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Dynamic Inalienability of personal data in the age of online unfair imbalance

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The research project aims to prove how the concept of market inalienability, applied to personal data, can mitigate the power imbalance of individuals in the EU data-driven market (research question). Unfair imbalance in the online market is based on several elements: implicit trade of personal data; inferences/predictions of personal data; nudging of behaviours and mental manipulation of consumers. All these fields are strongly interrelated: considering the huge market of the data-driven economy the challenge is to re-balance the protection of individuals, both considering their right to informational self-determination and their market power.

The methodological tool for defining the borderline between permitted and illicit in the data-driven market is a contextual comparison between IP Law (imbalance of individual rights against proprietorial positions, like trade secrets & copyright on algorithm), Unfair Terms Directive (contractual imbalance), and Competition Law (imbalance as freedom of choice against dominant positions). In other words it is here proposed to consider imbalance as: contractual imbalance, algorithmic imbalance and market imbalance.

The solutions proposed in the thesis project are two and interrelated: *personal data protection as inalienability* of personal data and *privacy as the incomputability* of the self in the data driven economy.

In particular, the theories on Market Inalienability from the Law and Economics perspective should be analysed through the lens of EU data protection law and other relevant secondary laws.

Therefore the main research question is addressed through two different sub-questions. The first one is whether and at which conditions the EU personal data protection framework guarantees an 'inalienability' framework for personal data of data subjects and which are the limits of this framework. The consequent sub-question aims to prove that inalienability alone is not sufficient to rebalance individuals in the digital market, but should be read in combination with 'incomputability' of the self, leading to mental privacy and informational self-determination against market manipulation.