



The e-learning Course on “Data protection and privacy rights”



National application and methodological remarks

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The Help in the 28 e-learning strategy:

- Self learning on line courses
- Tutored courses



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The tutored course: outline

Basic knowledge:

- Legal framework
- Role of European institutions
- Concepts, principles and rules

Problematic Areas:

- health
- media
- e-communications & marketing
- new technologies
- work place surveillance

Enforcement:

- Remedies and enforcement (administrative, criminal and civil law)
- Transborder data flows



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- Legal Framework Privacy v. Data Protection
 - Legal Framework - Privacy v. Data Protection
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 - Introduction - Main Legal Instruments
 - Council of Europe Legal Framework
 - CoE Legal Framework
 - Article 8 ECHR
 - Evolution Article 8 ECHR
 - Limitations - Article 8.2
 - Positive Obligations
 - Margin of Appreciation
 - Convention 108
 - European Union Legal Framework
 - EU Framework Charter of Fundamental Rights

Data Protection and Privacy Rights Resources

About the Course

00:27 / 02:44

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*Click on the picture
for
video presentation!*

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CoE legal framework - ECHR

[The European Convention on Human Rights \(ECHR\)](#) was adopted in 1950 and entered into force in 1953. 47 countries are now parties to the Convention, including all the EU Member States. The ECHR is considered to provide the most effective individual protection against human right violations in Europe, mainly due to the establishment of the [European Court of Human Rights \(ECtHR\)](#). Before discussing Article 8 of the ECHR - which guarantees the right to respect for private and family life, home and correspondence - please find below some basic information on the ECHR and the ECtHR.

ECHR and Domestic Systems

Role of the ECtHR

E-learning course on the ECHR and ECtHR

EU legal framework - EU Charter of Fundamental Rights

In 2000 the EU proclaimed the [Charter of Fundamental Rights of the European Union](#) (the Charter). The Charter incorporates the whole range of civil, political, economic and social rights of European citizens, by synthesising the constitutional traditions and international obligations common to the Member States. The Charter became legally binding as EU primary law in 2009. EU institutions as well as Member States, when implementing EU law, must observe and guarantee rights included in the Charter (Article 51 of the Charter).

The rights to private and family life and data protection are protected by the following provisions of the Charter:

Article 7

Article 8

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II. Challenges related to online media

- Internet plays an important role for the exercise of the freedom of expression. From the ECtHR case law it emerges that **Article 10 of the ECHR applies equally to offline and online media** ([Times Newspapers v. United Kingdom and 2](#)).
- At the same time, on many occasions the ECtHR understands that it recognises the specific character of the Internet as a medium of communication and that the **existing principles on freedom of expression should be adjusted to the special features of this medium**, such as its anonymous character ([Edition Board of Pravoye Delo and Shtekel v. Ukraine](#)).
- Moreover the ECtHR stressed the need for the development of clear domestic legal framework delineating the respective roles and responsibilities of all key stakeholders in the field of new information and communication technologies ([Neij and Sunde Kolmisoppi v. Sweden](#)).

Click 'Next' to see specific problems related to online media resolved in European jurisprudence

Press Release
issued by the Registrar of the Court

ECHR 076 (2013)
13.03.2013



Pirate Bay co-founders' criminal conviction for assisting copyright infringement on the Internet was justified

In its decision in the case of [Neij and Sunde Kolmisoppi v. Sweden](#) (application no. 40397/12) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned the complaint by two of the co-founders of "The Pirate Bay", one of the world's largest websites for sharing torrent files, that their conviction for complicity to commit crimes in violation of the Copyright Act had breached their freedom of expression.

The Court held that sharing, or allowing others to share, files of this kind on the Internet, even copyright-protected material and for profit-making purposes, was covered by the right to "receive and impart information" under Article 10 (freedom of expression). However, the Court considered that the domestic courts had rightly balanced the competing interests at stake – i.e. the right of the applicants to receive and impart information and the necessity to protect copyright – when convicting the applicants and therefore rejected their application as manifestly ill-founded.

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION
DECISION
Application no. 40397/12
Fredrik NEIJ and Peter SUNDE KOLMISOPPI
against Sweden

The European Court of Human Rights (Fifth Section), sitting on 19 February 2013 as a Chamber composed of:
Mark Villiger, *President*,
Angelika Nußberger,
Božjan M. Župančič,
Ann Power-Forde,
Ganna Yudkivska,
Helena Jäderblom,
Aleš Pejchal, *Judges*,
and Claudia Westerdek, *Section Registrar*,
Having regard to the above application lodged on 20 June 2012,
Having deliberated, decides as follows:

THE FACTS

The first applicant, Mr Fredrik Neij, is a Swedish national and the second applicant, Mr Peter Sunde Kolmisoppi, is a Finnish national. They were both born in 1978. The first applicant was represented before the Court by Mr J. Nilsson, a lawyer practising in Gothenburg, while the second applicant was represented by Mr P. Althin, a lawyer practising in Stockholm.

A. The circumstances of the case

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Giovanni Buttarelli, the European Data Protection Supervisor



Sophie Kwasny, Council of Europe



Click on the picture to hear ECtHR Estonian Judge

Module example

**PRIVACY,
DATA PROTECTION
AND
MEDIA**

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Freedom of expression (FoE) and media

One of the rights likely to come into conflict with the right to data protection is freedom of expression which is protected both by ECHR (Article 10) and the Charter of Fundamental Rights (Article 11). When such conflict occurs, courts must strike a balance in order to establish the pre-eminence of one right over the other.

Article 10, ECHR

Article 11, ChFR



II. Challenges related to online media

In this part you will find the key human rights standards in the area of online media, right to privacy and freedom of expression developed in the ECHR and CJEU jurisprudences.

Go through all the sections by clicking 'Next' or review a specific problem by clicking on one of the buttons below.

1. Managing online newspapers' archives

2. Restrictions of access to media content via search engines

3. Liability for the third-party content



Personal data processing, freedom of expression and media

The right to data protection can sometimes interfere with other fundamental rights such as for example freedom of expression. The EU data protection legal framework contains certain provisions for the purpose of balancing those fundamental rights.

Click on the buttons below to find out more about these provisions.



JOURNALISTIC EXEMPTION



RIGHT TO BE FORGOTTEN

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Online course duration is 18-20 hrs. More if reviewing links



Moderated course by national tutor:
4 hours per 2 weeks, over 3-4 months

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Tutored DPPR Course: The Italian Bar Council's Experience

The screenshot shows the website for the DPPR course. At the top, it says 'CONSEIL DE L'EUROPE' and 'Giorgio Giannone Codiglione' with a profile picture. The main navigation menu on the left includes 'My home', 'Home del sito', 'Pagine del sito', 'Corso in uso', and 'DPPR_DL_It'. Under 'DPPR_DL_It', there are links for 'Partecipanti', 'Badge', 'Help in the 28', 'Programme - CoE & Consiglio Na...', 'Struttura del corso - Overall structure', and '1. Privacy e protezione dei dati personali. Quadro...'. The main content area features a banner for 'Consiglio Nazionale Forense presso il Ministero della Giustizia' and a section titled 'Tutela della privacy e protezione dei dati personali nella dimensione europea' with a keyboard image highlighting a red 'Privacy' key. On the right, there is a search bar and a 'Notizie recenti' section listing recent forum posts by Giorgio Giannone Codiglione.

CONSEIL DE L'EUROPE

Giorgio Giannone Codiglione

Navigazione

My home

- Home del sito
- Pagine del sito
- Corso in uso
- DPPR_DL_It**
 - Partecipanti
 - Badge
 - Help in the 28
 - Programme - CoE & Consiglio Na...
 - Struttura del corso - Overall structure
 - 1. Privacy e protezione dei dati personali. Quadro...

Help in the 28 Programme - CoE & Consiglio Nazionale Forense

Help in the 28 Programme - CoE & Consiglio Nazionale Forense

Consiglio Nazionale Forense
presso il Ministero della Giustizia

EUROPEAN PROGRAMME FOR HUMAN RIGHTS EDUCATION FOR LEGAL PROFESSIONALS

Tutela della privacy e protezione dei dati personali nella dimensione europea

Ricerca nei forum

Vai

Ricerca avanzata

Notizie recenti

Aggiungi nuovo argomento...

17 gen, 10:39
Giorgio Giannone Codiglione
"Trattamento dei dati e tutela della persona nell'era digitale"

13 gen, 12:57
Giorgio Giannone Codiglione
Fine Corso e Certificazione

8 gen, 15:05
Giorgio Giannone Codiglione
Termine completamento Test finale - Ultimo Avviso

7 gen, 18:27
Giorgio Giannone Codiglione
Test Finale e Valutazione

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The Course in Brief

- **Start: 3rd October 2016**
- **End: 15th January 2017**
- **Duration: 13 weeks**
- **Participants: 33 (26 Italian lawyers - selected by the Italian Bar Council - 5 officers of the data protection national authority and 2 full professors of Law)**
- **Number of Units: 9 divided into “General” (5 units) and “Specific Issues” (4 units)**
- **Assignments: 4 (2 quizzes, 1 workshop, 1 final test)**
- **Graduated: 31 participants**

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Learning Objectives

Upon completion of the e-learning course on "Privacy and data protection", implemented by the Italian Bar Council, the participants have been able to understand:

- The key principles of data protection and privacy rights;
- The interplay between law and technology;
- The European legal framework concerning data protection and privacy rights;
- The case law of the ECtHR and the CJEU;
- The domestic legal system that protects the right to privacy and personal data,

and also to:

- identify and apply the source of law in a specific case;
- Understand the role of lawyers in protecting personal data in the workplace

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The e-learning Course Outline (1)

Considering the needs of the audience, the course has been divided into a general part, in which are explained the European and national legislative frameworks, and into a special section, focused on more specific topics, which were analyzed and discussed with reference to the ECHR and ECJ's case law, and compared with national and municipal jurisprudence.

1. Privacy e protezione dei dati personali. Quadro giuridico

1. Privacy e protezione dei dati personali. Quadro giuridico

-  1.1. Introduzione - CoE, CEDU, Convenzione n. 108
-  1.2. Il diritto comunitario
-  1.3. Soft Law
-  1.4. Il cammino italiano dei diritti alla riservatezza e protezione dei dati personali
-  1.5. Privacy vs. protezione dei dati personali
-  1.6. L'evoluzione dell'art. 8 CEDU
-  Domande e approfondimenti dell'unità didattica n. 1
-  Verifica dell'apprendimento - Unità n. 1
-  Feedback e Autovalutazione

Unità didattica n. 1

2 - 3. Concetti chiave e ambito di applicazione

2 - 3. Concetti chiave e ambito di applicazione

-  2.1. Concetti chiave

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The e-learning Course Outline (2)

General Framework (first 7 weeks - 5 units)

Week 1-2: Unit n. 1.- Privacy and data protection.

Introduction and legal framework (6 paragraphs);

Weeks 3-4: Units nn. 2-3.- Key concepts (terminology)

and scope (material and territorial) (6 paragraphs)

Special focus: Transborder data flows

Weeks 5-6: Unit n. 4.- Key principles and rules (3 paragraphs);

Week 7: Unit n. 5.- Remedies and enforcement (5 paragraphs);

Specific Issues (last 6 weeks – 4 units):

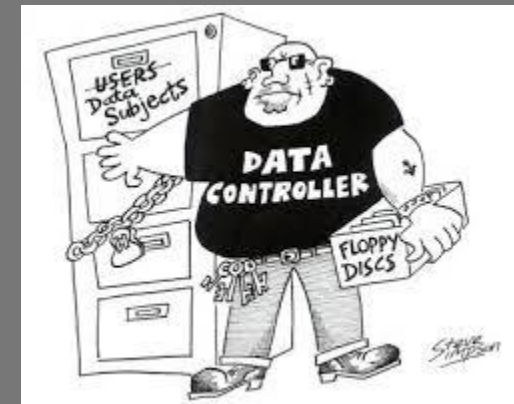
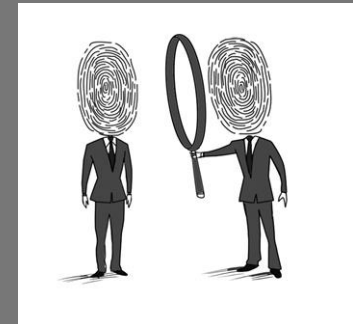
Week 8: Unit n. 6.- Privacy in the workplace (4 paragraphs);

Weeks 9-10: Unit n. 7.- Medical privacy (4 paragraphs)

Week 11: Unit n. 8.- Data protection/privacy rights and media (traditional and non traditional)
(5 paragraphs)

Weeks 12-13: Unit n. 9.- Data protection and e-communications (3 paragraphs).

Unit. n. 10. Final evaluation and Feedback



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Adaptation of the Course (1) Audience Needs and National Legal System



The training materials were prepared in English and translated into Italian.

I adapted the content of the general curriculum for the target audience – law professionals or experts – selecting and publishing information and summaries about the ECtHR' judgments which are relevant in the field of privacy and data protection.

In adapting the training materials, I tried also to find and present all the additional information needed, with particular attention to municipal jurisprudence and the national framework (i.e. Paragraphs nn. 1.4; 2.3; 6.4; 8.5).

(tradizionali e non) vs....

9. Protezione dei dati personali e comunicazione e...

10. Verifica finale e gradimento

Trattamento dei dati e tutela della persona nell'e...

I miei corsi

Corsi

Impostazioni

Gestione Pagina

- Impostazioni
- Ruoli assegnati localmente

Caso Mussolini-Petacci (Cass., 990/1963)

La pubblicazione, sul settimanale «Tempo», del primo di una serie di articoli - a firma Zita Ritossa - che narravano della vita intima dell'amante del Duce», diedero vita ad un'accesa *querelle* giudiziaria. Non mancavano, nel contesto del racconto, osservazioni ritenute offensive dai congiunti che agirono in giudizio: il prof. Francesco Saverio Petacci vi era descritto come

Subsection 1.4: National case law analysis

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Adaptation of the Course (2) Learning Tools And Activities



During the course I used learning tools like Wiki (with the goal of implementing collaborative communication), One workshop (unit n. 5), and other tools and interactive contents like videos or presentations.

Art. 27 - Garanzie per i dati giudiziari

1. Il trattamento di dati giudiziari da parte di privati o di enti pubblici economici è consentito soltanto se autorizzato da espressa disposizione di legge o provvedimento del Garante che specifichino le rilevanti finalità di interesse pubblico del trattamento, i tipi di dati trattati e di operazioni eseguibili. Si applica quanto previsto dall'articolo 21, comma 1 bis.

Dati personali

- Per «dati personali» si intende qualsiasi informazione concernente una persona fisica identificata o identificabile («persona interessata»); si considera identificabile la persona che può essere identificata, direttamente o indirettamente, in particolare mediante riferimento ad un numero di identificazione o ad uno o più elementi specifici caratteristici della sua identità fisica, fisiologica, psichica, economica, culturale o sociale (**Art. 2, lett. a), Direttiva 95/46/CE**)

- «**Dato personale**»: qualsiasi informazione riguardante una persona fisica identificata o identificabile («interessato»); si considera identificabile la persona fisica che può essere identificata, direttamente o indirettamente, con particolare riferimento a un identificativo come il nome, un numero di identificazione, dati relativi all'ubicazione, un identificativo online o a uno o più elementi caratteristici della sua identità fisica, fisiologica, genetica, psichica, economica, culturale o sociale (**art. 4, n. 1) Regolamento n. 679/2016**).

P.M. Schwartz - D.J. Solove, *The PII Problem: Privacy and a New Concept of Personally Identifiable Information*, in 86 *N.Y.U. L. Rev.* 1814 (2011).

86NYULRev.pdf

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Adaptation of the Course (3) Learning Tools And Activities

As part of the workshop started in the unit no. 5, the contributions made by participants were published in a special section of the course, in order to foster dialogue and the exchange of opinions and knowledge.

Trattamento dei dati e tutela della persona nell'era digitale

La presente sezione raccoglie i commenti redatti dai partecipanti al Corso promosso da CoE e CNF, relativi ad alcune tra le più recenti e significative pronunzie della giurisprudenza italiana in tema di riservatezza e protezione dei dati personali.

Le sentenze, interamente scaricabili nell'attività "Workshop", sono massimate e accompagnate dalle rispettive note, accessibili in formato pdf secondo un ordine alfabetico per Autore.

- Cass. civ., sez. II, 27-04-2016, n. 8415 (Privacy e circolazione stradale)
- Cass. civ., sez. I, 13-05-2015, n. 9785 (Dati sensibili e liste elettorali)
- Cass. civ., sez. III, 20-05-2015, n. 10047 (Dati sensibili e P.A.)
- Cass. civ., sez. I, 20-05-2016, n. 10510 (pubblicazione sentenze)
- Cass. civ., sez. II, 05-07-2016, n. 13663 (Videosorveglianza)
- Cass. civ., sez. I, 10-05-2014, n. 10047 (Dati sensibili e dati genetici)

Cass. civ., sez. I, 13-05-2015, n. 9785 (Dati sensibili e liste elettorali)

L'aggiornamento delle liste elettorali impone il corretto trattamento dei dati sul mutamento del sesso; configura indebita diffusione di dati sensibili, fonte di risarcimento del danno, la trasmissione effettuata dall'ufficio elettorale di un comune ad altro di destinazione di un fascicolo contenente i dati anagrafici e l'annotazione della sentenza di rettificazione di attribuzione di sesso di una persona, con la specificazione che la stessa ha mutato sesso assumendo diverso nome, e ciò anche al di là del successivo comportamento del comune ricevente.

Con commenti di:

- V. Colomba
- V. Pagnanelli
- G. Zwankhuizen

Commento alla sentenza n. 9785 del 13-05-2015 della Corte di Cassazione

Premessa

La sentenza n. 9785 del 13 maggio 2015, emessa dalla Corte di Cassazione, si è espressa in merito alla questione di illegittima divulgazione di dati personali, con riferimento al D. Lgs. n. 196 del 2003 (ex Art. 152) della normativa in materia di Privacy e Protezione dei dati personali (Legge n. 675 del 1996 e successive modificazioni), nonché ha affrontato il tema della ristorabilità del danno non patrimoniale conseguente alla violazione delle norme poste a tutela della riservatezza (Art. 2059 c.c.).

Con sentenza del 7 Febbraio 2011, il Tribunale di Ragusa aveva condannato il Comune di Comiso a corrispondere un importo di euro 75.000 a titolo di risarcimento danni. Il Comune di Comiso ricorse contro un'eventuale sentenza, chiedendo il rinvio della decisione, invocando di

Learning Tools: Special Section dedicated to workshop contributions

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Adaptation of the Course (4) Assignments

During the whole course I uploaded 4 assignments:

- 1) **Unit n. 1** – a preliminary test (true/false; multiple choices; short written answers) submitted by 32 participants
- 2) **Units n. 2-3** – one quiz completed by 31 participants
- 3) **Unit n. 5** – one workshop focused on the analysis of selected Italian case-law on privacy and data protection, successfully completed by 27 participants
- 4) **Unit. n. 10** – final test with 23 mixed questions (true/false, multiple choices, case solving, written answers), completed with success by 31 participants.

Upon closing each unit, I gave feedback to each participant who had performed the given quiz, test or assignment.

Domanda 5

Risposta non ancora data
Punteggio ottenuto su 1,00

Contrassegna domanda
Modifica domanda

Indica se l'affermazione sottostante è vera o falsa.

Al momento dell'acquisto di un biglietto aereo, un passeggero ha richiesto alla compagnia aerea di fornirgli una sedia a rotelle e cibo kosher. Al fine di soddisfare le esigenze del passeggero, la compagnia aerea è autorizzata a utilizzare questi dati nonostante il passeggero non abbia sottoscritto una clausola supplementare con cui abbia espresso il suo consenso all'utilizzo dei dati sensibili che rivelano informazioni sul suo stato di salute e le sue convinzioni religiose.

Scegli una:

- Vero
 Falso

Domanda 6

Risposta non ancora data
Punteggio ottenuto su 1,00

Contrassegna domanda
Modifica domanda

Indica se l'affermazione sottostante è vera o falsa.

Ai sensi del diritto dell'Unione europea, i titolari del trattamento sono sempre obbligati a informare preventivamente le persone interessate circa la loro intenzione di trattare i dati e questa disposizione non prevede alcuna eccezione.

Scegli una:

- Vero
 Falso

	D. 7 /5,00	D. 8 /1,00	D. 9 /1,00	D. 10 /2,00	D. 11 /1,00	D. 12 /2,00	D. 13 /1,00	D. 14 /1,00	D. 15 /1,00	D. 16 /2,00	D. 17 /1,00	D. 18 /1,00	D. 19 /1,00	D. 20 /1,00
✓ 4,50	✓ 1,00	✗ 1,00	✓ 2,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✗ 1,00	✓ 1,00	✓ 1,00	
✓ 4,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✗ 1,00	✓ 1,00	✓ 1,00	
✓ 3,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✗ 1,00	✓ 1,00	✓ 1,00	
✓ 4,00	✓ 1,00	✗ 1,00	✓ 2,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 2,00	✗ 1,00	✗ 1,00	✓ 1,00	✓ 1,00	
✓ 4,50	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 1,00	
✓ 4,50	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 2,00	✓ 1,00	✓ 1,00	✓ 1,00	✓ 1,00	

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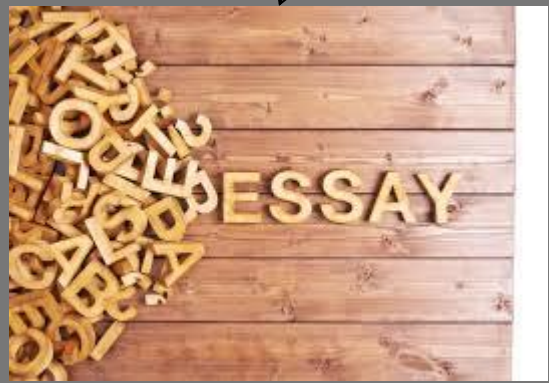
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Evaluation instruments

- Quiz
- Case analysis
- Essays
- Knowledge check



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Communication

The participants have been regularly informed about the deadlines and engagements through the news forum and e-mails.

During the course 3 forums were launched (News, Technical Questions, Content Comprehension and Debate).


In the “news forum” 22 topics were posted devoted to the participants in the course.

The posted messages concerned requests for more information on the course or reminders about deadlines. For technical issues I created a special forum with 6 interactive entries.

Concrete problems and issues were mostly discussed by e-mail: participants preferred to answer individually to forum-messages instead of posting comments on the web page (circa 250 e-mails received in 13 weeks).



I rapporti tra normativa comunitaria, giurisprudenza della Corte EDU e della CGE: influenze ed applicazioni nel modello italiano

 News


VERSION ONLINE IN LINGUA ITALIANA

Struttura del corso - Overall structure

Struttura del corso - Overall structure

 Questioni di carattere tecnico

Forum dedicato alla risoluzione degli eventuali problemi di carattere tecnico connessi alla navigazione all'interno della piattaforma moodle del corso.

 Obiettivi di apprendimento - Learning objectives

 Adattamento del corso all'ordinamento giuridico italiano - Adaptation of the curriculum to the national legal order

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Certification: Evaluation Parameters

- 1) Participation:** interaction, punctuality, collaboration
(Impact on the total score: 14% circa)
- 2) Assignments:** 2 quiz, 1 workshop
(Impact: 42% circa)
- 3) Final Test: 23 new questions (true/false, multiple choice, short answer, open)**
(Impact: 42% circa)



Final Evaluation - Course Statistics:

Excellent (90/100%): 18 Participants
Good (70/90%): 10 Participants
Passing Grade (50/70%): 3 Participants
Not Graduated (<50%): 2 Participants



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Concluding Remarks: Problems and Suggestions

- In e-learning Courses designed for professionals, participants tend to prefer a personalized approach with the Tutor.
- Time and Contents: During the course, I wanted to increase the interaction between the participants, but the time available was not enough and the topics to be hatched numerous and all equally important.
- The high specialization of the participants led me to focus more on the learning objectives.

Suggestions (for Courses that have up to 25 participants):

- Selecting and focusing on less topics (from the “specific issues” session) in the design stage, preferably probing participants during the kick-off event.
- Trying to promote forum-based communication, stimulating better interaction between learners and making a more efficient problem solving system for the Tutor.

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Thank You!

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Consiglio Nazionale Forense
presso il Ministero della Giustizia