

WHAT CAN YOU DO ABOUT A SEXUAL DEEPFAKE OR DEEPNUDE IN BELGIUM?

written by Nathalie Schlenker | October 6, 2026



A sexual deepfake may be a criminal offence in Belgium, even if it was created using artificial intelligence and the sexual scenario shown never actually occurred. If an identifiable person is shown naked or in an explicitly sexual context without their consent, and the image is subsequently displayed, made available or distributed, Belgian criminal law, the GDPR and European AI legislation may all be relevant.

The steps that may be taken depend on the specific circumstances. Factors including the age and recognisability of the person depicted, whether consent was given, the way in which the image was created and whether the image was distributed are relevant in this regard.

What exactly is a deepfake?

A *deepfake* is image, audio or video material generated or manipulated using artificial intelligence in such a way that it appears convincingly real. In the case of a *deepnude*, this technology is used to depict someone naked or in an explicitly sexual manner. This can be done by editing an existing photograph — for example, by digitally removing clothing — but also by creating a fully synthetic image referring to an identifiable person.

The fact that an image is artificial therefore does not make its consequences any less real. Sexual deepfakes can spread particularly quickly via social media and other digital channels. Once online, the victim often loses sight of where the image ends up and who has viewed it. The distribution can therefore have a profound impact on the victim's privacy, sexual integrity and reputation.

Is creating or distributing such an image a criminal offence?

The non-consensual distribution of sexually explicit content is a criminal offence in Belgium. This includes showing, making accessible or distributing, without consent, images or sound recordings depicting a naked person or someone performing an explicit sexual act. This is regulated by *Article 136 of the Criminal*

Code. Where the distribution is carried out with malicious intent or for profit, *Article 137 of the Criminal Code* applies.¹

Although the new Criminal Code does not explicitly designate the terms “deepfake” and “deepnude” as separate criminal offences, this does not mean that such images fall outside the scope of criminal law. Which criminal provision applies depends on the content of the image and on the specific act performed in relation to it, such as creating, showing, making accessible, distributing, possessing or acquiring it.

Depending on the specific circumstances, a deepfake may also give rise to other criminal classifications, for example where the image is used for harassment, threats, extortion, intimidation or humiliation. Voyeurism or a cybercrime may also be relevant in certain cases, but this can only be assessed on the basis of the specific facts.

The content of the image is not the only relevant factor. The way in which it was created and used also plays a role. Was the image merely created, or was it also distributed? To whom was it provided? Was there any blackmail or threat? And to what extent is the victim identifiable? The answers to these questions help determine the applicable legal classification and the further steps that may be taken.

What if a minor appears in the image?

If a minor appears in a sexual deepfake, this may have serious criminal consequences. The Belgian Criminal Code also penalises images showing a minor engaging in real or simulated explicit sexual conduct, a person who appears to be a minor, or a realistic representation of a non-existent minor in an explicitly sexual context. Images showing the genitals of a minor or of a person who appears to be a minor may also fall within this scope where they are created primarily for sexual purposes.²

A fully AI-generated image is not necessarily outside the scope of criminal law. Key factors include what the image shows, whether the person shown is actually a minor or appears to be one, whether it realistically represents a non-existent minor, and the purpose for which the sexual characteristics are shown.

Not only the creation or distribution of such images may constitute a criminal offence. Intentionally possessing or acquiring them, as well as intentionally gaining access to such images through information and communication technology, are also criminalised separately.³

Does the GDPR also apply to a deepfake?

It may, as soon as the person depicted is directly or indirectly identifiable. A face, body, voice or other recognisable characteristic may then be considered personal data. The fact that the image was generated or manipulated using artificial intelligence does not, in itself, prevent it from constituting the processing of personal data.⁴

This raises various legal questions. On what legal basis was the image created? Was consent given? Where did the source material come from? Who created, processed or distributed the image? And can the data subject request its removal, object to the processing or seek another measure?

The fact that a photograph or video is available online also does not mean that the content may be freely copied, edited or used for another purpose. Online availability does not, in itself, constitute consent to create a sexual deepfake from it.

Where the deepfake appears to reveal information about someone's sex life or sexual orientation, the stricter rules on *special categories of personal data* may also apply.⁵

What role do the European AI rules play?

European legislation is also relevant, but it does not immediately provide a separate criminal-law solution for every sexual deepfake.

Directive (EU) 2024/1385 addresses, among other matters, the non-consensual disclosure of intimate or manipulated material. It expressly covers images created, manipulated or altered using artificial intelligence that give the impression that a person is engaging in sexual acts. Member States must transpose the Directive into national law by 14 June 2027 at the latest.⁶

In addition, the *AI Act* imposes transparency obligations on certain AI systems. In principle, anyone using an AI system to generate or manipulate image, audio or video material that may be regarded as a deepfake must disclose that the content was artificially generated or manipulated.⁷

That transparency obligation does not, however, make a sexual deepfake harmless. Even where it is clearly stated that an image is artificial, it may still affect a victim's privacy, sexual integrity or reputation. The label "AI-generated" therefore does not replace an assessment under Belgian criminal law, the GDPR and other applicable rules.

What should you do if you are confronted with this?

If you, your child or someone close to you is confronted with a sexual deepfake, do not distribute the image any further under any circumstances and do not react impulsively. First, try to limit any further distribution as much as possible and carefully record the relevant information.

For example, note where and when you found the image, through which channel it was distributed and which accounts or persons appear to be involved. Do not share the image itself any further than is strictly necessary to obtain professional assistance or file a report.

The appropriate approach depends on various factors: the age and recognisability of the person depicted, whether consent was given, the extent of the distribution and whether the image is being used for blackmail, threats or harassment. Where a minor is involved, a particularly strict criminal-law framework applies.

What legal steps can be taken?

The most appropriate course of action depends on what happened, how widely the image has been shared and how urgent the situation is. You may, for example, file a complaint with the police. If a judicial investigation or additional investigative measures are required, you may lodge a complaint with the investigating judge and *constitute yourself as a civil party*. If the image is online or there is a risk that it will be shared further, you may also request its removal or initiate urgent *interim proceedings* to stop the distribution as quickly as possible. The court may attach a *penalty payment* to its order. You may also be able to claim compensation for the damage you have suffered.

STUDIO | LEGALE can guide you through these steps. We will first hear what happened, map out the possible legal actions and help you determine which course of action is most appropriate in your situation. Among other things, we can assist you in carefully gathering relevant information and digital evidence, preparing a criminal complaint or a complaint to the investigating judge accompanied by a civil-party claim, initiating urgent removal or interim proceedings, and substantiating any claim for damages.

Have you been confronted with a sexual deepfake or deepnude and do you not know what steps you can take? Contact us at joost.peeters@studio-legale.be or 03 216 70 70.

¹ *Article 136 of the new Criminal Code corresponds to former Article 417/9 of the Criminal Code. Article 137 corresponds to former Article 417/10. Article 136 criminalises the intentional showing, making accessible or distributing of visual or audio content depicting a naked person or a person engaging in an explicit sexual act without that person's consent or knowledge.*

² *Article 170 of the Criminal Code covers, among other things, actual or simulated explicit sexual conduct, persons who appear to be minors, and realistic images of non-existent minors.*

³ *Article 171 of the Criminal Code concerns the production or dissemination of images of the sexual abuse of minors. Articles 173 and 174 concern, respectively, the possession or acquisition of such images and gaining access to them.*

⁴ The GDPR protects personal data relating to an identified or identifiable natural person.

⁵ *Article 9 of the GDPR lists, among other things, data concerning a person's sex life or sexual orientation as special categories of personal data.*

⁶ *See Article 5 and Article 49 of Directive (EU) 2024/1385.*

⁷ *See Article 50(4) of Regulation (EU) 2024/1689.*