# Privacy Law

## Prof. Roberto Lattanzi

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

In consideration of the most recent techno-social developments based on the processing of personal data - *big data, data mining*, Internet of Things (*IoT*), the increasing use of algorithms and artificial intelligence (AI) in decision-making processes, platform economy, *social networks*, etc. - and the European Union *policy* underlying the so-called digital transition, the course focuses on their effects on fundamental rights and freedoms, with particular reference to the right to the protection of personal data and confidentiality. In particular, the course addresses the general lines of the personal data protection disciplines - European (conventional and Euro-unit) and national - and, due to their "transversal" nature, it aims to highlight their interaction with other sectors of the legal system.

With reference to the historical-comparative evolution that, starting from the mid-sixties, marked the birth and evolution of the right to the protection of personal data as well as the autonomisation process concerning the so-called “Right to privacy”, the course will mostly focus on the main regulatory sources regarding the protection of privacy and the protection of personal data (first of all the general regulation on data protection - Regulation (EU) 2016/679 of 27 April 2016) and the principles drawn from them in order to help students develop an ability to carry out in-depth application studies with a critical examination of the topics covered through the analysis of the most significant jurisprudential cases, first of all by the Court of Justice of the European Union, and decisions and guidelines of the personal data protection authorities.

At the end of the course, students are expected to:

* have a better understanding of the (changing) interrelationships between the ongoing techno-social development and the complex legislative framework concerning the protection of personal data (deriving from the knowledge of the regulatory data and its application by the supervisory authorities and the Superior courts, at national and non-national level);
* have developed essential skills for those who - in carrying out their professional activity, as a *data protection officer* - intend to address the legal consequences of the so-called information society (and now of the so-called *data economy*), by autonomously identifying the possible criticalities related to the processing of personal information;
* have become more familiar with the search of useful material for the solution of cases in which the (multilevel) protection of the right to the protection of personal data is involved.

***COURSE CONTENT***

*Part one: historical-comparative evolution and constitutional foundation of the right to the protection of personal data*

* Historical-comparative evolution of the right to the protection of personal data (and related subjective legal situations) as well as of the principle of protection of personal data: the OECD *Guidelines on the Protection of Privacy and Transborder Flows of Personal Data* of 1980, reviewed in 2013, to the Council of Europe Convention n. 108/1981 for the protection of individuals with regard to Automatic Processing of Personal Data; the Community directives adopted in this field (95/46/EC, 97/66/EC and 2002/58/EC, as amended by Directive 2009/136/EC).
* The constitutional dimension of the right to privacy and the right to the protection of personal data and their inclusion in the Charter of the Fundamental Rights of the European Community.

*Second part: the current regulatory framework*

*–* Principles and main lines of the disciplines in force on the protection of personal data: the European model based on a general discipline and sector disciplines. In particular, the General Data Protection Regulation (Regulation EU 2016/679) and the Code regarding the protection of personal data (Legislative Decree no. 196 of 30th June 2003, as amended by Legislative Decree no. 101 of 10th August 2018); the processing of personal data and the protection of privacy in the electronic communications sector: Directive 2002/58/EC (and the national transposition measures) and its review process;

– The "horizontal" dimension of the personal data protection discipline and its integration/interaction with other areas of the legal system, such as: a) freedom of thought and of information (with particular reference to the so-called right to be forgotten); b) labour law (in particular, articles 4 and 8, law no. 300/1970, Workers' Statute); c) circulation of economic information (in particular, credit information systems, anti-fraud systems and commercial information) and the personal data regime in the so-called *digital economy*; d) administrative transparency (particularly addressed in the Legislative Decree no. 33/2013).

*Third part: the “living law” regarding the protection of personal data and its main creators*

– The nature, duties, and powers of the independent administrative data protection authorities, in particular the Data protection Authority. Cooperation between supervisory authorities, the consistency system for cross-border cases and the establishment of the *European data protection board*.

– The right to the protection of personal data being evaluated for the decisions of the supervisory authorities, the national Higher Courts as well as the European Court of Human Rights and the Court of Justice of the European Union.

*Fourth part: Crisis elements and prospects*

* The interrelation between techno-social developments and the regulatory dimension: examination of open issues. *Big data, data mining*, algorithms, artificial intelligence, the *black box society.*
* Towards a *commodification* of personal data? The protection of personal data in Directive (EU) 2019/770 relating to contracts for the supply of digital content and digital services
* The right to the protection of personal data in the legislative proposals of the European Union (with special reference to the Proposal for a Regulation of the European Parliament and of the Council establishing harmonised rules on artificial intelligence, the so-called AI Act (at an advanced stage of discussion and likely to be adopted by 2024)).

***READING LIST***

The reading list will be made available at the beginning of the course. Study materials (mainly consisting of judgments and decisions of the supervisory authorities) will be made available, also during the course, through the interactive Blackboard platform.

***TEACHING METHOD***

The course will consist of remote or classroom lectures and may include practical exercises.

***ASSESSMENT METHOD AND CRITERIA***

Students’ preparation will be assessed through oral examinations to be taken on the exam sessions specified by the Faculty. The exam aims to test students’ knowledge and understanding of the discipline of the protection of personal data as well as the dynamics governing the subject, also by referring to the study materials (especially the case law and the decisions made by the supervisory authorities covered in class). First of all, the exam will test students’ accuracy and quality of answers; secondly, student’s ability to perform critical analysis and properly support statements, and judgements, and finally their clarity of speech.

***NOTES AND PREREQUISITES***

The study of privacy law and personal data protection, open to students enrolled in the single-cycle graduate degree programmes in both Law and Legal Services, requires specific knowledge of principles in Private law, Constitutional law, and European Union law. Hence students may not take the Privacy Law exam unless they have passed the exams related to these disciplines.

In view of the dynamism that distinguishes this subject, knowledge of the main new regulations and legislation is essential, which will be referred to on the Blackboard interactive platform during the course. The mentioned interrelations with the technological developments in the field of Information Technology require the students’ interest and intellectual curiosity about these profiles. For all these reasons and for the marked dynamism of the regulatory framework, attendance is strongly recommended.

To enhance students’ mastery of the subject, the course will also include practical exercises. Topics and time of the practical exercises will be posted on the Faculty notice board and on the Blackboard interactive platform.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG or on the Faculty notice board.