

Amnio – Termination of pregnancy – Abortion (outside the law):

written by Dennis_ Rombaut_ | March 28, 2022

For abortion a distinction must be made between 2 situations:

- Termination of pregnancy without the consent of the pregnant woman
- Termination of pregnancy with the consent of the pregnant woman

Without consent

Termination of pregnancy without the consent of the pregnant woman is obviously a serious offence. The punishment increases according to the manner and the consequence, for example when violence is involved or when the termination of pregnancy leads to the death of the pregnant woman.

It is not necessary that the termination actually succeeds to be punishable. Even the attempt remains punishable. The use of violence on a pregnant woman, resulting in an abortion, without the perpetrator having the intention to cause this, will also be equated to a termination without consent. It is required that the perpetrator knew, or should have known, that the woman in question was pregnant. If the perpetrator did not know that the woman was pregnant, this will be qualified as another offence.

With consent

Another situation is when the pregnant woman consents to the “abortion”, the so-called voluntary abortion. If this abortion is carried out within the terms of the Abortion Act of 15 October 2018, it is not a criminal offence. This law has some strict conditions, such as the time limit of 12 weeks after conception, the detailed information that must be provided and the mandatory reflection period that must elapse between the first consultation and the final abortion. The 12-week time limit may be exceeded if the pregnancy poses a serious danger to the woman’s health or the child is born with an extremely serious and incurable disease.

If the abortion, with the woman’s consent, is not carried out in accordance with the conditions imposed by the abortion law, it remains punishable behaviour. However, it is always the case that it is punishable for the person who carries out the abortion and not for the woman who has the abortion. The legislator has not explicitly criminalised the performance of a clandestine abortion.

For more information on this crime, a concrete punishment and/or tailor-made advice, please contact our criminal lawyers at info@studio-penale.be.