

P R O G R A M



DIGITAL LEGAL LAB WINTER SCHOOL
"DATA, PERSONALIZATION & THE LAW"
4 - 8 DECEMBER 2023

Day 1: Monday, 4 December

INTRODUCTION TO THE DATA-CENTRIC REGULATORY PARADIGM

Theme & goal of the day

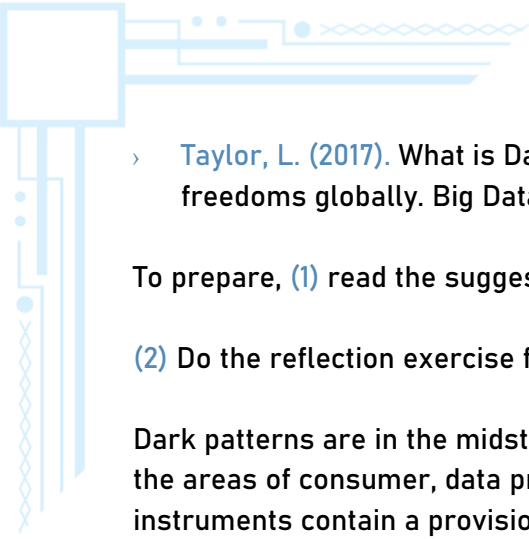
To begin, we will explore a shift that can be observed in how the regulation of (and by) the digital technologies is approached. Namely, while the regulation conventionally targets the way natural and legal persons act and how their activities impact others, the legal norms and values are fundamentally challenged in the era of big data analytics: (1) the focal point has arguably shifted to how data behaves and affects people and society and (2) in a data-driven world, decisions are not only based on data, but are also increasingly automatically enforced through data systems, blurring the traditional distinction between norm-setting and norm enforcement. The goal of day 1 is thus to examine how such shifts affect different domains, disciplines, and regulatory regimes, and identify and discuss which concepts can be used to govern the emerging data relations and how. Further, we will look into how is this reflected in the recent EU regulatory initiatives targeting the digital domain.

Schedule

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| 9.30 | <i>Arrivals and registration</i> |
| 10.00 | Welcome address by our host, the Lorentz Center |
| 10.15 | Keynote lecture: "Protecting fundamental rights in the digital revolution in the EU through the human vulnerability framework" Dr Gianclaudio Malgieri |
| 11.15 | Workshop: "Towards data justice: ethical paths through the data-fied world" Prof Linnet Taylor |
| 13.00 | <i>Lunch</i> |
| 13.45 | Exercise: introduction to the Digital Legal Lab & getting to know each other |
| 14.15 | Lecture: "Procedural aspects of the data-centric regulatory paradigm" Sascha van Schendel |
| 15.30 | <i>Break</i> |
| 16.00 | Interactive session: "Data-related harms that span legal disciplines and regimes" Dr Inge Graef |
| 17.30 | <i>End of day 1 programme & wine and cheese reception (by Lorentz Center)</i> |

Suggested readings & preparation

- › [Custers, B. & Malgieri, G. \(2022\)](#). Priceless data: why the EU fundamental right to data protection is at odds with trade in personal data. *Computer Law & Security Review*, 45
- › [Graef, I., & van der Sloot, B. \(2022\)](#). Collective data harms at the crossroads of data protection and competition law: Moving beyond individual empowerment. *European Business Law Review*, 33(4), p. 513-536
- › [Graef, I. \(2023\)](#). The European Court of Justice in Meta Platforms leaves competition and data protection authorities with an assignment. *European Law Blog*, 19 July. Available at: <https://europeanlawblog.eu/2023/07/19/the-european-court-of-justice-in-meta-platforms-leaves-competition-and-data-protection-authorities-with-an-assignment>

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- › Taylor, L. (2017). What is Data Justice? The case for connecting digital rights and freedoms globally. *Big Data & Society*, 4(2)

To prepare, (1) read the suggested readings.

(2) Do the reflection exercise for the interactive session on data-related harms:

Dark patterns are in the midst of a regulatory wave in the EU. Beyond existing regimes in the areas of consumer, data protection, and competition law, many new legislative instruments contain a provision regarding dark patterns including the Digital Services Act, the Digital Markets Act, the Data Act, and the proposed AI Act. The use of dark patterns is typically an attempt by businesses to increase their revenue at the expense of consumers who purchase products they may not need, spend more time or give up more personal data than they would otherwise do. Reflect on what you believe is the most effective legal regime to target dark patterns and why. Note that there is no one right answer, but a range of possibilities depending on what benchmark one uses to determine 'effectiveness'. We will discuss this together in the session.

(3) Think about suggestions for the Digital Legal Studies curriculum:

In addition to the suggested readings contained in this syllabus, we would like to develop an extended reading list for Digital Legal Studies, and make it publicly available. Throughout the week, you will be encouraged to contribute to a joint document and suggest the literature that is in your opinion key to understanding this emerging field, based on your own research interests.

Day 2: Tuesday, 5 December

THE DIGITAL TRANSFORMATION OF DECISION-MAKING

Theme & goal of the day

On day 2, we will examine how algorithms, data, and artificial intelligence affect markets and society, changing democratic processes, commercial value chains, public administration, and how public values are being realized or challenged. The programme will focus on automated decision-making (ADM) systems, which are set to replace human decision makers in a range of areas, from justice, to media, commerce, health, and labour. ADM shifts decision-making power and infrastructure to entities that produce, collect, and aggregate data, build models, and optimize algorithms, creating new dependencies on (commercial) technology companies that harbour the unique expertise, innovation, and control over data needed for ADM, and poses new challenges for the governance of decision-making. The overarching question for this block is: what are the normative implications of the shift from human to automated decision-making, focusing particularly on the role of platforms and data as key actors and commodity in this process? Specifically, participants will examine three interrelated issues: private platform ordering; realization of fundamental rights and public values; and data governance. The teaching methods will include lectures and moderated discussion/interactive group work.

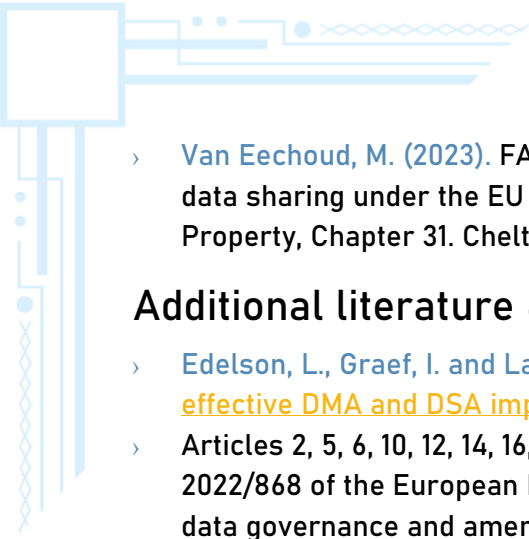
Schedule

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| 9.00 | Lecture & interactive discussion: "Platforms as privacy regulators" Prof Joris van Hoboken and Dr Ronan Fahy |
| 10.30 | <i>Break</i> |
| 11.00 | Lecture & interactive discussion: "ADM and realisation of fundamental rights and public values" Prof Natali Helberger |
| 12.30 | <i>Lunch</i> |
| 14.00 | Lecture & interactive discussion: "EU Data governance regulation and academic access to non-public data" Prof Mireille van Eechoud , Dr Heleen Janssen , and Dr Paddy Leerssen |
| 15.30 | <i>End of day 2 programme & free evening*</i> |

Suggested readings & preparation

- › [Araujo, T., Helberger, N., Kruijkemeier, S., & de Vreese, C.H. \(2020\)](#). In AI we trust? Perceptions about automated decision-making by artificial intelligence. *AI & Society*, 35(3)
- › [Helberger, N. \(2020\)](#). The Political Power of Platforms: How Current Attempts to Regulate Misinformation Amplify Opinion Power. *Digital Journalism*, 8(6)
- › [Van Hoboken, J. & Ó Fathaigh, R. \(2021\)](#). Smartphone platforms as privacy regulators. *Computer Law & Security Review*, 1
- › [Wilman, F. \(2022\)](#), [The Digital Services Act \(DSA\) - An Overview](#)

*We finish early, as 5 December is **Sinterklaasavond** (Saint Nicolas, gift-giving evening) in the Netherlands

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- › [Van Eechoud, M. \(2023\). FAIR, FRAND and Open – The institutionalization of research data sharing under the EU data strategy](#), in: s. Frankel et al., Improving Intellectual Property, Chapter 31. Cheltenham: Edward Elgar Publishing 2023 (attached to the email)

Additional literature & material

- › [Edelson, L., Graef, I. and Lancieri, F. \(2023\). Access to data and algorithms: for an effective DMA and DSA implementation](#), (CERRE, March 2023), pp. 54 – 70
- › Articles 2, 5, 6, 10, 12, 14, 16, 17, 18, 21 of the EU Data Governance Act (Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724)

To prepare, (1) read the suggested readings.

Day 3: Wednesday, 6 December

DIGITALISATION AND FUNDAMENTAL RIGHTS

Theme & goal of the day

During the sessions on day 3, participants will have the opportunity to consider how digitalisation affects the most important aspect of our lives – fundamental rights. The main goal of this block is not only to understand the scale of technical influence on fundamental rights, but also to understand the possible ways of its correlation through normative, as well as technical, ethical, sociological, and other interdisciplinary approaches. This block will cover current trends in the intervention of technology in our lives and its close intertwining with the sphere of fundamental rights, related risks and challenges, technical and regulatory possibilities of digitalisation regulation, the role of states as well as private actors (platform governance), as well as a number of other related aspects. The teaching methods will include lectures and moderated discussion/interactive group work.

Schedule

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| 10.00 | Keynote speech (online) Ivan Štefanec, MEP |
| 11.00 | Break |
| 11.15 | Lecture: “The resolution of content moderation disputes under the Digital Services Act” Prof Pietro Ortolani |
| 12.30 | Lunch break |
| 13.45 | Interactive session: “From courtroom to classroom: the dual life of legal scholar-practitioners” Dr Tim Walree |
| 14.45 | Break |
| 15.00 | Group discussion: “Possible ways of regulating disinformation” Lotje Beek, Bits of Freedom |
| 16.00 | Break |
| 16.15 | Lecture: “Discrimination risks of automated decision-making and AI: can the law protect people?” Prof Frederik Zuiderveen Borgesius |
| 17.30 | End of day 3 programme, followed by the workshop dinner* (by Lorentz Center) |

Suggested readings & preparation

- › [Ortolani, P. \(2022\)](#). The Resolution of Content Moderation Disputes under the Digital Services Act, *Giustizia consensuale rivista semestrale diretta da Silvana Dalla Bontà e Paola Lucarelli*, II:2, p. 533-573 (attached to the email)
- › [Zuiderveen Borgesius, F. \(2020\)](#). Strengthening legal protection against discrimination by algorithms and artificial intelligence. *The International Journal of Human Rights*, 24(10)

To prepare, (1) read the suggested readings.

*The dinner will take place at 18:30 in the restaurant **De Burcht** in Leiden

Day 4: Thursday, 7 December

THE POTENTIALS OF THE LEGAL NETWORK ANALYSIS

Theme & goal of the day

On day 4, we will explore how networks can be used to model and make sense of legal data. Many aspects of legal data are qualitative and involve dyadic structures, that is, involve pairs of related entities: a case cites another, a pair of states are bound together by a treaty, a pair of companies shared a director, one legal publication makes reference to another, two legal documents share some textual similarities, etc. A collection of such pairwise relations can be represented as a network. Once legal data is represented in this manner, amongst other things, it becomes possible to identify what are the most paradigmatic or well-connected legal entities (through centrality algorithms), which entities are closely affiliated (through community detection algorithms), and to visualize how different legal entities are connected to each other. The session will provide theoretical and hands-on training on how to use network analysis, including (1) how to record data in a form that can be converted to a network, and (2) how to run some key centrality algorithms (degree centrality, closeness centrality and betweenness centrality), and (3) how to use the Louvain community detection algorithm.

Schedule

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| 9.00 | Input presentation, pt 1: "The basics & potential of LNA" Prof Gijs van Dijck |
| 10.30 | <i>Break & informal café debate: "Wellbeing in academia"</i> |
| 11.00 | Input presentation, pt 2: "The basics & potential of LNA" Prof Gijs van Dijck |
| 12.30 | <i>Lunch</i> |
| 14.00 | Practical workshop, pt 1: "Practical application of LNA (centrality measures)" Dr Gustavo Arosemena |
| 15.30 | <i>Break</i> |
| 16.00 | Practical workshop, pt 2: "Practical application of LNA (community detection)" Dr Gustavo Arosemena |
| 17.30 | <i>End of day 4 programme & free evening</i> |

Suggested readings & preparation

- › Maastricht University Legal Tech Lab, [Textbook on Legal Network Analysis](#) (2023)

Additional literature

- › Van Kuppevelt, D. & van Dijck, G. (2017). Answering legal research questions about Dutch case law with network analysis and visualization. In A. Wyner, & G. Casini (Eds.), *Legal Knowledge and Information Systems*, 302, p. 95-100
- › Landthaler, J. Waltl, B. & Matthes, F. (2016). Unveiling references in legal texts: implicit vs. explicit network structures. *Tagungsband des 19. Internationalen Rechtsinformatik Symposium IRIS 2016*

To prepare, (1) read the suggested reading(s).

Day 5: Friday, 8 December

CONNECTING THE DOTS: TOWARDS A JOINT AGENDA FOR DLS

Theme & goal of the day

This last block is intended to reflect on the main research themes raised in the winter school and for the attendees to position their own research project in the broader field of studies. In the first part of the day, the participants will in small groups present their own research, identify the ways in which it fits into the emerging field of Digital Legal Studies, and discuss it with peers and other scholars. In the second part, the participants will be invited to jointly scope the emerging field of Digital Legal Studies, identify the research gaps and evolving research avenues, and prepare a draft research agenda in a whole-group session. With this, we will try to answer the overarching question of the winter school - how do data processing, algorithms and automation, personalisation, and other emerging digital technologies affect regulation in its broadest sense and vice-versa - and think of an action plan for further research activities.

Schedule

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| 9.30 | Small-groups session, pt 1: "Presentations of research projects and discussion" (presentations start at 10:00) |
| 11.00 | <i>Break</i> |
| 11.30 | Small-groups session, pt 2: "Presentations of research projects and discussion" |
| 13.00 | <i>Lunch</i> |
| 14.00 | Interactive group session: "Developing a joint Digital Legal Studies research agenda" |
| 15.30 | Conclusion of the winter school |
| 16.00 | <i>End of programme & departures</i> |

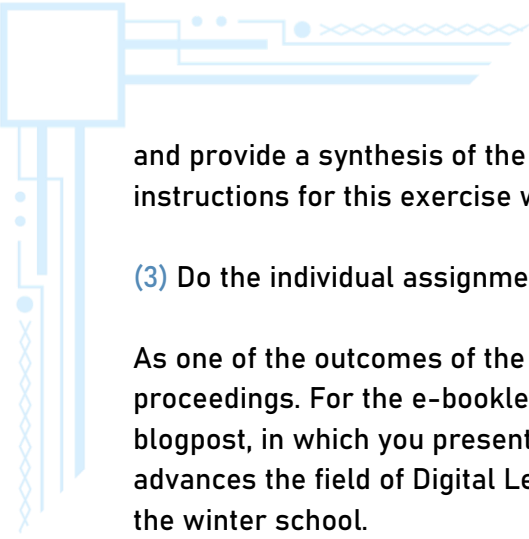
Suggested readings & preparation

- › [Ertmer, P. A. & Glazewski, K. D. \(2014\)](#). Developing a research agenda: contributing new knowledge via intent and focus. *Journal of Computing in Higher Education*, 26(1)

To prepare, (1) read the suggested reading.

(2) Prepare for the group presentations session:

In the beginning of the winter school, you will be required to form groups of 4 people. Throughout the week, you will be encouraged to meet with your group partners and discuss your own research projects in the context of the Digital Legal Studies. The idea is for you to present and discuss your projects with your peers and uncover some common themes or questions. For the group presentations sessions on day 5, you are required to put together a short presentation of 15 minutes, in which you briefly summarise your individual projects



and provide a synthesis of the common threads of your research projects. More detailed instructions for this exercise will be provided on day 1, when we will also form the groups.

(3) Do the individual assignment (blogpost):

As one of the outcomes of the winter school, we would like to publish an e-booklet of proceedings. For the e-booklet, we ask you to prepare a contribution in the format of a blogpost, in which you present your own research project and reflect on how it fits into or advances the field of Digital Legal Studies, based on what was discussed in the 5 days of the winter school.

When writing, please follow these guidelines:

- › Length: 800-1000 words in total, excluding footnotes
- › Title: 15 words max
- › Summary: cca 100 words
- › Use subheadings (1; 1.1; 2 etc.) to structure your text
- › References: in footnotes, following the OSCOLA referencing style
- › At the end, include a short bio about yourself, of 50 words max

As regards the style, the contribution should be accessible and can be less formal than academic texts, but still analytical and comprehensive. Be informative and precise, while allowing your opinion to shine through.

Please submit your blogpost in a word document, without any specific formatting, to the following email: digitallegalstudies@tilburguniversity.edu. The deadline for this is **20 December 2023**. Once we receive all submissions, we will edit them in an e-booklet and share it with all participants and through our online communication channels.