



Continuing our focus on keeping you updated on the news regarding Spanish legislation which may affect the handling of claims, we would like to inform you that on 1st of March, **the organic Act 2/2019 was published in the Official Gazette (BOE), modifying the Criminal Code as concerns reckless driving of motor vehicles or mopeds and penalty for leaving the scene of an accident.**

This Act came into force on 2nd March 2018.



This Organic Act provides an answer to a significant social demand facing the increase of accidents caused by the reckless driving of motor vehicles or mopeds involving pedestrians and cyclists, and is based on three axes:

1. Introducing three scenarios to consider serious negligence, as well as a real interpretation of the less serious negligence
2. Increased punishment for this type of behaviour
3. Introducing the offence for leaving the scene of an accident

With regards to the first point, it is to be noted that the amendment ensures an increased criminal penalty for some type of behaviour particularly serious when resulting in death, especially if the driver of the motor vehicle or moped is driving under the influence of toxic drugs, stupeficient or psychotropic substances, alcoholic drinks, or exceeding the speed limit. It expressly recognizes that certain circumstances indicating the driver's particular negligence must be clearly identified in the criminal consequences as serious negligence.

As to increasing the punishment for this type of behaviour, the proposal is twofold:

- ▶ New article 142 bis. The drafting will enable the Judge or the Court to impose a prison sentence of up to nine years in case of accidents resulting in various deceased or deceased and severely injured parties, caused by the reckless driving of a motor vehicle.
- ▶ New article 152 bis. It allows to grade the sentence more severely when resulting in a number of injured parties, and even more severely when there is a very high number of injured parties.
- ▶ On the other hand, the increased punishment also appears in the introduction of the ban from driving motor vehicles and mopeds in the new paragraph of article 382, when there is reckless driving.

Thirdly, leaving the scene of an accident is introduced as an offence with an autonomous drafting contained in chapter IV of the Criminal law, which deals with the offences against traffic security, in the understanding that it is a wilful misconduct, different from the previous careless or fortuitous behaviour.

The intent is to punish the inherent evilness of someone who knows that leaving the scene means abandoning someone who can be injured or even deceased; this lack of solidarity with the victims is criminally relevant given his/her direct involvement with the accident, and the legitimate expectations of the pedestrians, cyclists or drivers of any motor vehicle or mopeds of being attended in case of a road traffic accident.



In this case, a prison sentence of six months to four years can be imposed, and the author banned from driving motor vehicles and mopeds from one to four years.

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