

COURSE SYLLABUS
COURSE DETAILS

Course:	MDST 3300 Media Law, Ethics & Policy
Semester:	Spring 2022
ECTS:	6 ECTS – 32 hours in class
EQF Level:	VI or VII [Filled in by the university]
Core Curriculum Mod:	No
Methods Road Map:	No
GCP Coded:	
Prerequisites:	Junior or senior standing
Standard meeting times:	W 16:30-19:30
Instructor:	Prof. Dr. Andrey Rikhter, Ph.D, JD
<i>e-mail:</i>	<andreyrikhter@webster.edu>
<i>phone:</i>	
<i>office room/hours:</i>	On appointment
Last update:	20.01.2022

COURSE DESCRIPTION

From the Webster University’s 2021-22 Undergraduate Studies Course Catalog: “This class will provide an in-depth examination of issues surrounding the media profession as it relates to regulatory issues, ethical issues and legal issues. Students will examine and analyze common media law principles and ethical concerns relevant to today's changing -- and increasingly digital -- professional media environment. This class will cover topics related to current legal issues including, but not limited to, the First Amendment, contract law, copyright law, fair use, piracy, privacy, trademarks, licensing, data storage/use as well as international regulations.”

The course focuses on the freedom of expression, the freedom of the media and information, and their admissible restrictions in international and comparative national policy and regulation, mostly in Europe and the USA. The aim is to introduce students to the regulatory standards and political framework of free speech via various media thus enabling a multi-faceted but generally uniform understanding on principles of media governance. The various legal regimes, actors and institutions will be contextualized and critically reflected. A wide variety of topics – including media production, media technology, and social norms – will be discussed in relation to media law and ethics. Special emphasis will be given to the much debated topics today, such as disinformation and propaganda, the right to privacy, “hate speech”, “information and hybrid wars”, safety of journalists and bloggers, copyright protection online, liability of internet intermediaries, future of public service media. We will discuss case examples, mostly from the US Supreme Court and the European Court of Human Rights (ECtHR), demonstrating the multiplicity of arguments and connections between human rights principles-legal frameworks-media policy issues.

LEARNING OUTCOMES

Upon exiting the course, the students will:

- Be able to identify and understand the major modern approaches to regional, national, and international regulation of the media, as well as media ethics, the ways that they are interconnected, the key relevant norms and court decisions (case law).
- Be competent to apply in their professional work practical methods to navigate relevant jurisdictions and appropriate branches of law pertaining to the media.
- Demonstrate knowledge of key players and stakeholders in media regulatory changes, self-regulation mechanisms and relevant government and intergovernmental policy structures.
- Identify principles, cultural and political similarities and differences in media legislation, media professional norms and media governance.
- Be profoundly media literate on freedom of expression values, professional standards and balancing norms of media regulation and able to independently analyze, critically evaluate and actively communicate relevant knowledge through the media of their choice in a well-organized and properly expressed manner.
- Critically and independently analyze theories about current and future regulative trends for the media, especially online media.

GRADING SCALE AND BREAKDOWN

EVALUATION COMPONENTS (Based on 100 points):	Instructors determine both the grading scale and the components of evaluation. Please find below examples for 1) both undergraduate and graduate grading scales and 2) evaluation components. * Please note that these are only examples. You are not required to use these scales.					
	Undergraduate				Graduate	
	A	93+		C	73-76.99	
	A-	90-92.99		C-	70-72.99	
	B+	87-89.99		D+	67-69.99	
	B	83-86.99		D	63-66.99	
	B-	80-82.99		F	< 63	
C+	77-79.99					
Exams:	50					
Midterm:	20					
Final:	30					
Written and oral work:	50					
Hand-in Paper and in-class presentations:	25 (15+10)					
Participation:	25					

WORKLOAD AND SELF-LEARNING

WVPU assigns European Credit Transfer System (ECTS) points corresponding to student workload on the basis of 25 hours of combined student attendance and self-learning per one ECTS credit. The directory of courses offered annually are publicly accessible via its website application Courses@WVPU (http://atlas.webster.ac.at/public/cp_pub.cfm). Typical semester courses incorporate 32 hours of direct instruction and an additional four (4) hours of allocated examination time and involve self-learning components necessary for research and writing assignments.

The workload for this course requires not only in-class participation but also extensive out-of-class preparation on your behalf. Your out-of-class work is connected to in-class activities, which also means that you will use class time more effectively in order to develop crucial academic and critical thinking skills.

COURSE POLICIES AND ADDITIONAL INFORMATION

Attendance:

Students are expected to attend ALL class sessions of a course. In the case of an unavoidable absence, the student must contact the instructor immediately and provide written documentation explaining the absence. The student is subject to appropriate academic penalty for incomplete or unacceptable makeup work, or for excessive or unexcused absences as follows:

- If a student has less than 2 excused absences, then his/her grade will not be penalized provided the student successfully completes any make up assignments.
- If a student has less than 2 unexcused absences, then his/her grade will be reduced by one letter grade for each unexcused absence.
- If a student exceeds 2 absences, regardless if the absence is excused or unexcused, then the student is responsible for withdrawing from the course or will otherwise receive an F letter grade for failing to attend a significant amount of class sessions necessary to successfully complete the course.
- In the case of a mixture of excused and unexcused absences, the instructor’s response must be based on the dominant category.

Students who miss the first week’s session of a course and do not communicate their absence to the instructor prior to its first session will be automatically dropped from the course. If you miss a class, you are responsible for obtaining notes from a fellow student who attended class. Please be on time.

Student Conduct:

Since every student is entitled to full participation in class or exams without interruption, disruption of class by inconsiderate behavior is not acceptable. Students are expected to treat the instructor and other students with dignity and respect, especially in cases where a diversity of opinion arises. Students who engage in disruptive behavior are subject to disciplinary action, including removal from the course. All and any use of a cell phone is strictly prohibited during class. Students using a cell phone may be sent out of the classroom, which may result in an unexcused absence. Electronic devices may be used during class only for purposes of note taking for this class and/or outlining for this class. Electronic devices may not be used for any other purposes. You will be asked to leave the classroom if you use them for other purposes. Use of recording devices (audio and/or video) is not permitted in the classroom without my prior permission.

This instructor pays particular attention to proper citing and referencing, as plagiarizing is totally unacceptable, please consult the APA style guidelines: <https://www.apastyle.org/> for you written assignment.

UNIVERSITY POLICIES

Students are required to inform themselves of WVPU academic policies. A full list of these policies is available on the WVPU website: <https://webster.ac.at/academics/academicpolicies.php>

WEEKLY SCHEDULE (Tentative)

Week 1 (Feb 9)	<p>Introduction to the course. How free is your speech?</p> <p>Fundamental rights and principles. Freedom of expression, freedom of information, and media freedom. The rights of intermediaries. Censorship and prior restraint. The legal framework and the human rights framework. Balancing of rights. The rights of content providers. Independence and pluralism of the media.</p> <p>Specificity of the First Amendment to the US Constitution, its origins and values. Speech and press freedoms in theory and US case law.</p>
----------------	---

Oster: Ch.2 - Fundamental Rights and Principles (Oster, Jan: European and International Media Law, Cambridge University Press, 2017)

Trager, Ross & Reynolds: Ch. 2: The First Amendment (pp. 51-84) (Robert Trager, Susan Dente Ross & Amy Reynolds: The Law of Journalism and Mass Communication, CQ Press, 6th ed., 2018.)

Week 2 (Feb 16)

Law and the media

Why media policy? What is media law? [The rule of law](#). Sources of the law. US, European and international approaches to media law.

Structure of the judicial systems, jurisdiction and processes of the law. The role of the [European Court of Human Rights](#) (ECtHR) and the [US Supreme Court](#) (USSC) in understanding limits of permissible restrictions on media freedom.

Editorial control. Who is a journalist? Journalistic and media privileges.

[Branzburg vs. Hayes](#) case in USSC. Right of correction and reply:

international standards. Anonymous sources, anonymous speech. A new notion of the media.

Oster: Ch. 1- Introduction

Jakubowicz, Karol: [A new notion of media?](#) Strasbourg, Council of Europe, 2009.

Assignment: Debates on free speech on US campuses (e.g., [Hazelwood vs. Kuhlmeier](#))

Week 3 (Feb 23)

Access to information.

Arguments behind free access to information. [U.S. Freedom of Information Act](#) (FOIA). State laws on open government.

Restrictions to the human right of access to information and the public interest test. ECtHR on access to information. Council of Europe [Convention on Access to Official Documents](#): its flaws and main points to learn.

Newsgathering. The nature of media accreditation. Accreditation at the government institutions and police departments in the US. Status of foreign correspondents.

Recording sources. Confidential sources of information, whistleblowers. Trespassing: *Food Lion vs ABC News* case.

Fair trial and free press. Transparency of the judiciary, media reporting of courts, gag orders. Charles Lindberg case and its effect on regulation of court reporting in the US. European case law on media restrictions to maintain the authority and impartiality of the judiciary.

Balancing protection of public health and free access to information in times of COVID-19.

[Tromsø Convention](#) (webpage of the Council of Europe)

Oster: Ch.4 – The Rights of Recipients (pp. 59-64).

Assignment: Freedom of information law in your country.

Week 4 (March 2)

Legal controls upon the content of speech

The [three-part test](#) of legality, legitimacy in international law and necessity for the protection or promotion of the legitimate aim of admissible restrictions. Threats to public interests: national security, public safety and prevention of disorder and crime. A clear and present danger of speech. [The Pentagon Papers](#) and [The Progressive](#) cases. US Patriot Act.

Prior restraint during wartime. Information and hybrid wars, information and cultural security, cyberattacks. Sanctions against “enemy” media. “Foreign agent” laws in the US, Russia, and beyond.

Laws on public morals and decency, protection of children in cyberspace.

“Hate speech”; incitement to discrimination and violence; political extremism; blasphemy, interpretation of national history. Propaganda for war and incitement of hatred.

Media and democratic process: election campaign regulation.

Oster: Ch.3 - Restrictions on Freedom of Expression and Media Freedom

Trager, Ross & Reynolds: Ch. 2: The First Amendment (pp. 51-84)

[“We’re Going to Publish”: An Oral History of the Pentagon Papers](#). The New York Times (2021).

Assignment:

The Holocaust denial and defamation of history: free speech aspects

Week 5 (March 9)

Broadcast regulation

Nature of licensing of radio and TV broadcasters. Independence of national media regulators. Private, public and state broadcasters. Specificity of public service media regulation: remit, administration, and financing.

Over-the-air, cable, satellite, internet-provided TV and other audiovisual programs. “Must-carry” rules.

European heritage of public, private and community broadcasting. European broadcasting order: terminology; the legal frameworks; principles; regulation of advertising; protection of minors; coverage of “major events”; promotion of European and independent production.

Policy and regulation of the switchover to terrestrial digital television.

Oster: Ch. 5 - Broadcasting and Other Audiovisual Media Services (pp. 144-201).

Assignment: Regulation of cable TV in the US.

<p>Week 6 (March 16)</p>	<p>Internet Governance and Content Regulation</p> <p>Global internet governance, ICANN and claims of US domination. Council of Europe Cybercrime Convention. Liability of internet intermediaries and Delfi vs Estonia judgement of the ECtHR. The European legal framework. The right to be forgotten (Google vs. Spain). Digital Services Act, as adopted by the European Parliament in 2022.</p> <p><i>Oster: Ch. 6 - Internet Governance and Regulation (pp.202-241)</i></p> <p>The Digital Services Act package (a webpage of the European Commission). Action against Cybercrime (a webpage of the Council of Europe).</p> <p>Assignments:</p> <ol style="list-style-type: none"> 1. The dangers and advantages of artificial intelligence (AI) development for free information flow. 2. The net neutrality debate: European and US perspectives 3. Regulation of social media companies: the case of Russia. <p>MIDTERM EXAM</p>
<p>Week 7 (March 23)</p>	<p>Copyright</p> <p>Subject-matter of a copyright. Beneficiaries of copyright protection. Originality and fixation of works. Rationales for protecting copyright. Economic rights and moral rights. Specificity of moral aspects of copyright protection. Transnational nature of copyright law and national deviations. Related rights (or neighboring rights). Fair use rules. Works for hire. Protection of parodies.</p> <p><i>Oster: Ch. 9 – Copyright (pp.370-445).</i></p> <p>Assignment: <i>Salinger v Random House case at the US Court of Appeals.</i></p>
<p>Week 8 (March 30)</p>	<p>Libel/Defamation</p> <p>The balancing exercise between freedom of speech and personality rights. Public persons and private persons. Defense of truth and privileged communications. True statements of fact and value judgements: plurality, diversity of opinions, freedom to spread gossips. Protection of satire. <i>Hustler</i> parody that sparked the <i>Falwell</i> case. Criminal libel.</p> <p>The landmark USSC case of New York Times v. Sullivan for defamation law in the US and Europe. Relevant case law of the ECtHR.</p> <p>Is there a right to receive truth and the right to spread lies?</p> <p><i>Oster: Ch. 2 – Personality Rights, pp. 71-89.</i></p> <p>Joint group assignment (but we need a leader): Appellate Court Simulation - U.S. v. Alvarez.</p>

<p>Week 9 (Apr 6)</p>	<p>Invasion of Privacy</p> <p>The right to privacy and the right of publicity. Appropriation of name or likeness. Intrusion upon one’s solitude. Publication of private information about an individual. Publishing material that puts an individual in a false light. Forms of consent. News and information exception. Legitimate public concern. No privacy in public and paparazzi. Fictionalization of private life. <i>Monitor Patriot Co. v. Roy; Galella v. Onassis</i> and other case law.</p> <p>European approach to protection of privacy. ECtHR three judgments in Von Hannover v Germany. <i>Campbell v MGN</i> (UK).</p> <p><i>Oster: Ch. 2 – Personality Rights, pp. 71-89.</i></p> <p>Boardman, Ruth: Naomi Campbell Privacy Case (2004)</p> <p>Assignment: Regulation of the use of drones in newsgathering.</p>
<p>Week 10 (Apr 13)</p>	<p>Media Ethics and Self-regulation</p> <p>State regulation, co-regulation and self-regulation of the media. Principles of professional conduct and ethics for journalists. Codes of practice, media councils and media ombudsmen.</p> <p>Self-regulation of public service media. Facebook Oversight Board and other forms of social media</p> <p><i>Bertrand, C.-J. (2007). Media Accountability Systems. Belgrade: Organization for Security and Co-operation in Europe.</i></p> <p>Assignment: The Oversight Board @Facebook</p>
<p>Week 11 (Apr 20)</p>	<p>Media policy research & advocacy: safety of journalists</p> <p>Media freedom and safety of journalists. Violations and abuses committed in relation to the safety of journalists: killing, torture, enforced disappearance, arbitrary arrest and arbitrary expulsion, intimidation, harassment and threats of all forms, such as physical, legal, political, technological or economic, intended to suppress their work.</p> <p>UN Plan of Action on the Safety of Journalists and the Issue of Impunity. Policy papers and commitments in this regard from UNESCO, OSCE and the Council of Europe. National plans on safety of journalists.</p> <p>Safety of Journalists (a webpage of UNESCO)</p> <p>Platform to promote the protection of journalism and safety of journalists of the Council of Europe.</p> <p>Safety of Journalists (a webpage of the OSCE)</p> <p>Assignment: Safety of female journalists.</p>
<p>Week 12 (Apr 27)</p>	<p>Wrapping up; Q&A</p> <p><i>No Reading: We will use this day to catch up on material.</i></p>

-