

Rape:

written by Dennis_ Rombaut_ | March 28, 2022

Rape differs from indecent assault in that it involves penetration. It involves vaginal, anal or oral penetration with a body part or object. Both women and men can therefore be victims and/or perpetrators.

The law states that there must be penetration of the victim. Thus, if a victim is forced to penetrate the perpetrator – for example, a man who is forced to be orally gratified – this is not rape according to the law. However, not all judges agree. Moreover, it is not the case that it would therefore not be punishable. A different qualification would be used (degrading treatment or assault, for example).

For every sexual act, it must be checked whether there was consent. For example, just because someone consents to oral sex, it does not mean that he or she also consents to vaginal sex. The Belgian courts also ruled that so-called ‘stealthing’, where the condom is removed secretly and without the consent of the other party during intercourse, also constitutes rape.

Finally, there must be a sexual aspect to it; the perpetrator must have a sexual intention. Penetrating a victim in order to belittle him, to mistreat him or to make him tell certain things is therefore not considered rape. These are other crimes, such as beatings and injuries, inhuman treatment or torture.

The aggravating circumstances for rape are the victim’s minority or vulnerability, the victim’s death, the use of threats with a weapon, the deprivation of liberty and/or the (family) authority over the victim.

For more information about this crime, a concrete sentence and/or tailor-made advice, contact our criminal lawyers via info@studio-penale.be.