



**University
of Ferrara**

Digital Vulnerability in European Private Law

15 and 16 June 2023

University of Ferrara

Department of Law, Aula Magna

Corso Ercole I d'Este 37, Ferrara

Vulnerability has emerged in legal discourse, in dialogue with other disciplines, as a useful concept to capture the fluid and multilayered nature of the human condition and to question the adequacy of some foundational legal and policy norms.

Yet, despite the potential of the notion of vulnerability as a key tool to overcome the limits of legal formalism and paternalism and to foster substantive equality, the legal status and effects of the notion under domestic and European laws are still quite unclear. In particular, the notion of people's vulnerability has only seldom been applied to the specific forms of exposure to harm that might arise from interaction with digital technologies.

In our current and pervasively digitalized world, we believe it is increasingly important to analyze how digital technologies impact preexisting forms of vulnerability or create new ones, and to understand how the law can prevent or address unequal experiences of technology. This is what we plan to do with our project 'Digital Vulnerability in European Private Law' (DiVE), funded by the Italian Ministry of University and Research from June 2022 to May 2025. The DiVE project aims to investigate the notion of digital vulnerability by exploring how this notion stands vis-à-vis traditional paradigms of protection of weaker parties (such as rules on incapacity, consumer protection, data protection, anti-discrimination, equality before the law) and to what extent it might properly capture risks and harms stemming from digital technologies.

The project aims in particular at identifying the factual conditions in which digital technologies – from the web to social media, from platforms to Artificial Intelligence and Distributed Ledger Technologies – might prove disruptive and challenging for people, and in assessing under which conditions, how and to what extent the notion of digital vulnerability might be translated into claims for special legal protection.

Within the outlined framework, three international conferences will be organized. A first conference will be held on 15 and 16 June 2023 at the Law Faculty of the University of Ferrara, to inquiry the very boundaries of the notion of digital vulnerability. A second conference will be held in March 2024 in Rome, to examine how digital vulnerability matters in access to, identity construction and protection of health in the digital sphere. A third conference will be held in March 2025 in Trieste, to scrutinize the impact of digital vulnerability on contractual and tortious remedies.

The Project's inaugural conference will focus on the current and future legal status of the concept of digital vulnerability – that is, vulnerability caused by digital technologies – under domestic and EU law, analyzing both how the notion is currently used in European legal terminology and how rules and remedies are currently triggered by unequal situations in the digital environment.

In particular, the aim of the conference is to explore the links between the general notion of vulnerability and that of digital vulnerability, and to analyze how technology might exacerbate existing forms of inequality or create new ones.

Against this background, the inaugural conference aims to serve as a platform for offering a critical and innovative look at how the multifaceted concept of digital vulnerability stands vis-à-vis traditional paradigms of protection of weaker parties (such as rules on equality before the law, anti-discrimination, incapacity, consumer protection, data protection) and to what extent it might properly promote a 'personalized', human-centered, approach to the digital environment.

Research Project Team: Claudia Amodio, Camilla Crea, Alberto De Franceschi, Amalia Diurni, Marta Infantino, Luca Ettore Perriello, Loredana Tullio

Scientific Committee: Danielle K. Citron (University of Virginia), Hans-Wolfgang Micklitz (European University Institute), Frank Pasquale (Brooklyn Law School), Teresa Rodríguez de las Heras Ballell (University Carlos III of Madrid), Giovanni Sartor (European University Institute), Reiner Schulze (University of Münster), Gunther Teubner (Frankfurt University), Yingqin Zheng (University of London).

Thursday, 15 June 2022

University of Ferrara, Department of Law, Aula Magna, Corso Ercole I d'Este, 37

08:00 Registration

09:00 Welcome addresses

09:15 Scope and Aims of the Conference

Alberto De Franceschi (University of Ferrara)

09:30 I. Private Law facing Digital Vulnerability: The Global Challenge

Chair: Reiner Schulze (University of Münster)

EU Private Law and Digital Vulnerability: Overarching Issues

Maciej Szpunar (First Advocate General at the Court of Justice of the European Union)

New Technologies and UNIDROIT's Recent Projects: Challenges and Opportunities

Anna Veneziano (University of Teramo and Deputy Secretary General at UNIDROIT)

Digital Vulnerability in Automated Contracting

Teresa Rodriguez de las Heras Ballell (University Carlos III of Madrid)

10:30 Discussion

11:00 Coffee Break

11:30 II. Private Law facing Digital Vulnerability: The Global Challenge

Chair: *Herbert Zech (Humboldt University of Berlin and Director at German Internet Institute)*

Protection of Vulnerables in Online Marketplaces

Byung Jun Lee (Korea University, Seoul)

Digital vulnerability in a post-consumer society. Subverting paradigms?

Mateusz Grochowski (Max Planck Institute for Foreign and International Private Law)

The new concept of digital vulnerability and the rules on unfair commercial practices

Mateja Durovic (King's College London)

12:30 Discussion

13:00 Lunch

14:30 III. Tackling Consumers' Vulnerability

Chair: *Oreste Pollicino (Bocconi University, Milan)*

The detection of consumer vulnerability on digital markets through social computing

Catalina Goanta (University of Utrecht) and Jerry Spanakis (University of Maastricht)

Digital vulnerability and online dark patterns

Shindong Jung (Gangneung-Wonju National University)

Implications of digital vulnerability for EU consumer law

Fabrizio Esposito (NOVA University of Lisbon)

15:30 Discussion

16:00 Coffee Break

16:30 III. Tackling Consumers' Vulnerability

Chair: *Tatjana Josipović (University of Zagreb)*

Digital Vulnerability and Private Autonomy

Irina Domurath (Central University of Chile, Santiago)

The Gap Between Digital Fairness and Transparency in EU Consumer Law

Emilia Mišćenić (University of Rijeka)

Digital vulnerability in consumer insurance – The questionable evolution of the notion of consumer in EU law

Piotr Tereszkievicz and Katarzyna Południak-Gierz (Jagiellonian University of Krakow)

Digital vulnerability of consumers in the world of smart Contracts - is European private international law "digitalized" Enough?

Jura Golub and J. J. Strossmayer (University of Osijek)

18:00 Discussion

18:30 Interim Conclusions

Frank Pasquale (Brooklyn Law School, New York) tbc

Friday, 16 June 2022

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09:00 V. Data Protection, Content Moderation and the Metaverse

Chair: *Camilla Crea (University of Sannio)*

Content Moderation and Vulnerability: Between Contracts and Constitutional Values

Giovanni De Gregorio (Universidade Católica Portuguesa)

Power and harm: Measuring data subjects' vulnerability

Gianclaudio Malgieri (University of Leiden)

Vulnerability in the Age of Metaverse and Protection of the Rights of Users under EU Law

Shabahang Arian (Scuola Superiore Sant'Anna, Pisa)

10:00 Discussion

10:30 Coffee Break

11:00 VI. The Growing Transdisciplinarity of the Vulnerability Challenge

Chair: *Claudia Amodio (University of Ferrara)*

Digital Vulnerabilities and Vulnerabilities in the Digital Environment: New Lenses to Interpret the EU Data Strategy Initiatives

Denise Amram (Scuola Superiore Sant'Anna, Pisa)

Let the children play. Smart toys and child vulnerability

Alessandra Pera (University of Palermo) and Sara Rigazio (University of Palermo)

Design for agency vs. vulnerability by design

Léa Stiefel (University of Lausanne) and Alain Sandoz (University of Neuchâtel)

Homo medicus digitalis and the emerging form of digital commodification in healthcare

Carlo Botrugno (University of Florence)

12:20 Discussion

12:45 Conclusions

Reiner Schulze (University of Münster)

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In cooperation with:



Participation in the conference is free of charge.
Should you wish to attend, please register by 1 June 2023
at digital.vulnerability@gmail.com