

Deepfakes in the age of AI

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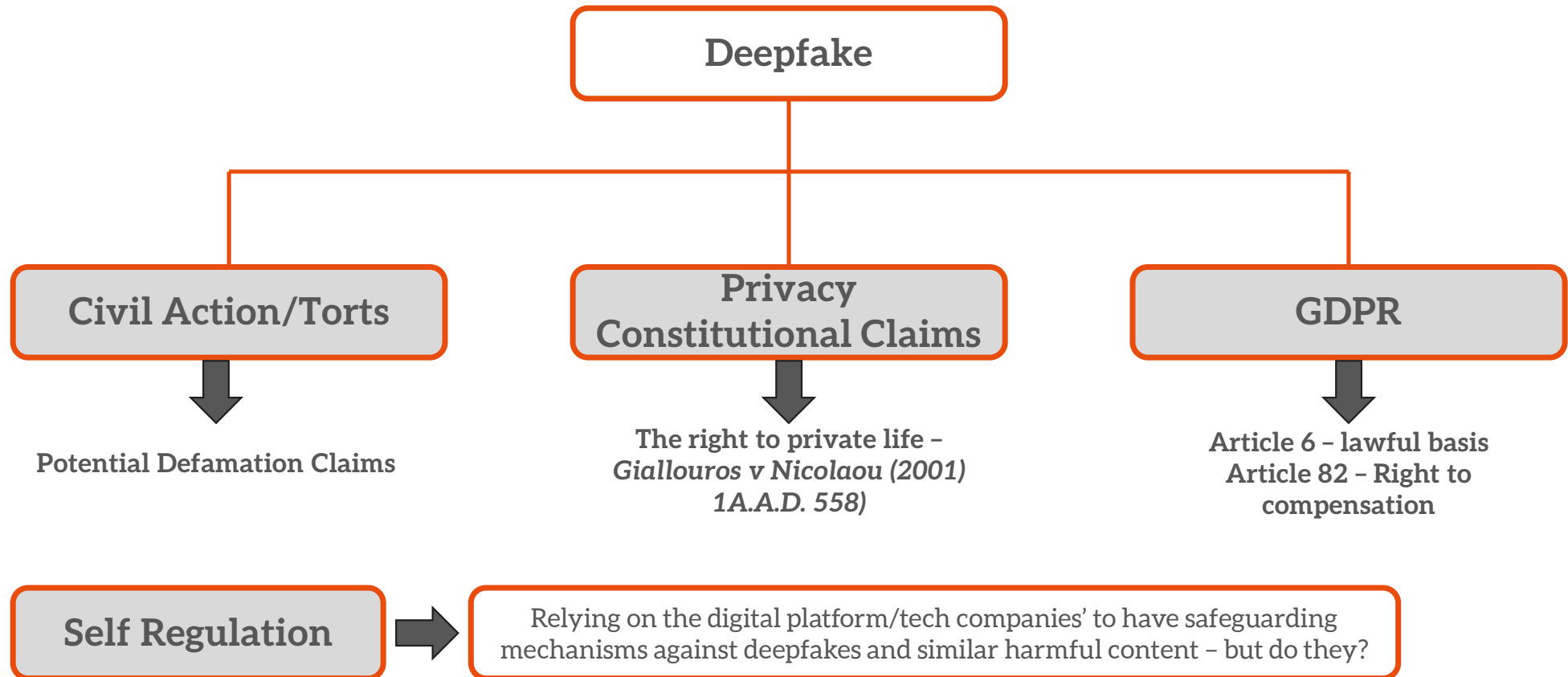
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What is a Deepfake?

EU AI Act A. 3(60)

AI generated or manipulated image, audio or video content that resembles existing persons, objects, places, entities or events and would falsely appear to be authentic.



Copyright and Related Rights Law of 1976 (Law 59/1976)

Article (49): Deepfake imitations of a performing artist's performance or rendition

(1) Deepfake imitations of the performance or rendition of a performing artist may not be made available to the public *without the express consent* of that performing artist.

(2) The provisions of subsection (1) shall not apply to imitations constituting satire or parody, unless the imitation constitutes misinformation that is likely to pose a serious risk to the rights or essential interests of the persons concerned or other persons.

(3) The protection provided for in subsection (1) shall remain in force until the expiry of fifty (50) years from the year of death of the performing artist.

Copyright and Related Rights Law of 1976 (Law 59/1976)

Article (50): Deepfake imitations of the personal physical characteristics of a natural person

(1) Deepfake imitations of the personal physical characteristics of a **natural person** may not be made available to the public without the express consent of that person.

(2) The provisions of subsection (1) shall not apply to imitations constituting caricature, satire, parody or political/social criticism, unless the imitation constitutes misinformation that is likely to pose a serious risk to the rights or essential interests of the persons concerned or other persons.

(3) The protection provided for in subsection (1) shall remain in force until the expiry of fifty (50) years from the year of death of the natural person.

Copyright and Related Rights Law of 1976 (Law 59/1976)

The amendment represents a legislative extension of the existing statutory framework, effectively creating a **sui generis** form of protection for subject matter that would not traditionally fall within the scope of copyright protection.

- ➔ **From Copyright to identity protection** – protecting interests beyond the traditional expression of creative work
- ➔ **Identity as a digital asset** – protection afforded over a person's face, voice, and physical characteristics
- ➔ **Overlap between different areas of AI regulation** - AI-generated being addressed under different areas of law, including IP, privacy, consumer protection and criminal law.

Beyond Traditional Copyright

- ➔ Copyright traditionally protects original works and prevents the unauthorized expression of an existing idea. Whereas in this case the law comes to prevent a **specific form** of an expression of an idea.
- ➔ The amendment extends protection to **personal physical characteristics and performances**
- ➔ Creates a **sui generis** right within the copyright framework that protects **identity and personality** against synthetic appropriation

Identity as a Digital Asset

- ➡ AI makes a person's **face, voice** and **likeness** reproducible at scale.
- ➡ Physical characteristics can have **commercial and economic value**
- ➡ The amendment of the law protects against unauthorized exploitation through deepfakes reflecting the **growing importance of digital identity**.

The Intersection of Different Areas of Law

- ➔ Deepfakes can engage **multiple areas of law simultaneously** – IP, Privacy, Consumer Protection, AI Regulation
- ➔ The amendment adds a **new layer to the emerging AI regulatory framework**
- ➔ AI is **bringing traditionally separate areas of law together**

From National Action to Collective Action

- ➔ The **AI Act** introduces transparency and labelling obligations for AI-generated content and deepfakes
- The **DSA** provides mechanisms to report illegal content and challenge platform decisions

Can transparency and reporting alone address the full risks of synthetic content?

- ➔ Deepfakes can facilitate investment scams, misleading advertising, impersonation and other forms of fraud.
- Fabricated political content and misinformation can undermine public trust and the integrity of democratic debate

A challenge therefore that requires coordinated action across Europe – and across legal frameworks

Thank you
