

Digitalisation and International Law (Fall 2024)

Course Description

Digitalisation brings new challenges for which international law is only partially prepared. In the course "Digitalisation and International Law" we will discuss the impact of digitalisation and new technologies on human rights and international law as well as the role of actors such as Google, Facebook, etc. The course also addresses issues of sovereignty, cyber-attacks as well as new forms of regulation in times of blockchain and artificial intelligence. The course is part of the Master Programme. It is designed as block course and takes place on four days during the semester.

Literature

In addition to the readings listed in the course programme below these books could be of interest:

BRADFORD ANU, *Digital Empires, The Global Battle to Regulate Technology*, Oxford 2023

CHESTERMAN SIMON, *We the Robots? Regulating Artificial Intelligence and the Limits of the Law*, Cambridge 2021

DENARDIS LAURA, *The Internet in Everything: Freedom and Security in a World with No Off Switch*, New Haven/London 2020

KETTEMANN MATTHIAS, *The Normative Order of the Internet: A Theory of Rule and Regulation Online*, Oxford 2020

LEE JAEMIN, *Artificial Intelligence and International Law*, Singapore 2022

PASQUALE FRANK, *The Black Box Society, The Secret Algorithms That Control Money and Information*, Cambridge 2016

TEGMARK MAX, *Life 3.0: Being Human in the Age of Artificial Intelligence*, London 2018

TSAGOURIAS NICHOLAS/BUCHAN RUSSELL (eds.), *The Research Handbook on International Law and Cyberspace*, 2nd ed., Cheltenham 2021

Moodle Platform

To access all information, course material and updates, please enrol in our Moodle course, which will be available shortly: <https://moodle-app2.let.ethz.ch/course/view.php?id=13356> (AAI Login).

Time and Place

This course will be held **in person**, no podcasts or livestreaming will be made available. It will take place on the following dates in room SOC-F-106:

Friday, **20 September 2024** (9:00-16:00)

Friday, **11 October 2024** (9:00-16:00)



Friday, **15 November 2024** (9:00-16:00)

Friday, **6 December 2024** (9:00-16:00)

Attendance, Preparation and Reading Material

Attendance in class is mandatory. Should students have to miss class due to a **compelling** reason, they must get in touch by writing an email to lst.kaufmann@ius.uzh.ch. Furthermore, preparation and active participation in the discussions are a prerequisite for successfully completing the course. Please read all the texts listed under mandatory readings in the syllabus. The mandatory readings will be discussed in class and the students might specifically be asked questions on specific mandatory readings. Additional readings are meant to assist you should any topics be of particular interest to you. Please note that the required course material (including the PowerPoint Presentations used in class) and reading assignments will regularly be updated and published on the Moodle platform. Be aware that certain links to download readings are only accessible when using the UZH network connection (use VPN for remote access to the UZH network; manual for VPN installation in German: <https://www.zi.uzh.ch/de/support/netzwerk/vpn.html>).

Group Presentations

Students will be required to give short group presentations on specific topics in class and then lead a discussion on that topic. The presentation and the participation in class will be part of the final grade. Further information regarding the presentations will be given in the first lecture of the course.

Exam

There will be an exam (oral or written) at the end of the term. Details will be announced by 11 October 2024.

Course Administration and Support

MLaw Camila Addiechi, research assistant, is responsible for this course and available to answer your questions (Lst.kaufmann@rwi.uzh.ch; 044 634 48 64).

Please note that this syllabus is subject to change.



Date	Topic	Mandatory readings & cases	Additional materials
20.09.24	<p>General Introduction</p> <p>Overview of key topics for the course</p> <p>Digitalisation and its impacts</p> <ul style="list-style-type: none"> - Digitalisation and digital transformation - Key features of digitalisation - Impacts on law and society <p>Introduction to Artificial Intelligence and Blockchain</p>	<p>Readings:</p> <ul style="list-style-type: none"> - Text 1a: KETTEMANN, The Normative Order of the Internet: A Theory of Rule and Regulation Online, Oxford 2020, pp. 45-55 (online access using UZH network) - Text 1b: LESSIG, Code is Law, in: Lessig (ed.), <i>Code and Other Laws of Cyberspace</i>, New York 1999, pp. 3-9 - Text 1c: DEEKS, High-Tech International Law, in: <i>George Washington Law Review</i> 88 (2020), pp. 574-653 - Text 1d: BUITEN, Towards Intelligent Regulation of Artificial Intelligence, in: <i>European Journal of Risk Regulation</i> 10/1 (2019), pp. 41-59 <p><i>Skim only</i></p> <ul style="list-style-type: none"> - Text 1e: EUROPEAN PARLIAMENT, Briefing EU Legislation in Progress – Artificial intelligence Act, Strasburg 2024 - Text 1f: BUCKLEY/DIDENKO/TRZECINSKI, Blockchain and its Applications: A Conceptual Legal Primer, in: <i>Journal of International Economic Law</i> 26 (2023), pp. 363-383 - Text 1g: COHEN, Law for the Platform Economy, Georgetown 2017, pp. 133-204 	<ul style="list-style-type: none"> - JOHNS, Data, Detection, and the Redistribution of the Sensible in International Law, in: <i>American Journal of International Law</i> 111 (2017), pp. 57-103 (online access using UZH network) - AKANDE/COCO/DE SOUZA DIAS, Drawing the Cyber Baseline: The Applicability of Existing International Law to the Governance of Information and Communication Technologies, in: <i>International Law Studies</i> 99 (4/2022), pp. 4-36 (online access using UZH network) - CULVER, Sensing Possibility in International Law - Concepts and Categories for the 21st Century, in: <i>AJIL Unbound</i> 111 (2017-2018), pp. 200-204 (online access using AAI Login and UZH network) - BOEHME-NESSLER, Digitising Democracy. On Reinventing Democracy in the Digital Era – A Legal, Political and Psychological Perspective, Berlin 2019, pp. 16-30 (online access using UZH network) - STERNLIGHT, Justice in a Brave New World?, in: <i>Connecticut Law Review</i> 52(1) (2020), pp. 213-269 - OECD, OECD Blockchain Primer, Paris 2019



<p>11.10.24</p>	<p>The role of the state: sovereignty, cyber-attacks, cyber security, and international law</p> <ul style="list-style-type: none"> - Sovereignty and jurisdiction in a digital era - Use of force and intervention - State responsibility 	<p>Readings:</p> <ul style="list-style-type: none"> - Text 2a: RYNGAERT, Extraterritorial Enforcement Jurisdiction in Cyberspace: Normative Shifts, in: German Law Journal 24/3 (2023), pp. 537-550 (online access using UZH network) - Text 2b: HELLER, In Defense of Pure Sovereignty in Cyberspace, in: International Law Studies (2021), pp. 1-54 - Text 2c: SCHMITT, Introduction, in: Schmitt (ed.), Tallin Manual 2.0 on the International Law Applicable to Cyber Operations, Cambridge 2017, pp. 1-8 (online access using UZH network) - Text 2d: SCHMITT, Sovereignty, in: Schmitt (ed.), Tallin Manual 2.0 on the International Law Applicable to Cyber Operations, Cambridge 2017, pp. 9-29 (online access using UZH network) - Text 2e: KEITNER, Foreign Election Interference and International Law, in: Ohlin/Hollis (eds.), Defending Democracies, Oxford 2021, pp. 179-195 <p><i>Skim only</i></p> <ul style="list-style-type: none"> - Text 2f: TSAGOURIAS, Cyber Attribution Agencies: A Sceptical View, in: Questions of International Law 106 (2024), pp. 23-38 - Text 2g: DELERUE, Reflections on the Opportunity of an International Attribution and Accountability Mechanism for Cyber Operations, in: Questions of International Law 106 (2015), pp. 5-21 - Text 2h: LAHMANN, “Hacking Back” by States and the Uneasy Place of Necessity within the Rule of Law, in: ZaöRV 80 (2020), 453-477 <p>Cases:</p> <ul style="list-style-type: none"> - Case 2a: FOLTZ, Stuxnet, Schmitt Analysis, and the Cyber “Use-of-Force” Debate, in: Joint Force Quarterly 67 (4/2012), pp. 40-48 - Case 2b: SCHMITT/FAHEY, WannaCry and the International Law of Cyberspace, New York 2017, <https://www.justsecurity.org/50038/wannacry-international-law-cyberspace/> (accessed: 25 August 2023) 	<ul style="list-style-type: none"> - TRAN, The Law of Attribution: Rules for Attribution the Source of a Cyber-Attack, in: Yale Journal of Law & Technology 20 (2018), pp. 376-441 (online access using AAI Login and UZH network) - MEGIDDO/DURKEE, Introduction to the Symposium on Digital Evidence, in: AJIL Unbound 118 (2024), pp. 36-39 - MILANOVIC, Revisiting Coercion as an Element of Prohibited Intervention in International Law, in: American Journal of International Law 117/4 (2023), pp. 601-650 - SCHMITT, Foreign Cyber Interference in Elections, in: International Law Studies 97 (2021), pp. 739-764 - CHANDER, Facebookistan, in: North Carolina Law Review 90/5 (2012), pp. 1807-1844 - UNITED NATIONS Open-ended Working Group on Developments in the Field of Information and Telecommunications in the Context of International Security, Report on Developments in the Field of Information and Telecommunications in the Context of International Security, 75th Session, 18 March 2021, U.N. Doc. A/75/816
-----------------	---	--	---



<p>15.11.24</p>	<p>Human rights in a digitalised world</p> <ul style="list-style-type: none"> - States' human rights obligations in cyberspace - Protection of privacy - Impacts of AI on human rights - Role of private actors 	<p>Readings:</p> <ul style="list-style-type: none"> - Text 3a: SHANY, Digital Rights and the Outer Limits of International Human Rights Law, in: German Law Journal 24 (2023), pp. 461-472 (online access using UZH network) - Text 3b: ANDREW, Introduction, in: Andrew/Bernard (eds.), Human Rights Responsibilities in the Digital Age: States, Companies and Individuals, Oxford 2021, pp.1-18 (online access using UZH network) - Text 3c: KRISHNAMURTHY/SCHMIDT/LEHR, Cybersecurity and Human Rights: Understanding the Connection, in: Andrew/Bernard (eds.), Human Rights Responsibilities in the Digital Age: States, Companies and Individuals, Oxford 2021, pp. 19-36 (online access using UZH network) - Text 3d: GRIFFIN, Rethinking rights in social media governance: human rights, ideology and inequality, in: European Law Open 2/1 (2023), pp. 30-56 <p><i>Skim only</i></p> <ul style="list-style-type: none"> - Text 3e: HUMAN RIGHTS WATCH, Bacciarelli, Pandora's Box: Generative AI Companies, ChatGPT, and Human Rights – What's at Stake in Tech's Newest Race?, New York 2023 - Text 3f: DOUEK, The Meta Oversight Board and the Empty Promise of Legitimacy, in: Harvard Journal of Law & Technology 37 (2024), pp. 1-70 <p>Cases:</p> <ul style="list-style-type: none"> - Case 3a: ECJ, Maximilian Schrems v. Data Protection Commissioner (Schrems I: Facebook, Safe Harbour) (C-362/14), 6 October 2015 - Case 3b: ECJ, Preliminary Ruling Data Protection Commissioner v. Facebook Ireland Ltd. and Maximilian Schrems (Schrems II: EU-US Privacy Shield) (C-311/18), 16 July 2020 - Case 3c: ECJ, Bundesverband der Verbraucherzentralen und Verbraucherverbände v. Planet49 GmbH (C-673/17), 1 October 2019 - Case 3d: ECtHR, Big Brother Watch and Others v. the United Kingdom (58170/13, 62322/14 and 24960/15), 25 May 2021 	<ul style="list-style-type: none"> - TECHPOLICY.PRESS, Series on: "The Promise and Perils of Human Rights for Governing Digital Platforms", Austin 2024 - AUST, "The System Only Dreams in Total Darkness": The Future of Human Rights Law in the Light of Algorithmic Authority, in: German Yearbook of International Law 60 (2017), pp. 71-90 - ECJ, Meta Platforms Inc. v. Bundeskartellamt (C-252/21), 4 July 2023 - ECJ, Google LLC v. CNIL (C-507/17), 24 September 2019 - ECJ, Facebook Ireland Ltd. and Others v. Gegevensbeschermingsautoriteit (C-645/19), 15 June 2021 - VACA VILLAREAL, Digital Inclusion and Internet Content Governance, Washington 2024 - UNITED STATES DISTRICT COURT, Northern District of California, Andersen et al v. Stability AI Ltd. et al (3:23-CV-00201), 13 January 2023 - GULATI, Meta's Oversight Board and Transnational Hybrid Adjudication – What Consequences for International Law?, in: German Law Journal 24 (2023), pp. 473-493 (online access using UZH network)
-----------------	--	--	---



Date	Topic	Mandatory readings & cases	Additional materials
		<p>Legal sources:</p> <ul style="list-style-type: none">- EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Regulation on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (2016/679), 27 April 2016- EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Digital Services Act (Regulation 2022/2065), 19 October 2022- EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Digital Markets Act (Regulation 2022/1925), 14 September 2022	<p>- KRIMMER/RABITSCH/KUŽEL (ACHLER/LICHT), Elections in Digital Times A Guide for Electoral Practitioners, Paris 2022</p>

<p>06.12.24</p>	<p>Artificial Intelligence & Co.: Do we need new forms of regulation?</p> <ul style="list-style-type: none"> - What are the impacts of new technologies on law? - Can new technologies support international law? - Do we need to types and forms of regulation? 	<p>Readings:</p> <ul style="list-style-type: none"> - Text 4a: VON UNGERN-STERNBERG, Artificial Agents and General Principles of Law, in: German Yearbook of International Law 60 (2017), pp. 240-267 - Text 4b: VAN DEN MEERSSCHE, Public-Private Corporation in Global Security Governance – Entanglement, Infrastructure and the Affordances of Fundamental Rights, in: Klabbers (ed.), International Organizations Engaging the World, London 2024, pp. 1-18 - Text 4c: PENG/LIN/STREINZ, Artificial Intelligence and International Economic Law: A Research and Policy Agenda, in: Peng/Lin/StreinZ (eds.), Artificial Intelligence and International Economic Law, Disruption, Regulation, and Re-configuration, Cambridge 2021, pp. 1-26 - Text 4d: KAUFMANN, Responsible Business in a Digital World – What’s International Law Got to Do With It?, in: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 81 (2021), pp. 781-815 - Text 4e: CHEONG, Avatars in the metaverse: potential legal issues and remedies, in: International Cybersecurity Law Review (2022), pp. 1-28 - Text 4f: DWIVEDI ET AL., Metaverse beyond the hype: Multidisciplinary perspectives on emerging challenges, opportunities, and agenda for research, practice and policy, in: International Journal of Information Management 66 (2022), pp. 1-2 (online access using UZH network) <p><i>Skim only</i></p> <ul style="list-style-type: none"> - Text 4g: ARMOUR/EIDENMÜLLER, Self-Driving Corporations?, in: Harvard Business Law Review 10 (2020), pp. 87-116 <p>Cases:</p> <ul style="list-style-type: none"> - Case 4a: United Kingdom, Court of Appeal (Civil Division), R (Bridges) v. Chief Constable of South Wales Police (C1/2019/2670), 11 August 2020 - Case 4b: United States Circuit Court of Cook County, Illinois, ACLU et al. v. Clearview AI, Inc. (2020CH04353), 28 May 2020 	<ul style="list-style-type: none"> - DIGNUM, Responsibility and Artificial Intelligence, in: Dubber/Pasquale/Das (eds.), <i>The Oxford Handbook of Ethics of AI</i>, Oxford 2020, pp. 215-231 (online access using UZH network) - RUBEL/CASTRO/PHAM, Algorithms and Autonomy: The Ethics of Automated Decision Systems, Part IV: <i>The Responsibilities of Agents</i>, Cambridge 2021, pp.1-20 - KAUFMANN, Neue OECD-Instrumente zu künstlicher Intelligenz, Wege zu vertrauenswürdiger künstlicher Intelligenz, in: Jusletter IT (2024), pp. 1-11 - YEUNG, Algorithmic regulation: A critical interrogation, in: <i>Regulation & Governance</i> 12/4 (2017), pp. 505-523 - FRIEDL/GASIOLA, Examining the EU’s Artificial Intelligence Act, in: <i>VerfBlog</i>, 07 February 2024 - UK INFORMATION COMMISSIONER’S OFFICE, Guide to the UK General Data Protection Regulation, Lawful basis for processing, Special category data, Wilmslow 2019 - OECD, Directorate for Financial and Enterprise Affairs, Platform Companies and Responsible Business Conduct, Paris 2019 - REYES/NELSON, Legal Issues Raised by Medical AI: An Introductory Exploration, Chicago 2019
-----------------	--	--	---



Date	Topic	Mandatory readings & cases	Additional materials
		<p>– Case 4c: Supreme Court of the State of Washington, Josette Taylor v. Intuitive Surgical, Inc. (92210-1), 9 February 2017</p> <p>Legal sources:</p> <p>– EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) 2024/1689, 13 June 2024</p> <p>– OECD, Council, Recommendation of the Council on Artificial Intelligence (OECD/Legal/0449), 22 May 2019</p>	<p>- MARCHANT/TOURNAS, AI Health Care Liability: From Research Trials to Court Trials, in: <i>Journal of Health & Life Science</i> 12/2 (2019), pp. 23-41</p>