituciones y órganos de la Unión Europea, así como la de los Estados Miembros que se refiera o esté implicada en el sistema europeo.

CE05 - Encontrar, analizar y aplicar la jurisprudencia de los Tribunales que componen la jurisdicción de la Unión Europea así como la jurisprudencia de cualquier orden y nivel de los estados miembros que se refiera o que estén implicadas con el sistema de la Unión Europea.

CE06 - Elaborar proyectos en el ámbito del sistema integrado por los ordenamientos de los Estados Miembros y de la Unión Europea.

CE07 - Elaborar propuestas, informes y dictámenes sobre materias propias del sistema integrado de la Unión Europea.

CE08 - Integrar la perspectiva institucional en el análisis de las normas y políticas de la Unión Europea.

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.

CONTENIDOS

Module One: Status quo of the Children as a data subject

The core content of the subject matter encompasses the study of main rules relating to mail digital issues of minors.

Given that the legal ecosystem of minors is fragmented in a huge amount of rules that address various aspects, it is necessary to devote **Module One on Status quo of the Children's as a data subject** to bring the student closer to them. To do so, the best way is to consult these two useful documents in which the European Commission has compiled the *acquis* on minors: The "EU Acquis and policy documents on the right of the child 2019", more general than the last titled the "European Strategy for a Compendium of legislation 2022".

From the long list of rules included in them, it is always necessary to start from the *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC* (General Data Protection Regulation), which applies from 25 May 2018 (hereinafter, "GDPR"), and the *Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales*, which aims to adapt the domestic rules on this matter (hereinafter, "LOPD") (<https://www.boe.es/eli/es/lo/2018/12/05/3>). They are horizontal rules that constitute the basis of the digital space, which other laws in force, legislative proposals, strategies and self and co-regulatory measures (codes), must respect.

Into the laws in force, the three main European Directives regulating the three services of the digital ecosystem, namely Audiovisual, e-commerce and telecommunications, will be studied together with the Spanish laws that transpose them and the main codes of conduct relating to digital minors[1]. Our study will also focus on recently approved laws such as *Digital Services Act* that shall fully implemented from 17 February 2024 and the *Strengthened Code of Practice on Disinformation 2022*.

In addition, the following **legislative proposal** on Artificial Intelligent, European Digital Identity and ePrivacy, must be identified in this first Module because they will complete the regulation of digital rights studied in Modules two and three.

[1] Main 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)*.

Main 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).

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Module Two: ARCO Children's e-Rights I: information and access to personal data

The scenario that has been illustrated in Module One allows for delving deeper into the issues of digital native. There is a variety of mechanisms to combat serious threats to minors posed by certain practices as advertising child pornography or encouraging child sexual abuse, amoral games, even spam e-mail or unsolicited advertising: setting a minimum age for surfing the Internet, development of devices designed to enable proper parental monitoring and providing information that is easily understandable on processing of personal data. The agreement by industry is capital, including codes of conduct or self-regulation, which are further promoted by the GDPR.

In this context, a central place must be given to ARCO's rights, i.e., right of access, right to rectification, right to erasure or to be forgotten and right to object, in relation to certain sectors where minors participate as users or consumers of audiovisual and Internet services. Special consideration is given in Module Two to Internet access, since, for the first time, a minimum age is set in this particular by the new Regulation. Indeed, in relation to the direct offer of information society services, processing of personal data shall be lawful only if it has been consented by an individual over the age of sixteen or has been authorized by the holder of parental responsibility over the child. However, Member States may set a lower age for those purposes, provided that such lower age is not below 13.

The regulation of right to access to social Networks must be studied with a view to Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) nº 910/2014 as regards establishing a framework for a European Digital Identity (COM (2021) 281 final), because the regulation on the right to a European Digital Identity wallet will allow a child to prove his or her age, his or her verification of age revealing other personal data.

Module Three: ARCO Children's Rights II: The right to be forgotten

In addition to the above, Module Three focuses on the right to erasure, or right to be forgotten. The reason for the specific study of this subject is twofold: on the one hand, such a right has been regulated for the first time by GDPR, following the jurisprudence of the European Court of Justice (ECT) on data protection, services information society and individual's e-rights; on the other hand, according to paragraph (65) of GDPR, the right to erasure is relevant in particular where the data subject has given his or her consent as a child without being fully aware of the risks involved by the processing, and later wants to remove such personal data, especially on the internet. The data subject should be able to exercise that right notwithstanding the fact that he or she is no longer a child.

It will be object to study in this Module many judicial resolution on the right to be forgotten such as Judgment of the Court (third Chamber) of 24 November 2011, Judgment of the Court (Grand Chamber) 13 May 2014 Google Spain and Google Inc v. AEPD and Mario Costeja (Case C-131/12, ECLI:EU:C:2014:317), Judgment of the Court (Grand Chamber) 24 September 2019 Google LLC v "the CNIL" (Case 507/17, ECLI:EU:C:2019:772) and Judgement of Spanish High Court (Sala Tercera de lo Contencioso-Administrativo)1624/2020, 27 November 2020.

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...

SISTEMA DE EVALUACIÓN

TIPO DE PRUEBA PRESENCIAL

Tipo de examen

No hay prueba presencial

CARACTERÍSTICAS DE LA PRUEBA PRESENCIAL Y/O LOS TRABAJOS

Requiere Presencialidad

No

Descripción

The evaluation will be carried out via the alF platform in June and, for those who do not pass this exam, in September.

Two forms of evaluation are proposed:

1) A TEST:

Passing the exam, that 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.

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. It will be necessary to access the application by clicking the "Tareas" icon that will appear from 9:30 to 13:30.

2) ALTERNATIVE EVALUATION ACTIVITY:

In order to advance in new methods of distance learning and teaching, we propose as an alternative to the exam, the double activity of recording a Mini-video on one of the main topics of the subject but accompanied by an Essay explaining the results obtained from the research carried out.

This activity is proposed as a substitute of the exam.

Criterios de evaluación

1) Test evaluation criteria: 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.

2) Alternative activity evaluation criteria: The student who takes the substitute activity method will not have to answer the three questions of the exam. The Mini-video and the Essay replace the three questions and, if evaluated positively, the complementary activity will represent 100% of the final score.

For the evaluation of the mini-video, the CRITERIA indicated in FORMULARIO FOR EVALUATION/NEW EVALUACION in DOCUMENTOS PÚBLICOS folder in the alF platform, will be used.

The Mini-video and the Essay will be evaluated independently and each represents 50% of the final score.

Both, the Mini-video and the Essay must be sent according the schedule forseen in the NEW METHODOLOGY: MAKING A A MINI-VIDEO AND AN ESSAY/DOCUMENTOS PÚBLICOS FILE.

Ponderación de la prueba presencial y/o los trabajos en la nota final

Fecha aproximada de entrega

In both the June and September evaluations, the exam dates for the written test and for the alternative evaluation activity will be indicated on the aIF platform.

Comentarios y observaciones

In September, the evaluation can only be done through the written exam. Therefore, a student who does not pass the exam substitute activity in June must take the exam in September by answering the three questions.

PRUEBAS DE EVALUACIÓN CONTINUA (PEC)

¿Hay PEC?

No

Descripción

Criterios de evaluación

Ponderación de la PEC en la nota final

Fecha aproximada de entrega

Comentarios y observaciones

OTRAS ACTIVIDADES EVALUABLES

¿Hay otra/s actividad/es evaluable/s?

No

Descripción

Criterios de evaluación

Ponderación en la nota final

Fecha aproximada de entrega

Comentarios y observaciones

¿CÓMO SE OBTIENE LA NOTA FINAL?

To pass the test, 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 Mini-video and the Essay will be evaluated independently and each represents 50% of the final score.

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

Autor/es:

Editorial:U N E D

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.
4. BENDITO CAÑIZARES, "Self-regulation in the General Protection Data Regulation as a solution to a fragmented digital market: the child and the Registries" *Revista Crítica de Derecho Inmobiliario (RCDI)*, 770, 2018, págs. 193-245.
5. EU existing and other EU documents that will be schematised online course and links in order to quick-searching.

BIBLIOGRAFÍA COMPLEMENTARIA

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.

RECURSOS DE APOYO Y WEBGRAFÍA

Study resources

LAST RADIO BROADCASTS

Click on the title below to access the audio file player.

Derecho al olvido digital y el menor

CANALUNED:

<https://canal.uned.es/mmobj/index/id/48129>

YOUTUBE:

<https://www.youtube.com/watch?v=RM1auL2MQYc&index=1&list=PLi9PNP9OSGkYpzrzZJLWdO2rjsb3GoVOq>

Menor digital y contenidos audiovisuales**CANALUNED:**

<https://canal.uned.es/mmobj/index/id/46890>

YOUTUBE:

<https://www.youtube.com/watch?v=yLV0tWUCLUM&index=3&list=PLi9PNP9OSGkYpzrzZJLWdO2rjsb3GoVOq>

Los derechos ARCO y el menor digital**CANALUNED:**

<https://canal.uned.es/mmobj/index/id/47669>

YOUTUBE:

<https://www.youtube.com/watch?v=H2gkEatROkE&list=PLi9PNP9OSGkYpzrzZJLWdO2rjsb3GoVOq>

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.*

IGUALDAD DE GÉNERO

En coherencia con el valor asumido de la igualdad de género, todas las denominaciones que en esta Guía hacen referencia a órganos de gobierno unipersonales, de representación, o miembros de la comunidad universitaria y se efectúan en género masculino, cuando no se hayan sustituido por términos genéricos, se entenderán hechas indistintamente en género femenino o masculino, según el sexo del titular que los desempeñe.