

Artikel 296 Sr.

De kernvraag is of de OTB onder het afbreken van zwangerschap valt in de zin van art. 296 Sr. De regering tracht, door het beleid te veranderen, de inhoud van de strafbaarstelling te wijzigen. Dat is echter niet mogelijk. Wanneer een geval bij de strafrechter aanhangig zou worden gemaakt, zou deze het afbreken van de zwangerschap interpreteren op basis van de wet en de wetsgeschiedenis.

Een *Nota van toelichting* bij een besluit kan in die in de wet gebruikte term geen verandering brengen, tenzij daartoe specifiek een bevoegdheid is gedelegeerd aan de regering: daarvan is hier geen sprake. Kort en goed: de Nvt zou geen rechtsbron zijn voor de invulling van de delictsbestanddelen van art. 296 Sr.

In art. 296 Sr wordt gesproken van “dat daardoor de zwangerschap kan (*onderstreping BS*) worden afgebroken”. Daardoor lijkt een bredere reikwijdte te bestaan voor de strafrechtelijke bepaling dan voor de Waz. Ik meen dat die strafrechtelijk bepaling beperkt moet worden gelezen. Uit de wetsgeschiedenis blijkt dat het artikel bedoeld was als strafrechtelijk handhavingsmechanisme en de wet beoogde te normen de handelingen die waren *gericht* op afbreking van de zwangerschap. Aan de strafwet op dit punt en de Waz moet dus dezelfde reikwijdte worden gegeven.

Conclusie

1. De overtijdbehandeling heeft een aparte status en valt als zodanig niet onder bepalingen van de Waz. Dit blijkt uit vaste jurisprudentie van de Hoge Raad en de Raad van State. De overtijdbehandeling valt voorts niet onder de delictsomschrijving van art. 296 Sr. De toelichting op de wijziging is dan ook misleidend. Art. 296 Sr omvat niet de OTB. De Waz en art. 296 Sr hebben dezelfde reikwijdte.
2. Hieruit volgt dat er geen wettelijke bepaling is die huisartsen verbiedt Sunmedabon als overtijdsbehandeling voor te schrijven.

Voor nadere vragen kunt u ons bereiken op kantoor of Bart Stapert mobiel, 06-46238708.

Derk Wiersum
Bart Stapert

VICE MEDIA LLC.

LOCATION AGREEMENT

"Project": ABORTION PILLS

"Property": Located at DOMSEALSTRAT 14, 1093 MA AMSTERDAM, NETHERLANDS

"Term": Commencing on or about JUNE 25, 2015 and continuing through JUNE 25, 2015

This Location Agreement ("Agreement") is entered into as of 08/06/2015 by and between WOMEN ON WAVES

("You" or "Your") and VICE MEDIA LLC, together with its affiliates and subsidiaries, ("Producer") for Producer's use of the Property in connection with the Project. In consideration for the rights granted herein, subject to the execution of this Agreement, and other good and valuable consideration, receipt of which You hereby acknowledge.

You grant to Producer and its employees, contractors, agents, licensees and assigns the right: (a) to enter, remain on and occupy the Property during the Term with personnel and equipment for the purpose of recording, filming, taping and/or photographing in connection with the Project and undertaking related activities; (b) to make audio and video recordings (including without limitation photographs) on and of the Property; and (c) irrevocably, to edit, broadcast and/or transmit such recordings in all manners, formats and media now known or hereafter devised throughout the universe in such manner and to such extent as Producer may desire, whether or not in connection with the Project. All rights of every kind in such recordings in all manners, formats and media now known or hereafter devised (including without limitation all copyrights therein and all renewals, extensions and restorations of said copyrights) shall be solely owned throughout the universe in perpetuity by Producer. The rights herein granted include without limitation the right to record all structures and signs located on the Property, the right to record any and all activities, conduct, and conditions occurring or existing on the Property, and the right to refer to the Property by its correct name or any fictitious name. Producer shall not be obligated to produce the Project, to make any actual use of recordings made on or of the Property or to use any name connected with the Project in connection with the Project or any other program. Producer shall use reasonable care to prevent damage to the Property and shall indemnify and hold harmless You and all other parties lawfully in possession of the Property for any claims, demands, and causes of action of any person based upon personal injuries or property damage suffered by such person resulting directly from any act or omission on Producer's part in connection with Producer's use of the Property. In the event that Producer's use of the property is prevented or hampered by weather or occurrences beyond Producer's control (including, but not limited to, weather-related delays) (each, a "Force Majeure Event"), Producer shall have the right to use the Property without any additional charge for an amount of additional time equal to the time that was not used due to the Force Majeure event, commencing at a mutually agreeable time following the end of the Force Majeure Event.

You represent and warrant that You are the owner and/or authorized representative of the Property and that You have the authority to grant Producer the permission and rights herein granted, and that no one else's permission is required. You release Producer and all parent, sister and related entities of Producer, all licensees, successors, assigns of Producer, all distributors, exhibitors, stations, sponsors and advertising agencies of the Project or other program incorporating any audio and video recordings taken on or of the Property, and all of the officers, directors, agents, employees and shareholders of each of the foregoing from any and all claims, demands and costs arising from or related to any of the recordings made on the Property as contemplated herein. In the event of any action or claim arising out of or related to this Agreement, the use of the Property or the use or exploitation of the recordings made on or of the Property, You shall be limited to an action for money damages and You specifically acknowledge that You shall not be entitled to equitable or injunctive relief, all of which You knowingly waive. In no event shall You be permitted to prevent or inhibit the exhibition, distribution, broadcast or other use or exploitation of any audio or video recordings made on or of the Property. Producer may transfer and assign this agreement or all or any of its rights or privileges hereunder to any entity or individual without restriction. This release shall be binding on all of Your successors-in-interest and heirs.

This Agreement expresses the entire understanding between the parties with respect to the subject matter hereof and may not be changed, modified, or terminated except in writing. If any provision of this Agreement is adjudged to be void or unenforceable, same shall not affect the validity of this Agreement or of any other provision hereof. This agreement, its validity, construction and effect shall be governed by the laws of the State of New York. The parties hereto agree to submit to jurisdiction in the State of New York, United States of America.

VICE MEDIA LLC.

(Name of entity or individual)

By:

[Signature]

Print name:

Rebecca Sompel

Title:

Director - Women on Waves

Title: ASSOCIATE PRODUCER

By:

[Signature]

Print name: MARLA BAHLLOUL