
Virgilio D'Antonio, PhD in Comparative Law and Human Rights, is a Full Professor in Comparative Private Law at the University of Salerno, where he teaches Information and Communication Comparative Law and Advertising Law (Department of Communication Sciences). He is a visiting fellow at the University of Illinois at Urbana–Champaign (USA), the University of Haifa (Israel), the Universitat Estatal de Barcelona (Spain), and the Universidad Católica de Colombia (Colombia). In 2010, he was a national reporter on Copyright and Intellectual Property at the 18th International Congress of the International Academy of Comparative Law (George Washington University Law School, USA). In 2017, he was appointed *miembro correspondiente extranjero* by the Academia Colombiana de Jurisprudencia. His main research interests concern Comparative and European Private Law, Information and Communication Law, Economic Analysis of Law, Tort Law, Copyright Law, Patent Law, and Antitrust Law. Admitted as an Attorney at the Italian Supreme Court, he has written and edited numerous books and articles in Italian and international reviews. In July 2025, Virgilio D'Antonio was elected as the new Dean of the University of Salerno for the academic term 2025–2031.

Contact: vdantonio@unisa.it

Giorgio Giannone Codiglione is an Associate Professor of Comparative Private Law at the Department of Law (University of Salerno) and, in 2020, obtained the national scientific qualification for the role of full professor. With a PhD in Comparative Law and Human Rights, he teaches Comparative Data Protection Law, Private Law, and Law of New Technologies and Cloud Computing. He is a member of the editorial boards of numerous scientific journals and serves as a reviewer. Several of his publications are devoted to ICT Law, Privacy and Data Protection, Copyright, Family Law, Competition, Law of Remedies, and Tort Law. At present, he also holds the position of Secretary General of the Italian Association of Comparative Law (AIDC) and Chairman of the Teaching Council of the Course of Study in Business and New Technologies Law (Department of Law, University of Salerno).

Contact: ggiannonecodiglione@unisa.it

EDITORIAL

POWER(S) AND SOVEREIGNTY IN (AND/OR VIA) DIGITAL INFORMATION

Virgilio D'Antonio

Università degli Studi di Salerno

Giorgio Giannone Codiglione

Università degli Studi di Salerno

The last decade of the new millennium has provided us with the confirmation that the Internet is no longer a simple mass medium but a connective tissue that permeates all aspects of our lives. This epochal passage of entry into the era of *hyperhistory* (Floridi, 2014) is characterized by the definitive osmosis between real and virtual: the human person, understood as a complex informational entity (Rodotà, 2006; Solove, 2004), carries out most of its activities within a space governed by a constant flow of data.

In this context, social sciences find themselves at a crossroads: to stick with tradition, describing the disruptive effect of technologies and information in negative and positive terms (Ellul, 1954), or to move beyond the dichotomy between *apocalyptic* and *integrated* (Eco, 1977), in the attempt to understand the essence of these phenomena without limiting themselves to a mere reclassification exercise or the adaptation of an analogical interpretation (Frosini, 1968).

Data today represents the most innovative form of social subject ever created by humans (Ferraris, 2009; Morton, 2018). From an eminently technical point of view, the so-called Web 2.0 places the human being at the center of this flow of information in their new role as prosumers of data, for the purpose of further circulation and use. This

means that when contextualized into the taxonomy of human rights, the Internet not only represents the modern incarnation of the freedom of expression, “a unique and wholly new medium of worldwide human communication,” as stated in 1997 by the American Supreme Court in *Reno v. ACLU* (Balkin, 2004; Posner, 2008; Sunstein, 1995).

By the mid-1980s, scholars had already understood the unique nature of the phenomenon and the impossibility of assimilating the regulation of electronic communication solely under the traditional framework of the positive freedoms safeguarded by the late 17th-century Charter of Rights. Hence, the concept of “digital rights” was born; an extension of the right to inform and be informed, and thus the “right to have access to information, to preserve one’s own digital identity, meaning to allow, check and correct digital information relating to one’s own person” (Frosini, 1984). This “embryonic” notion, closely related to the *Recht auf informationelle Selbstbestimmung* found in German Constitutional case law, has received a more extensive description with the advent of the Internet, in the sense of the freedom to use information tools to provide and obtain information of any kind.

When exercising their positive digital rights, today’s internet users are called upon to guarantee a constant, lateral, and collaborative data contribution by adapting, sharing, and exploiting the quality and quantity of the common IT heritage, giving rise to a general principle of digital solidarity. Following this reasoning, we could also add a different definition of the cooperative approach to this inclusive sense of digital solidarity, stemming from the right to access and communicate online. In other words, to the concept of “computer freedom” identified first by Vittorio Frosini, we can add the notion of “online” or “digital” solidarity, by which the transit of legal information from one area of the Internet to another leads to an increase in the overall value of the system and therefore of it is functioning and the beneficial effects that it can have on society (Rodotà, 2014).

One of the emerging phenomena in contemporary societies is the blurring of boundaries between the ‘public’ and ‘private’ dimensions (D’Antonio & Giannone Codiglione, 2019; Sica & Stanzione, 2002). The digital transformation is among the drivers of this process, alongside the evolution of economic and social relationships, in a context characterized by growing exchanges and cultural contaminations, as well as environmental and social emergencies (Cascione et al., 2025).

For example, it is now a fact that European Union law, together with the Member States, has finally opened up to a more realistic and effective approach to the enforcement of the right to personal data protection (Zeno-Zencovich, 2018). The affirmation

of the principle of the free movement of personal data as the main scope of the General Data Protection Regulation (GDPR) profoundly changes the perspective from a solely personalistic logic of protection. Moreover, GDPR's neutral approach read in conjunction with the adoption of a normative model based on accountability principle and risk-based approach (we could say, in terms of liability: from a dangerous to a risky activity), in no way clash with the nature of data protection as a higher level fundamental right, hierarchically superordinate to the exercise of other fundamental rights and freedoms, such as the freedom to conduct business—as for instance affirmed by the European Court of Justice in the Google Spain case (D'Antonio & Pollicino, 2020).

The enforcement of fundamental right to data protection, moreover, must not focus exclusively on the protection of the data subject as an human person whose data are processed, but must remain open to checking the impact that these legitimate economic activities have on the consumers well-being in the ICT's society and, as a consequence, on the competitive structure of the related markets (Stanzione, 2021; Zeno-Zencovich & Giannone Codiglione, 2016).

The privatization of aspects traditionally attributed to the government, along with the increasingly public characterization of relationships previously regarded as pertaining to the private sphere, raises questions in many fields of knowledge, including the law (Sica & Giannone Codiglione, 2014). The once reassuring traditional legal categories are deeply affected. In particular, the long-contested divide between public law and private law is increasingly under stress and reveals its limited adequacy in interpreting the legal implications of new social phenomena: data as law or law as data? Data as an essential facility? The contractual relationship in the digital dimension and the protection of fundamental rights? Antitrust enforcement as a public regulatory tool for “data markets”? The public dimension of digital platforms: towards a new feudalism? What role is it for the traditional States? Net vs. Nets: towards the overcoming of the Internet monopoly?

This special issue of *Soft Power* takes us on a fascinating journey, thanks to the contributions of authoritative scholars from diverse academic backgrounds and perspectives, in search of answers and interpretive solutions that can guide us in an increasingly *infocentric* future.

References

- Balkin, J. M. (2004). Digital Speech and Democratic Culture: A Theory of Freedom of Expression for the Information Society. *New York University Law Review*, 79(1). <https://doi.org/10.2139/ssrn.470842>
- Cascione, C. M., Giannone Codiglione, G., & Pardolesi, P. (Eds.) (2025). *Public and Private in Contemporary Societies*. Roma TrE-Press.
- D'Antonio, V., & Giannone Codiglione, G. (2019). Internet, libertad y soberanía sobre los datos. In L. Picarella & C. Scocozza (Eds.), *Del pueblo soberano al soberano del pueblo. Evolución del concepto de soberanía en la contemporaneidad* (pp. 159–188). Penguin Random House Grupo Editorial.
- D'Antonio, V., & Pollicino, O. (2020). *The Right to Be Forgotten in Italy*. In F. Werro (Ed.), *The Right To Be Forgotten in Italy. A Comparative Study of the Emergent Right's Evolution and Application in Europe, the Americas, and Asia* (pp. 163–175). Springer. https://doi.org/10.1007/978-3-030-33512-0_8
- Eco, U. (1977). *Apocalittici ed integrati*. Bompiani.
- Ellul, J. (1954). *La technique ou l'enjeu du siècle*.
- Ferraris, M. (2009). *Documentalità*. Laterza.
- Floridi, L. (2014). *The Fourth Revolution: How the Infosphere is Reshaping Human Reality*. Oxford University Press.
- Frosini, V. (1968). *Cibernetica diritto e società*. Edizioni di Comunità.
- Frosini, V. (1984). L'Informatica nella società contemporanea. *Informatica e diritto*, 7.
- Morton, T. (2018). *Iperoggetti*. Nero.
- Posner, R. A. (2008). Privacy, Surveillance and the Law. *University of Chicago Law Review*, 75(1), 245. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=2808&context=journal_articles
- Rodotà, S. (2006). Trasformazioni del corpo. *Politica del diritto*, 1, 3.
- Rodotà, S. (2014). *Solidarietà*. Laterza.
- Sica, S., & Giannone Codiglione, G. (2014). *La libertà fragile. Pubblico e privato al tempo della rete*. Esi.
- Sica, S., & Stanzione, P. (Eds.) (2002). *Commercio elettronico e categorie civilistiche*. Giuffrè.
- Solove, D. J. (2004). *The Digital Person. Technology and Privacy in the Information Age*. New York University Press.
- Stanzione, P. (Ed.) (2021). *I poteri privati delle piattaforme e le nuove frontiere della privacy*. Giappichelli.

- Sunstein, C. R. (1995). *Democracy and the Problem of Free Speech*. Free Press. <https://doi.org/10.1007/BF02680544>
- Zeno-Zencovich, V. (2018). Do “data markets” exist? *Medialaws*. <https://www.medialaws.eu/wp-content/uploads/2019/03/2-2019-Zeno-Zencovich.pdf>
- Zeno-Zencovich, V., & Giannone Codiglione, G. (2016). Ten Legal Perspectives on the “Big Data Revolution”. *Concorrenza e mercato*, 23, 29–57.