



Freedom, Security & Justice:
European Legal Studies

Rivista giuridica di classe A

2026, n. 2

EDITORIALE
SCIENTIFICA



DIRETTRICE

Angela Di Stasi

Ordinario di Diritto Internazionale e di Diritto dell'Unione europea, Università di Salerno
Titolare della Cattedra Jean Monnet 2017-2020 (Commissione europea)
"Judicial Protection of Fundamental Rights in the European Area of Freedom, Security and Justice"

CONSIGLIO SCIENTIFICO

Giandonato Caggiano, Ordinario f.r. di Diritto dell'Unione europea, Università Roma Tre
Sergio Maria Carbone, Professore Emerito, Università di Genova
Roberta Clerici, Ordinario f.r. di Diritto Internazionale privato, Università di Milano †
Nigel Lowe, Professor Emeritus, University of Cardiff
Paolo Mengozzi, Professore Emerito, Università "Alma Mater Studiorum" di Bologna - già Avvocato generale presso la Corte di giustizia dell'UE
Massimo Panebianco, Professore Emerito, Università di Salerno
Nicoletta Parisi, Ordinario f.r. di Diritto Internazionale, Università di Catania - già Componente ANAC
Guido Raimondi, già Presidente della Corte EDU - già Presidente di Sezione della Corte di Cassazione
Silvana Sciarra, Professore Emerito, Università di Firenze - Presidente Emerito della Corte Costituzionale
Giuseppe Tesaro, Professore f.r. di Diritto dell'UE, Università di Napoli "Federico II" - Presidente Emerito della Corte Costituzionale †
Antonio Tizzano, Professore Emerito, Università di Roma "La Sapienza" - Vice Presidente Emerito della Corte di giustizia dell'UE
Ennio Triggiani, Professore Emerito, Università di Bari †
Ugo Villani, Professore Emerito, Università di Bari

COMITATO EDITORIALE

Maria Caterina Baruffi, Ordinario di Diritto Internazionale, Università di Bergamo
Alfonso-Luis Calvo Caravaca, Catedrático Jubilado de Derecho Internacional Privado, Universidad Carlos III de Madrid
Ida Caracciolo, Ordinario di Diritto Internazionale, Università della Campania - Giudice dell'ITLOS
Pablo Antonio Fernández-Sánchez, Profesor Emérito de Derecho Internacional, Universidad de Sevilla
Inge Govaere, Director of the European Legal Studies Department, College of Europe, Bruges
Paola Mori, Ordinario f.r. di Diritto dell'Unione europea, Università "Magna Graecia" di Catanzaro
Lina Panella, Ordinario f.r. di Diritto Internazionale, Università di Messina
Lucia Serena Rossi, Ordinario di Diritto dell'UE, Università "Alma Mater Studiorum" di Bologna - già Giudice della Corte di giustizia dell'UE



COMITATO DEI REFEREES

Bruno Barel, Associato f.r. di Diritto dell'Unione europea, Università di Padova **Marco Benvenuti**, Ordinario di Istituzioni di Diritto pubblico, Università di Roma "La Sapienza"
Fiammetta Borgia, Ordinario di Diritto Internazionale, Università di Roma "Tor Vergata" **Francesco Buonomenna**, Associato di Diritto dell'Unione europea, Università di Salerno
Raffaele Cadin, Ordinario di Diritto Internazionale, Università di Roma "La Sapienza" **Ruggiero Cafari Panico**, Ordinario f.r. di Diritto dell'Unione europea, Università di Milano
Federico Casolari, Ordinario di Diritto dell'Unione europea, Università "Alma Mater Studiorum" di Bologna **Luisa Cassetti**, Ordinario di Istituzioni di Diritto Pubblico, Università di Perugia
Anna Cavaliere, Associato di Filosofia del diritto, Università di Salerno **Giovanni Cellamare**, Ordinario f.r. di Diritto Internazionale, Università di Bari
Giuseppe D'Angelo, Ordinario di Diritto e religione, Università di Salerno **Sara De Vido**, Ordinario di Diritto Internazionale, Università Ca' Foscari Venezia **Valeria Di Comite**, Ordinario di Diritto dell'Unione europea, Università di Bari "Aldo Moro" **Marcello Di Filippo**, Ordinario di Diritto Internazionale, Università di Pisa
Carmela Elefante, Associato di Diritto e religione, Università di Salerno **Rosario Espinosa Calabuig**, Catedrático de Derecho Internacional Privado, Universitat de València **Valentina Faggiani**, Professoressa Titular de Derecho Constitucional, Universidad de Granada
Caterina Fratea, Associato di Diritto dell'Unione europea, Università di Verona **Ana C. Gallego Hernández**, Profesora Ayudante de Derecho Internacional Público y Relaciones Internacionales, Universidad de Sevilla **Pietro Gargiulo**, Ordinario f.r. di Diritto Internazionale, Università di Teramo
Francesca Graziani, Associato di Diritto Internazionale, Università della Campania "Luigi Vanvitelli" **Giancarlo Guarino**, Ordinario f.r. di Diritto Internazionale, Università di Napoli "Federico II" **Elsbeth Guild**, Associate Senior Research Fellow, CEPS **Victor Luis Gutiérrez Castillo**, Profesor de Derecho Internacional Público, Universidad de Jaén **Ivan Ingravalle**, Ordinario di Diritto Internazionale, Università di Bari **Paola Ivaldi**, Ordinario di Diritto Internazionale, Università di Genova **Luigi Kalb**, Ordinario f.r. di Procedura Penale, Università di Salerno
Gianfranco Liace, Associato di Diritto dell'economia, Università di Salerno **Luisa Marin**, Ricercatore di Diritto dell'UE, Università dell'Insubria **Simone Marini**, Associato di Diritto dell'Unione europea, Università di Pisa **Fabrizio Marongiu Buonaiuti**, Ordinario di Diritto Internazionale, Università di Macerata **Rostane Medhi**, Professeur de Droit Public, Université d'Aix-Marseille **Michele Messina**, Ordinario di Diritto dell'Unione europea, Università di Messina-Esperto Giuridico presso la Rappresentanza Permanente d'Italia a Bruxelles
Stefano Montaldo, Associato di Diritto dell'Unione europea, Università di Torino **Violeta Moreno-Lax**, Senior Lecturer in Law, Queen Mary University of London
Claudia Morviducci, Professore Senior di Diritto dell'Unione europea, Università Roma Tre **Michele Nino**, Ordinario di Diritto Internazionale, Università di Salerno
Criseide Novi, Ordinario di Diritto dell'Unione europea, Università di Foggia **Anna Oriolo**, Associato di Diritto Internazionale, Università di Salerno **Leonardo Pasquali**, Ordinario di Diritto internazionale, Università di Pisa **Piero Pennetta**, Ordinario f.r. di Diritto Internazionale, Università di Salerno **Francesca Perrini**, Associato di Diritto Internazionale, Università di Messina
Gisella Pignataro, Associato di Diritto privato comparato, Università di Salerno **Emanuela Pistoia**, Ordinario di Diritto dell'Unione europea, Università di Teramo
Anna Pitrone, Associato di Diritto dell'Unione europea, Università di Messina **Concetta Maria Pontecorvo**, Ordinario di Diritto Internazionale, Università di Napoli "Federico II" **Pietro Pustorino**, Ordinario di Diritto Internazionale, Università LUISS di Roma **Santiago Ripol Carulla**, Catedrático de Derecho internacional público, Universitat Pompeu Fabra Barcelona
Angela Maria Romito, Associato di Diritto dell'Unione europea, Università di Bari **Gianpaolo Maria Ruotolo**, Ordinario di Diritto Internazionale, Università di Foggia
Teresa Russo, Associato di Diritto dell'Unione europea, Università di Salerno **Alessandra A. Souza Silveira**, Diretora do Centro de Estudos em Direito da UE, Universidade do Minho
Ángel Tinoco Pastrana, Profesor de Derecho Procesal, Universidad de Sevilla **Sara Tonolo**, Ordinario di Diritto Internazionale, Università degli Studi di Padova
Chiara Enrica Tuo, Ordinario di Diritto dell'Unione europea, Università di Genova **Talitha Vassalli di Dachenhausen**, Ordinario f.r. di Diritto Internazionale, Università di Napoli "Federico II" **Alessandra Viviani**, Ordinario di Diritto Internazionale, Università di Siena **Valentina Zambrano**, Associato di Diritto Internazionale, Università di Roma "La Sapienza" **Alessandra Zanobetti**, Ordinario f.r. di Diritto Internazionale, Università "Alma Mater Studiorum" di Bologna

COMITATO DI REDAZIONE

Angela Festa, Docente incaricato di Diritto dell'Unione europea, Università della Campania "Luigi Vanvitelli"
Anna Iermano, Associato di Diritto Internazionale, Università di Salerno
Daniela Marrani, Associato di Diritto Internazionale, Università di Salerno
Rossana Palladino (Coordinatore), Associato di Diritto dell'Unione europea, Università di Salerno

Revisione linguistica degli abstracts a cura di

Francesco Campofreda, Dottore di ricerca in Diritto Internazionale, Università di Salerno





Indice-Sommario 2026, n. 2

Editoriale

La riforma della legislazione sulla cittadinanza tra Corte costituzionale e Corte di giustizia dell'Unione europea p. 1
Bruno Barel

Saggi, Articoli e Commenti

Free movement of persons in the agreement between the EU and the United Kingdom in respect of Gibraltar. Special status of military personnel p. 21
Pablo Antonio Fernández Sánchez

Storia diplomatica: Italia-Europa-Occidente p. 44
Massimo Panebianco

¿Hacia un modelo de Estado híbrido? Entre *court-packing* e intentos de revertir la *backsliding* p. 53
Valentina Faggiani

Vulnerabilità digitale del minore e forme di tutela nel contesto europeo p. 93
Gisella Pignataro

The case law of the European Court of Human Rights regarding contested territories: “Differentiated” jurisdiction as a panacea or as an Achilles’s heel? p. 120
Elisa Ruozzi

The EU legal framework on social security for migrants: A comparative assessment of national practices p. 139
Paolo Iafrate

Il danno ambientale sistemico e la soglia di gravità: tra qualificazione giuridica e tutela giurisdizionale p. 163
Adelaide Francesca Daniela Luminari



FOCUS

The EU as a Global Security Provider: Countering Transnational Crime and New Cooperation Architectures

Collected Papers of the Jean Monnet Module (2023-2026) Transnational Crime & EU Law: Towards Global Action against Cross-border Threats to Common Security, Rule of Law and Human Rights (EU-GLOBACT) – (Coordinator: Prof. Dr. Anna Oriolo)

Presentazione del Focus/Focus Overview
Anna Oriolo

p. 185

Parte I

Contrasto alla criminalità transnazionale e minacce globali/Countering Transnational Crime and Global Threats

Traffico illecito di armi via mare, criminalità transnazionale e sicurezza globale: verso un nuovo paradigma di legalità universale
Anna Oriolo

p. 191

The tragedy of the global commons in the age of artificial intelligence: Illegal mining, transnational crime, and the future of EU global enforcement
David Schultz

p. 216

The European legal framework on the return of cultural objects: An effective tool to foster civil and administrative cooperation between EU Member States?
Fulvia Staiano

p. 241

Il ruolo degli Stati nella prevenzione e nella repressione degli illeciti contro il patrimonio culturale subacqueo: obiettivi e strumenti comuni tra la Convenzione UNESCO del 2001 e le politiche dell'Unione europea
Patrizia Vigni

p. 257

Parte II

Nuove architetture di cooperazione e strumenti di contrasto dell'Unione europea/New Cooperation Architectures and Enforcement Tools of the European Union

Il principio di fiducia reciproca nella cooperazione giudiziaria penale a dieci anni dal caso *Aranyosi*. Alcune considerazioni sull'attualità del “doppio test” alla luce della sentenza *Commissione c. Ungheria (Valeurs de l'Union)*
Angela Festa

p. 281

Intelligence, diritti umani e sicurezza: criticità e prospettive in ambito internazionale ed europeo
Francesco Focillo

p. 312



War-crimes investigations: New technologies, new complexities, new vulnerabilities. A strategic shortfall or evolutionary opportunity for NATO p. 334
Luigi Bramati

AI tools for combating transnational crime within the EU p. 345
Roxana Matefi

Parte III

Responsabilità e giustizia penale/Accountability and Criminal Justice

Luci e ombre (soprattutto) occidentali sul consolidamento della giustizia penale internazionale p. 355
Paolo Bargiacchi

The EU's cross-border cybercrime enforcement and the limits of extraterritorial jurisdiction p. 388
Heybatollah Najandimanesh

La vittima di tratta al centro della sicurezza in Europa tra standard CEDU e nuove sfide nell'era digitale p. 410
Anna Iermano

La regolamentazione delle catene di approvvigionamento in Europa come strumento per combattere la criminalità: dall'opposizione alla convergenza dei modelli francese e italiano p. 442
Virginie Mercier

La responsabilità penale degli enti creditizi nella gestione delle misure restrittive UE: tra obblighi di garanzia e nuove fattispecie sovranazionali di incriminazione p. 453
Carmine Renzulli

Parte IV

Diritti umani e minacce transfrontaliere/Human Rights and Cross-Border Threats

La *transnational repression* quale minaccia “rinnovata” a diritti umani e sicurezza: la necessità di una risposta mirata da parte dell'Unione europea p. 465
Stefano Busillo

Children pornography, online sextorsion, revenge porn: the provisions of Greek penal code and the EU regulatory developments p. 507
Georgios Nouskalis

Intelligenza artificiale e “fenomeno religioso” nel prisma dei diritti umani p. 518
Daniela Marrani

Postfazione/Afterword p. 539
Angela Di Stasi

Appendice p. 541
EU-GLOBACT Policy Recommendations and Guidelines
Francesco Focillo, Emanuele Sorgente

CHILDREN PORNOGRAPHY, ONLINE SEXTORTION, REVENGE PORN:
THE PROVISIONS OF GREEK PENAL CODE
AND THE EU REGULATORY DEVELOPMENTS

Georgios Nouskalis *

SUMMARY: 1. Introduction. – 2. Sextortion as Sexual Blackmail and as a Multidimensional Criminal Phenomenon. – 3. Article 346 of the Greek Penal Code and the Limits of Criminal Liability. – 4. Article 348A of the Penal Code and the Concept of Child Pornography. – 5. Artificial Intelligence, Deepfakes and the Criminalization of Fabricated Sexual Material. – 6. The Budapest Convention, Electronic Evidence and Access to Metadata. – 7. The Digital Services Act and the Duties of Online Platforms. – 8. Conclusion.

1. Introduction

The analysis focuses on the Greek criminal law framework, in particular arts. 337, 346, 348A, 348C and 385 of the Greek Penal Code, and considers its relationship with the Lanzarote Convention, the Istanbul Convention and directive (EU) 2024/1385. It further examines the procedural and evidentiary dimension of sextortion cases, especially the processing of traffic data, location data and other metadata for investigative purposes, in light of regulation (EU) 2022/2065 (Digital Services Act), the e-Privacy framework, regulation (EU) 2024/1689 on artificial intelligence, and the e-Evidence package established by regulation (EU) 2023/1543 and directive (EU) 2023/1544.

The digital reproduction and dissemination of intimate images have altered the factual background upon which the traditional concepts of privacy and sexual self-determination were built. A photograph or video depicting a person's intimate sexual life may be copied, altered, uploaded and re-distributed within minutes. Once the material is indexed by search engines, connected with the victim's name, or sent to relatives, employers, colleagues and friends, the harm ceases to be confined to a private sphere and becomes a continuing public exposure. The victim is placed in a condition of permanent vulnerability: anyone may already have seen the material or may be able to access it at any moment¹.

* Assistant Professor of Criminal Law, Aristotle University of Thessaloniki. E-mail: gnouskal@law.auth.gr.

¹ D. KEATS CITRON, M.A. FRANKS, *Criminalizing Revenge Porn*, in *Wake Forest Law Review*, 2014, no. 49, p. 345.

This explains why the criminalization of such conduct cannot be understood as a mere protection of reputation. The dissemination of intimate material without consent affects the person's practical ability to move socially, professionally and digitally without fear of humiliation. It may cause anxiety, social withdrawal, avoidance of online presence and, in some cases, exposure to offline harassment or physical danger. The publication of nude images together with identifying data, such as names, profiles, telephone numbers or email addresses, may also encourage strangers to approach the depicted person in a sexually aggressive manner².

The terminology used in this field should be handled with caution. The expression "revenge pornography" is too narrow if it suggests that revenge is a necessary element of the offence. The broader and more accurate category is image-based sexual abuse, namely the creation, possession, distribution or threatened distribution of sexual or nude images without the person's consent. Revenge may be the motive in some cases, but the wrongfulness of the conduct does not depend upon that motive. The decisive element is the unauthorized instrumentalization of a person's sexual image³.

The same observation applies to deepfake pornography. Artificial intelligence makes it possible to combine the face, voice or identifiable features of a real person with a fabricated nude or sexual body. In such cases the material may be false in a technical sense, but the social and psychological injury may be equivalent to that caused by authentic material. The legal issue, therefore, is not exhausted by the authenticity of the image. What matters is the use of a person's sexual identity as a means of humiliation, coercion or exploitation⁴.

Directive (EU) 2024/1385, adopted in the field of combating violence against women and domestic violence, reflects this development by requiring Member States to criminalize certain forms of non-consensual dissemination of intimate or manipulated material through information and communication technologies⁵.

Of particular importance is the provision concerning making available to the public of images, videos or similar material depicting sexual activities or intimate parts without consent, as well as the production, manipulation or alteration of material giving the impression that a person is engaging in sexual activities. The threat of committing such acts in order to coerce the victim into acting, consenting or refraining from an act is the point at which the phenomenon of sextortion becomes legally visible.

Greek law has already incorporated part of this conduct through art. 346 of the Penal Code, especially as regards the unauthorized disclosure of material concerning a person's

² K. MANIA, *Legal Protection of Revenge and Deepfake Porn Victims in the European Union: Findings From a Comparative Legal Study*, in *Trauma, Violence, & Abuse*, 2024, no. 1, pp. 117-129.

³ See S. WANG, S. KIM, *Users' Emotional and Behavioral Responses to Deepfake Videos of K-Pop Idols*, in *Computers in Human Behavior*, 2022, no. 134, pp. 1-11; V. KARASAVVA, A. NOORBHAI, *The Real Threat of Deepfake Pornography: A Review of Canadian Policy*, in *Cyberpsychology, Behavior, and Social Networking*, 2021, no. 3, pp. 203-209.

⁴ See C. MCGLYNN, E. RACKLEY, R. HOUGHTON, *Beyond 'Revenge Porn': The Continuum of Image Based Sexual Abuse*, in *Feminist Legal Studies*, 2017, no. 25, pp. 25-46.

⁵ See P. BELLONI, *The Proposal for a Directive on Gender-Based Violence*, in *Media Laws*, 14 May 2024, <https://www.medialaws.eu/the-proposal-for-a-directive-on-gender-based-violence/>.

sexual life and the threat of such disclosure. Nevertheless, the deepfake dimension remains a difficult point. Where the material gives the impression that the victim is engaged in sexual activity, without depicting a real event, the legal assessment must avoid a formalistic distinction between true and false images if the effect upon sexual self-determination is the same.

2. Sextortion as Sexual Blackmail and as a Multidimensional Criminal Phenomenon

Sextortion describes a form of digital blackmail in which the perpetrator threatens to disclose sexually explicit or intimate material to compel the victim to perform, tolerate or omit a specific act. It is not simply a technological version of classic extortion. The pressure exerted on the victim derives precisely from the intimate and sexual nature of the material. For that reason, sextortion must be assessed not only as an offence against property or freedom of will, but also as an offence against sexual freedom, privacy and dignity⁶.

In cases involving minors, this conclusion becomes even stronger. The minor's fear is not limited to embarrassment. It may include fear of family reaction, school exposure, social exclusion, re-victimization, or even criminalization where the minor has produced self-generated sexual material. The perpetrator exploits not only the material itself, but also the minor's limited ability to assess legal consequences, preserve evidence, seek help and resist manipulation.

The phenomenon appears mainly in two forms. The first is sexual sextortion. The perpetrator uses existing or alleged intimate material to demand further images, live-streamed sexual acts, sexual communication, or a physical meeting. In this form, sextortion functions as a mechanism of continuing sexual exploitation. Each concession by the victim supplies the perpetrator with new material and therefore with a stronger means of coercion. The victim is drawn into a cycle from which escape becomes increasingly difficult without external intervention.

The second form is financial sextortion. Organized groups often target adolescents, usually after creating a false profile or after inducing the victim to send intimate material. The threat of publication is then used to demand money, gift cards, digital currencies or other economic benefits. The sexual dimension is the means of pressure, while the immediate purpose is financial gain. This distinction has consequences for legal classification, since the same factual conduct may engage provisions protecting sexual freedom and provisions protecting property or patrimonial interests.

The specificity of sextortion lies, therefore, in the combination of sexual exposure and coercive control. The perpetrator does not merely threaten a future harm. The threatened harm is already latent in the material itself and in the architecture of the internet, where dissemination may be instantaneous, transnational and practically

⁶ See M. PICCHI, *Violence against Women and Domestic Violence: The European Commission's Directive Proposal*, in *Athens Journal of Law*, 2022, no. 4, pp. 395-408.

irreversible. This is why the law must treat sextortion as a form of sexual abuse through images and not as a secondary or derivative conduct.

3. Article 346 of the Greek Penal Code and the Limits of Criminal Liability

Art. 346 of the Greek Penal Code criminalizes the unauthorized disclosure of a real, altered or distorted image, as well as any visual or audiovisual material, depicting a non-public act of another person relating to that person's sexual life. The provision seeks to protect sexual freedom, sexual dignity, sexual self-determination and sexual privacy. It is particularly important in cases of so-called revenge pornography, but its scope is not limited to acts motivated by revenge⁷.

The central interpretative difficulty lies in the phrase 'relating to sexual life'. The concept is not exhaustively defined by the provision itself. Recent Greek case law has attempted to clarify it by holding that the protected field includes not only acts of an explicitly sexual nature, such as the depiction of genitalia, but also images of the body which, even with the genitalia covered, are presented in a manner capable of causing sexual arousal. In that context, the depiction of a semi-nude body in underwear has been considered capable of falling within the scope of art. 346, where the functional purpose, the manner of presentation and the intended audience connect the image with the victim's sexual life⁸.

This approach has the merit of avoiding an excessively narrow reading of the provision. It would be artificial to require the depiction of genitalia or of a sexual act in every case. Sexual exposure may also occur through the presentation of the body, the surrounding context, the words accompanying the image, the place of publication and the audience to which it is addressed. A photograph sent privately to a partner may acquire a clearly sexual meaning when republished with degrading comments or uploaded to a platform designed for sexual consumption.

At the same time, a very broad interpretation creates difficulties of legality and proportionality. Not every unauthorized publication of a private or partially nude image can automatically be characterized as material relating to sexual life within the meaning of art. 346. The fact that an image was intended only for the recipient does not by itself transform the image into revenge pornography. Nor is it sufficient that the image may, in the abstract, be capable of provoking erotic interest in someone. The connection with sexual life must be established through objective elements arising from the material itself and from the circumstances of its dissemination.

⁷ See E. SYMEONIDOU-KASTANIDOU, *Crimes Against Personal Legal Interests*, Athens, 2025, p. 364; G. BASTOUNAS, *Εκδικητική πορνογραφία: Ένας μιντιακός όρος στο επίκεντρο της δικαιοσύνης - Με αφορμή την ΑΠ 686/2021 (Revenge Pornography: A Mediatic Term at the Center of Justice – In Occasion of AP 286/2021)*, in *Qualex*, 2022, pp. 74-77.

⁸ P. KAZIS, *Revenge porn: Νέα διάταξη για την εκδικητική πορνογραφία (άρθρο 346 Π.Κ.) (Revenge Porn: New Provision on Revenge Pornography (article 346 of the Penal Code))*, in *Syntagma Watch*, 4 July 2022, pp. 196-198.

A more coherent interpretation would require a concrete link between the published material and the victim's sexual self-determination. Such a link may appear from the depiction of genitalia, nudity, sexual acts, simulated sexual acts, or from the manner in which the body is presented. It may also arise from the context of disclosure: for example, where the perpetrator adds comments referring to the victim's sexual life, uploads the material to a dating or pornographic website, sends it to persons for the purpose of sexual humiliation, or presents the victim as a person producing sexual material. In the absence of such elements, the conduct may still constitute an unlawful processing of personal data or another offence, but it should not necessarily be assimilated to the core wrongfulness of art. 346⁹.

The importance of this distinction is not merely theoretical. Art. 346 carries a significant punitive weight. If the offence is interpreted so broadly that it covers every non-consensual disclosure of an intimate or private image, the provision risks losing its internal limits. The protected interest is not general privacy alone. It is sexual privacy and sexual self-determination. The interpretative task is therefore to identify when the image, the manner of disclosure and the surrounding circumstances cross that threshold.

4. Article 348A of the Penal Code and the Concept of Child Pornography

The comparison between arts. 346 and 348A of the Penal Code is necessary because both provisions may be invoked in sextortion cases involving minors. Yet the two provisions protect legal interests through different structures. Art. 348A concerns child pornography and is directed at material involving minors or persons appearing to be minors. Its protective purpose is connected with the minor's sexual freedom, dignity, physical and psychological integrity, and especially the minor's unimpeded sexual development.

Under art. 348A(3), child pornography consists, strictly speaking, in the representation or actual or simulated depiction, on an electronic or other medium, of the genitalia or the body in general of a minor or of a person appearing to be a minor, in a manner that clearly causes sexual arousal, as well as the actual or simulated sexual act performed by or with a minor or a person appearing to be a minor. The requirement that the material clearly causes sexual arousal is important. The sexual function of the depiction must be primary and not merely incidental, as may occur in artistic, educational or cinematic contexts.

Greek case law has treated the possession, distribution and making available of such material as conduct capable of seriously endangering not only the actual minor depicted

⁹ See G. NOUSKALIS, *Ορισμένες σκέψεις γύρω από τη δημοσιοποίηση δεδομένων της γενετήσιας ζωής στο σύγχρονο διαδικτυακό περιβάλλον - Τα προβλήματα εφαρμογής του αρ. 38 Ν 4624/2019 και του αρ. 346 ΠΚ - Με αφορμή την ΣυμβΕφΑθ 1452/2025 (Some Thoughts on the Disclosure of Data Concerning Sexual Activity in the Modern Online Environment – Problems with the Implementation of Article 38 of Law 4624/2019 and Article 346 of the Penal Code)*, in *Qualex*, 2026, no. 49, p. 1 ff.

but also an indefinite number of minors who may be exposed to such material or recruited into its production. The offence thus contains both an individual and a broader protective dimension. It is directed against the exploitation of the depicted child, but also against the social circulation of material that normalizes or encourages sexual access to minors¹⁰.

In the digital environment, the concept of possession raises specific issues. Access to material stored remotely, live-streamed content, temporary storage in cache memory and the opening or downloading of files may each raise different questions of factual control. Mere viewing without control over the material cannot automatically be equated with possession. By contrast, downloading, saving, printing, organizing or otherwise exercising control over files may establish the factual power required for possession. Distribution does not require dissemination to an indefinite public; making the material accessible to more than one person, including through online posting or re-posting mechanisms, may suffice¹¹.

This analysis is relevant to art. 346 because it shows why the element of sexual arousal and the objective character of the material cannot be ignored. If art.346 is interpreted by analogy with the logic of art. 348A, the material disclosed without authorization should either depict the victim's naked body, genitalia, sexual act or simulated sexual act, or otherwise be presented in a manner whose primary function is sexual exposure or sexual exploitation. The mere subjective intention of the perpetrator to embarrass the victim should not be enough where the material itself and the circumstances of disclosure do not objectively connect it to the victim's sexual life.

Such an interpretation also explains why art. 346 may justifiably carry a serious penalty. Its additional wrongfulness lies not only in the violation of honour or personal data, but in the unauthorized entry of the victim's sexual life into public circulation. The offence therefore requires more than private unpleasantness and more than a breach of confidentiality. It requires a disclosure that affects the victim as a sexual subject.

5. Artificial Intelligence, Deepfakes and the Criminalization of Fabricated Sexual Material

Artificial intelligence has fundamentally changed sextortion. Possession of authentic sexual material is no longer necessary. A perpetrator may threaten the victim with the publication of fabricated material that appears realistic enough to cause the same social harm as genuine material. For a minor, the distinction between authentic and artificial content may be practically irrelevant. Once the image is circulated, the burden of denying

¹⁰ D. ΚΙΟΥΠΙΣ, *Πορνογραφία ανηλίκων. Ερμηνευτικές προσεγγίσεις του άρθρου 348Α Π.Κ. (Child Pornography: Interpretative, Approaches to Article 348A of the Penal Code)*, in *Ποινικός Λόγος*, pp. 5-12, <https://pergamos.lib.uoa.gr/item/uoadl:1028350>, accessed 7 June 2026.

¹¹ See M. ΚΑΪΑΦΑ-GBANDI, *Online Offenses Against Minors*, in *Ποινικά Χρονικά*, 2012, no. 1, p. 161.

its authenticity may fall on the victim, while the damage to dignity and social life has already occurred¹².

The legislative response must therefore shift attention from the truthfulness of the depicted event to the use of the person's sexual image as an instrument of coercion. Where deepfake technology creates the impression that a minor or adult is engaged in sexual conduct, the wrong does not lie only in deception. It lies in the appropriation of the person's sexual identity and in the threat of public sexual humiliation.

This is the significance of the recent regulatory movement toward the express criminalization of fabricated sexual material. The use of generative artificial intelligence to create sexual images of identifiable persons cannot be treated as a harmless fantasy merely because the body is not real. In the context of sextortion, the fabricated image becomes a weapon. It allows the perpetrator to produce the means of blackmail without any prior act by the victim and, in that sense, expands the reach of sexual coercion.

For minors, the need for protection is particularly acute. The minor may not be able to disprove the authenticity of the image, may fear that adults will not believe them, or may remain silent because the shame attached to the image is stronger than the confidence in legal protection. Criminal law must therefore recognize that manipulated or artificial sexual material may cause the same injury to sexual freedom, dignity and psychological integrity as authentic material.

At the same time, the criminalization of deepfake pornography should be formulated with precision. It should cover the production, alteration, dissemination and threatened dissemination of material that gives the impression of sexual activity or sexual exposure and is capable of causing serious harm. The focus should remain on identifiable persons, lack of consent, sexual character of the material and the risk or occurrence of significant harm. Only such a formulation can avoid both under-criminalization and excessive interference with lawful expression.

6. The Budapest Convention, Electronic Evidence and Access to Metadata

Sextortion cases are rarely confined within one national territory. The victim may be in Greece, the perpetrator may operate through a false profile hosted abroad, the platform may be established in another Member State or outside the European Union, and the relevant data may be stored in several jurisdictions. For this reason, substantive criminalization is insufficient unless supported by workable mechanisms for the preservation, disclosure and lawful use of electronic evidence¹³.

¹² See C. YAVUZ, *Criminalisation of the Dissemination of Non-consensual Sexual Deepfakes in the European Union. A Comparative Legal Analysis*, in *Revue Internationale de Droit Pénal*, 2024, no. 2, pp. 419-457.

¹³ See G. DAVIES, *The Promise and Pitfalls of the Second Protocol to the Budapest Convention: Assessing its Impact on EU and UK Cross-Border Criminal Investigations*, in *New Journal of European Criminal Law*, 2026, no. 1, pp. 101-123.

The Budapest Convention on Cybercrime remains the central international instrument in this field. Its importance for sextortion lies in the procedural tools it provides for the preservation and collection of digital evidence. The expedited preservation of stored computer data and traffic data is particularly significant. In sextortion cases, perpetrators often delete messages, accounts, profiles or files as soon as they suspect that the victim has contacted the authorities. The possibility of rapidly preserving data prevents the irreversible loss of evidence before the slower mechanisms of mutual legal assistance or formal production orders can operate.

The Convention also introduced concepts of search and seizure adapted to the intangible character of computer data. Following its incorporation into Greek law, investigative authorities may search information systems and seize or secure digital data under the guarantees provided by the Code of Criminal Procedure. In sextortion cases, this may concern cloud storage, messaging applications, social media accounts, devices and data connected with the transmission of threats or the dissemination of material.

The Second Additional Protocol to the Convention strengthens cross-border cooperation by facilitating more direct cooperation with service providers and by addressing emergency situations¹⁴. This is of particular importance where a minor is under immediate threat, where the threatened disclosure is imminent, or where there is risk to life or physical integrity. In such circumstances, the legal framework must allow speed without abandoning judicial guarantees.

The processing of metadata must, however, be situated within the European framework for the protection of private life and communications. Directive 2002/58/EC established the confidentiality of electronic communications and extended protection to traffic and location data. Although Member States may restrict this protection for reasons such as national security, public security and the prevention, investigation, detection and prosecution of criminal offences, such restrictions must be necessary, appropriate and proportionate in a democratic society.

The judgment of the Court of Justice of the European Union in Digital Rights Ireland remains central to this balance. The invalidation of the Data Retention Directive was based, among other reasons, on the absence of sufficient limits and prior review regarding access by national authorities to retained data. The lesson is clear: the investigation of serious offences, including sextortion of minors, may justify access to communications metadata, but access cannot be generalized, indiscriminate or detached from independent control.

Greek law has incorporated this approach through the rules governing the confidentiality of communications and its lifting. Presidential Decree 47/2005, Law 3471/2006 and the later framework on the lifting of confidentiality place traffic and location data within the protected sphere of communications secrecy. Their use in

¹⁴ See T. WAHL, *Council Frames Ratification of CoE E-evidence, Treaty by EU Member States*, in *eu crim*, 15 March 2023, <https://eu crim.eu/news/council-frames-ratification-of-coe-e-evidence-treaty-by-eu-member-states/>.

criminal investigations therefore requires compliance with constitutional and statutory guarantees. In sextortion cases, this means that the need to identify the perpetrator, trace the origin of threats and preserve evidence must be reconciled with the principle that access to communications data is an exceptional measure.

The e-Evidence package further develops this field by creating procedures for European Production Orders and European Preservation Orders. In practical terms, these instruments may prove decisive in sextortion cases where platforms and providers hold the relevant data. They also confirm that the future of criminal investigation in online sexual abuse depends upon a double requirement: effective access to evidence and strict procedural safeguards.

7. The Digital Services Act and the Duties of Online Platforms

Regulation (EU) 2022/2065, the Digital Services Act, introduces a new model of responsibility for the digital environment. Its basic premise is that illegality should not become less serious because it is committed online. In relation to sextortion, the DSA is important not because it replaces criminal law, but because it addresses the conditions under which illegal material is hosted, circulated, recommended and removed¹⁵.

Art. 16 of the DSA requires hosting service providers to put in place notice-and-action mechanisms that are easily accessible and user-friendly. This requirement is crucial in sextortion cases. Time is often decisive. Once intimate material is uploaded, every hour of delay may increase the number of copies, screenshots, downloads and re-posts. A meaningful reporting mechanism must therefore allow victims, their representatives or competent bodies to notify the platform quickly and must oblige the provider to act expeditiously where the content is illegal.

Art. 28 is particularly significant for minors. Online platforms accessible to minors must ensure a high level of privacy, safety and security. The provision reflects a principle of default protection: minors should not be required to understand and configure complex privacy settings in order to be safe. Non-public profiles, restrictions on unsolicited contact by strangers, limits on algorithmic exposure and age-appropriate design may reduce the opportunities for perpetrators to approach, groom or blackmail minors.

Art. 34 imposes additional obligations on very large online platforms and very large online search engines to assess systemic risks arising from the design and functioning of their services. These risks include the dissemination of illegal content and negative effects on fundamental rights, minors and gender-based violence. A platform whose interface, recommendation system or contact architecture facilitates the approach of minors by perpetrators cannot rely on technical neutrality. It must assess and mitigate the risk.

¹⁵ See V. POLYZOIDOU, *e-Evidence Regulation: A Contemporary Trojan Horse in Criminal Proceedings?*, in T.E. SYNODINOU, P. JOUGLEUX, C. MARKOU, T. PRASTITOU-MERDI (eds.), *EU Digital Law in the AI Era*, Cham, 2025, pp. 239-261.

The DSA thus complements the criminal-law response. Criminal law punishes the perpetrator; platform regulation seeks to reduce the conditions that enable the offence and to limit the spread of the material once it appears. This preventive and remedial function is essential in sextortion cases, because the harm is intensified by circulation. Removal, disabling access, preservation of evidence and cooperation with competent authorities must therefore operate together¹⁶.

Greek law 4779/2021, which transposed directive 2018/1808, adds another layer of protection in relation to audiovisual media services and video-sharing platforms. Age verification, parental control systems and safety-by-design obligations reinforce the protective framework for minors. The combined application of the DSA, audiovisual media rules, data-protection safeguards and criminal law allows a faster and more coherent institutional response to the dissemination of blackmail material.

8. Conclusion

The online sexual extortion of minors cannot be reduced to a single offence or to a single legal interest. It is a compound phenomenon in which coercion, sexual exposure, privacy violation, technological manipulation and cross-border evidentiary difficulties converge. Its legal treatment therefore requires a combined approach: substantive criminal provisions must be sufficiently precise; investigative tools must be effective but controlled; and platforms must bear concrete duties to prevent, remove and limit the circulation of unlawful material.

Art. 346 of the Greek Penal Code is central to the protection of sexual privacy and sexual self-determination against non-consensual disclosure. Yet its interpretation must remain disciplined. The concept of material relating to sexual life should not be expanded to every private image disclosed without authorization. It should cover material which, by its content or by the context of disclosure, objectively affects the victim as a sexual subject. This reading preserves both the protective force of the provision and the requirements of legality and proportionality.

Art. 348A, by contrast, addresses the specific wrong of child pornography and must be applied with attention to the particular vulnerability of minors and to the requirement that the material clearly causes sexual arousal or depicts sexual conduct. In sextortion cases involving minors, the two provisions may intersect, but they should not be conflated. Their distinction helps the interpreter identify the precise wrong: sexual blackmail, non-consensual disclosure, child sexual abuse material, or a combination of these.

Artificial intelligence intensifies the problem by making it possible to fabricate the very material used for blackmail. The law must therefore treat deepfake sexual material

¹⁶ See R. GORWA, *The Politics of Platform Regulation: How Governments Shape Online Content Moderation*, Oxford, 2024, pp. 53-60.

as capable of causing genuine harm, while defining criminal liability with sufficient clarity¹⁷. The decisive elements should be identifiability, sexual character, lack of consent, dissemination or threat of dissemination, and serious harm or coercive purpose.

Finally, the effectiveness of any legal response depends on evidence and speed. The Budapest Convention, its Second Additional Protocol, the e-Evidence package and the DSA together show the direction of modern regulation: rapid preservation and access to data, cooperation with providers, protection of minors by design, and procedural guarantees against disproportionate interference with communications secrecy. Sextortion is a digital offence, but its injury is deeply personal. That is why the law must respond with both technological awareness and doctrinal restraint.

ABSTRACT: In contemporary society, photographs and videos depicting an individual's sexual or intimate life can be easily reproduced and disseminated digitally without their consent, reaching potentially millions of recipients. Pursuant to directive (EU) 2024/1385 on combating violence against women, as well as following the ratification of the Istanbul Convention, most EU Member States have codified the core elements of the aforementioned conduct within their respective Criminal Codes – such as art. 346 of the Greek Penal Code – as well as within special criminal statutes concerning the violation of personal data protection. As a result of these overlapping legislative frameworks, a number of interpretative issues arise, some of which are examined in the present article. This paper examines the online sexual extortion of minors by adults, commonly described as sextortion. Its aim is not the mere description of a new criminal practice, but the legal assessment of a form of coercion which affects sexual freedom, privacy, personal dignity and, where minors are concerned, the conditions of their undisturbed sexual development.

KEYWORDS: Artificial intelligence – Child pornography – Deep fake – Digital Service Act – Revenge porn – Sextortion – Sexual self-determination.

¹⁷ See B. KIRA, *When Non-Consensual Intimate Deepfakes Go Viral: The Insufficiency of the UK Online Safety Act*, in *Computer Law & Security Review*, 2024, no. 54, pp. 1-14.