

OFFENSES AGAINST LIFE AND BODILY INTEGRITY COMMITTED AS RESULT OF DRIVING A VEHICLE WITHOUT A DRIVING LICENSE OR UNDER THE INFLUENCE OF ALCOHOL OR OTHER SUBSTANCES, OR BY EXCEEDING THE SPEED LIMIT: INDIRECT INTENT OR RECKLESSNESS?

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Abstract

Nowadays, driving a vehicle without a driving license, by exceeding speed limits or being under the influence of alcohol or other substances, seems to become a routine. More and more drivers use alcohol or psychoactive substances before getting behind the wheel. More and more people are losing their lives as a result of these facts. How can this situation be improved, since most of the time, driving a vehicle on public roads without a driving license, by exceeding the speed limits, or being under the influence of alcohol or other substances ends tragically, resulting in the death of other people participating in traffic. I can say such a situation is equivalent to ruined lives, not only regarding the injured victim, but also, regarding the defendant, too.

The determination of the subjective side of the offenses resulting in death or personal injury of a person in the above-mentioned contexts divided legal specialists into two camps: those who think it is talked about indirect intent and those who think it is talked about recklessness.

This paper aims to analyse what is the correct legal classification in such situations, starting from the current legal regulations and the analysis of some concrete examples from the judicial practice, emphasising the aspects meant to influence the retention of the form of guilt of the indirect intent, respectively of the recklessness.

Keywords: *indirect intent, recklessness, murder, manslaughter, bodily harm.*

1. Introduction

This paper covers the criteria to be taken into account regarding the proper legal classification by correctly identifying the form of guilt of offenses against life and bodily integrity caused by driving a vehicle without a driving license, by exceeding the speed limits, or being under the influence of alcohol and/or psychoactive substances.

The studied matter is important because, as it can be seen, in the judicial practice there is a tendency to consider that all these contexts are the factors that favors the retention of recklessness as form of guilt.

In this paper, there are presented cases from judicial practice, being indicated the concrete aspects meant to correctly delimit these two forms of guilt: indirect intent and recklessness.

In the already existing specialised literature, there was also debated the problem of delimiting the form of guilt of the indirect intent from that of the recklessness. This paper brings in addition, by reference to the given examples, an advanced analysis and identification of the concrete aspects and factors meant to lead to the correct identification of the form of guilt.

2. Paper content

2.1. Driving a vehicle without a driving license

Art. 335 CP provides as follows:

„(1) Driving a vehicle or a tramway, on public roads, without having a driving license shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) Driving, on public roads, a vehicle for which a driving license is required by law, by an individual who owns a driving license which was issued for a different category or subcategory than the one in which the vehicle is included, or whose license has been withdrawn or rescinded or who is not entitled to drive vehicles in Romania shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

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(3) The same penalty shall apply to the person who knowingly entrusts a vehicle for which the law requires a license for driving on public roads, to an individual who they know is in one of the situations referred to in para. (1) or para. (2) or under the influence of alcohol or of psychoactive substances¹.

The subjective side of this offense is represented by direct or indirect intent.

2.2. Driving a vehicle under the influence of alcohol or other substances

According to art. 336 CP:

„(1) Driving, on public roads, a vehicle for which a driving license is required by law, by an individual who, at the time when biological samples were taken, has a blood alcohol concentration exceeding 0.80 g/l shall be punishable by no less than 1 and no more than 5 years of imprisonment or by a fine.

(2) The same penalty shall be applied to an individual who, while under the influence of psychoactive substances, drives a vehicle for which a driving license is required by law.

(3) If the individual who is in one of the situations set out in para. (1) and para. (2) carries out activities such as public passenger transportation, transportation of hazardous substances or products or is imparting practical training to candidates wishing to obtain a driving license or during the practical tests of the examination sit to obtain the driving license, they shall be punishable by no less than 2 and no more than 7 years of imprisonment².

The subjective side of this offense is represented by direct or indirect intent.

2.3. Murder

Art. 188 CP provides as follows:

„(1) Murdering an individual shall be punishable by no less than 10 and no more than 20 years of imprisonment and a ban on the exercise of certain rights.

(2) The attempt shall be also punishable³.

Direct or indirect intent represents the subjective side of this offense.

2.4. Manslaughter

According to art. 192 CP:

„(1) Manslaughter of an individual shall be punishable by no less than 1 and no more than 5 years of imprisonment.

(2) Manslaughter as a result of failure to observe the legal stipulations or precautionary measures established for the practice of a profession or of a craft or for the performance of a specific activity shall be punishable by no less than 2 and no more than 7 years of imprisonment. When a breach of the legal stipulations or of precautionary measures represents an offense in itself, the rules on multiple offenses shall apply.

(3) If a committed act caused the death of two or more individuals, the special limits of the penalty set under para. (1) and para. (2) shall be increased by one-half⁴.

The subjective side of this offense is represented by the basic intent (recklessness or negligence).

2.5. Bodily harm

The art. 194 CP provides as follows:

„(1) The act set by art. 193, which caused any of the following consequences:

- a) an impairment;*
 - b) traumatic injuries or health impairment of an individual the healing of which required more than 90 medical care days;*
 - c) a serious and permanent aesthetic injury;*
 - d) miscarriage;*
 - e) endangering of an individual's life,*
- shall be punishable by no less than 2 and no more than 7 years of imprisonment.*

¹ The source of the translated paragraph: <https://www.just.ro/wp-content/uploads/2021/11/Noul-cod-penal-EN.doc>.

² *Ibidem*.

³ *Ibidem*.

⁴ *Ibidem*.

(2) When such an act was committed for the purpose of causing any of the consequences listed under para. (1) letter a), letter b) and letter c), it shall be punishable by no less than 3 and no more than 10 years of imprisonment.

(3) The attempt to commit the offense set under para. (2) shall be punishable⁵.”

The subjective side for this offense is represented by indirect intent or oblique in the case of para. (1) and direct intent in the case of para. (2).

2.6. Bodily harm with basic intent

According to art. 196 CP:

„(1) The act set by art. 193 para. (2) committed with basic intent by a person under the influence of alcohol or of a psychoactive substance or during the performance of an activity that represents an offense in itself shall be punishable by no less than 3 months and no more than 1 year of imprisonment or by a fine.

(2) The act set by art. 194 para. (1) committed with basic intent shall be punishable by no less than 6 months and no more than 2 years of imprisonment or by a fine.

(3) When the act set by para. (2) was committed as a result of failure to observe the legal stipulations or precautionary measures established for the practice of a profession or of a craft or for the performance of a specific activity, the penalty shall be no less than 6 months and no more than 3 years of imprisonment.

(4) If the consequences listed under para. (1)-(3) were caused against two or more individuals, the special limits of the penalty shall be increased by one-third.

(5) If failure to observe the legal stipulations or precautionary measures or the performance of an activity that resulted in the commission of the acts set by para. (1) and para. (3) represents an offense in itself, the rules on multiple offenses shall apply.

(6) Criminal action shall be initiated based on a prior complaint filed by the victim⁶.”

The subjective side of this offense is represented by basic intent (recklessness or negligence).

2.7. Indirect intent versus recklessness

Art. 16 para. (3) CP provides that an act is committed intentionally in the following contexts:

- the perpetrator foresees the result of his act and seeks its occurrence (direct intent);
- the perpetrator foresees the result of his act, and although he does not pursue it, accepts the possibility of its occurrence (indirect intent).

At the same time, according to para. (4) of the same article, it can be talked about basic intent in situations where:

- the perpetrator foresees the result of his act, but does not accept it, reckoning without reason that it will not occur (recklessness);
- the perpetrator does not foresee the result of his act, although he had to or could have foreseen it (negligence).

2.8. Intention

As for the structure of intention, there are two elements that can be identified: the intellectual and the volitional element.

The intellectual element is related to the pursuing the final result of the act and requires the author to know that his actions related to the objective side from the moment of committing the offense fall within the specific pattern of the related offense.

As regards the volitional element, it concerns the subjective side of the offense and requires the perpetrator to pursue or accept the result of its action.

⁵ *Ibidem*.

⁶ *Ibidem*.

2.9. Indirect intent

As previously mentioned, the retention of indirect intent is conditional on the acceptance by the perpetrator of the possibility of the occurrence of the result. It can be noticed an indifference of the author regarding the consequences that his actions may have, consequences that he considered, being able to foresee them.

Thus, if a person fires a house without making sure that there is no one inside the building, having as purpose the destruction of the house in order to take revenge on the owner of the house with whom he has had a conflicting relationship for years, and at the time of the arson, there were people inside the house whose physical integrity was damaged or who lost their lives, it will be taken into account that the perpetrator has accepted the possibility that, at that time, there were persons inside the house, and therefore this result will be produced, which resonates with indirect intent.

This is justified by the fact that in such a context, although the perpetrator's purpose was only to cause material damage by destroying the house and not to kill or cause bodily harm to any other person, he could have foreseen the possibility that persons were inside the house at the time of the arson and, however, he did not take the necessary measures to ensure regarding this aspect, which is equivalent to accepting the final result.

2.10. Basic intent

Basic intent implies both the violation of an obligation of diligence and the possibility to foresee and avoid, from a subjective point of view, the produced result.

Diligence obligations have a preventive role in creating the social dangers. Basically, it can be said that the violation of such an obligation is the essential feature of the basic intent.

As regards the possibility of foreseeing and avoiding the danger, the basic intent will not be retained if the author could not prevent the result, either because this result was unpredictable, or either because this, though predictable, was inevitable.

2.11. Recklessness

This implies the awareness by the perpetrator of the violation of an obligation of diligence, the provision of a possible consequence meant to create a social danger, and the fact that he considers, without reason, that the result will not occur.

Recklessness assumes that the author is aware of the fact that his actions violate an obligation of diligence and that it is possible to create a state of danger and considers, without reason, that the final result will not occur.

An example for this, is the situation when a surgeon, feeling that he is very tired and cannot concentrate, enters into the operation, without requesting his replacement, and, following a wrong medical procedure, causes the injury or death of the patient in cause.

Thus, although the surgeon in question foresees the possibility of causing harm to the patient because of his increased fatigue and lack of ability to concentrate, he mistakenly considers that this result will not occur.

We can notice a great similarity between indirect intent and recklessness by the fact that the author foresees the result, but in the case of recklessness, he does not accept the final result, while, in the case of indirect intent, although the author does not aim to produce it, he accepts it, showing indifference to its eventuality.

It is important to note that regarding the recklessness, it can be said that this conviction of the author that the result will not occur is wrongly based on certain objective and insufficient considerations, such as professional experience, age, fatigue resistance, etc.

On the other side, if there is no objective ground meant to create the false impression regarding the possibility, including the ability, to avoid the occurrence of the result, and this possibility to avoid the occurrence of the result is rather something that is only based on hope, left to chance, we are talking about indirect intent.

2.12. Driving a vehicle under the influence of alcohol and the retention of offenses of manslaughter and bodily harm with basic intent

An example worth mentioning is the crim. dec. no. 670/25.09.2018 of CA Alba Iulia⁷.

In the present case, it is talked about the prosecution of the defendant, who had driven a vehicle under the influence of alcohol and fatally injured one person and injured another, victims who were crossing at the level of pedestrian crossing.

By the criminal sentence of the first court was rejected, as unfounded, the request of the civil parties to change the legal classification from manslaughter to murder and from bodily harm with basic intent to bodily harm, considering that, from all the data in the case file, the possibility of the occurrence of the final result was not really accepted by the defendant. It was considered that, without a doubt, like any other driver who violates the traffic rules in one form or another, the defendant has accepted a risk intrinsically associated with the violation of the established rules regarding the safety and protection of the road, but the nature of that risk is taken as virtual.

It is taken into account that the defendant, in his condition, had in mind, most likely, the „demonstration” that he was doing to his fellow passenger in the car and perhaps, to himself too, that he can drive in that state, with high speed, without producing any consequences, in other words, that he is a very good driver - objective circumstances, but wrongly appreciated. Paradoxically and somewhat cynically, it is precisely the high degree of alcohol that the defendant presented at the time of the accident that seems to lead to the same conclusion, a failure to accept a serious result as a consequence of his action. The fact that the defendant was mentally seriously affected by alcohol - this undeniable thing is resulting from the defendant's behavior immediately after the accident (at first, he did not even realise that he hit someone) - made it impossible for the defendant to become aware of the reasoning process implied by the phrase „accepts the possibility of the occurrence of the result”. In this regard, it is also interpreted as the answer given by the defendant to the question of his friend if he was driving under the influence of alcohol: „So what?”. This is precisely the proof that he did not accept at mental level the occurrence of any traffic accident, which occurred precisely because his assessment was totally wrong.

In those circumstances, the court found that the legal classification given to the facts in the indictment is the correct one by analysing the following aspects:

In law, the deeds of the defendant who on 27.11.2017 drove the car with an alcoholic imbibition in the blood above the legal limit (1, 40‰) and, around 17.24 o'clock in the noon, violated the rules regarding the speed regime, adaptation to traffic conditions, road signalling, priority to pedestrian crossing, etc. He has injured people, following the accident resulted the death of the first injured person and injuries that required 100-110 days of medical care, for healing to the other victim. In the court's opinion, these facts meet the constituent elements of the offenses of driving a vehicle under the influence of alcohol, manslaughter and bodily harm with basic intent.

Thus, on the one hand, the court took into account the high degree of social danger of the facts materialised in the specificity and multitude of the violated social values - the life of the person, the physical and mental integrity of the person, the road safety, but also the context and manner of committing the facts (the defendant drove the car after drinking alcohol in several locations, even while driving the car on the streets heavily circulated from the city center, he did not follow the traffic rules and hit two persons who were crossing the pedestrian crossing), that had irreversible consequences (the death of a person, the serious injuries of a child, the trauma of a family).

The appeal court, noting of reliability the legal classification of the offenses, admits the appeal of the defendant and of the civil parties, reducing the amount of punishment applied to the defendant and increasing the number of moral damages.

⁷ <http://www.rolii.ro/hotarari/5bbd5ab9e49009a40a000052>.

2.13. Exceeding the speed limits and the retention of the offense of murder committed with indirect intent

An example regarding the retention of the offense of murder committed with indirect intent in such a context is the crim. sent. no. 40/22.01.2020 of the Cluj-Napoca Court⁸.

In the present case, it is talked about the prosecution of the defendant who was sent to court as a result of causing a traffic accident (he lost the control over the direction of travel, by not adapting the speed to road conditions, by exceeding the legal speed limits and irregularly overtaking on the continuous marking and colliding with a metal pillar located on the green space and then stopping in the rainwater collection ditch related to his direction of travel), resulting in the death of the victim, who was passenger in the car driven by the defendant, and in the serious bodily harm of the defendant himself.

The lawyer of the civil parties requested the change of the legal classification of the offense, from manslaughter to murder, invoking the fact that the indictment retains that the defendant had considered without reason that the result would not occur.

On the other hand, the court does not agree with the factual reasons invoked by the defender of the civil parties, since considering, without reason, that the foreseen result will not occur is specific to recklessness, not to the indirect intent. But the court considers that it is necessary to change the legal classification due to the context of the accident. More specifically, it is considered that it cannot be talked about the existence of objective grounds on that the defendant, who drove at a speed of 156 km/h, had based, determining him to believe that the final result will not occur, but it is considered that he had left to chance the way things will go and, therefore, accepted the final result, that he initially did not seek, the acceptance resulting from the following aspects:

- driving at a speed of 156 km/h, exceeding by 60 km/h the maximum speed limit allowed on the road sector related;
- retention of the fact that the defendant made a prohibited overtaking manoeuvre in the moments prior to the accident (loss of the control over the car);
- road conditions retained as wet roadway and roadside snow (if in the case of wet roadway, the driver may not notice such an aspect, roadside snow is an element that would indicate certain road conditions that would have involved increased caution);
- the defendant obtained the driving license about 1 year and a half before the date of the accident, period during he was punished by applying of contraventional sanctions 10 times (this may attract the attention of the defendant to not having sufficient experience in driving vehicles that allow him to control a powerful car at a very high speed in performing prohibited overtaking manoeuvres on a wet road on a day of a winter month);
- the possibility of lack of experience of the defendant in driving the victim's car.

The lawyer of the defendant requests the rejection of the request for changing the legal classification from manslaughter to murder, invoking the fact that it cannot be talked about acceptance of the result, respectively indirect intent, in the context that defendant himself suffered serious injuries.

The court, taking into account the young age of the defendant and his lack of experience in driving vehicles, appreciates that there is a suspicion that the defendant had based his assessment that the final result will not occur on hazard. It also disagrees with the defendant's lawyer's statement that the defendant's own personal injuries should exclude the acceptance of the result, which is why it disposes the changing of the legal classification from manslaughter to murder.

2.14. Driving a vehicle under the influence of psychoactive substances and by exceeding the speed limit and the retention of the offense of murder

An example of the retention of the offense of murder committed by exceeding the limits of legal speed and driving a vehicle under the influence of psychoactive substances is related in the crim. sent. no. 1051/14.09.2018 of the Constanța Court⁹.

In this case, it is about the prosecution of the defendant for committing the offense of manslaughter and driving a vehicle under the influence of alcohol and psychoactive substances.

⁸ <http://www.rolii.ro/hotarari/5e7c1775e4900948100002b>.

⁹ <http://www.rolii.ro/hotarari/5bac9818e49009941f00004b>.

Thus, the defendant, on 20.08.2017, around 06:55 o'clock in the morning, although he was under the influence of alcohol and psychoactive substances, he had driven the car and when he reached a pedestrian crossing, injured the victim, who was crossing the public road on the pedestrian marking, from the right side of the driver. The victim died as a result of the bodily injuries suffered.

The court, *ex officio*, questions the change of legal classification of the facts from manslaughter to murder, produced with indirect intent analysing the following aspects:

- in the case of indirect intent, it is talked about a passive, indifferent, expectant attitude regarding the occurrence of the result that appears to be possible, while, in the case of recklessness, it is talked about a reckless assessment of the possibility to avoid this result and adopting an attitude in order to actively prevent its occurrence, recklessness consisting precisely in misappraisal of the aptitude of some objective and subjective factors on which it relies;

Where the hope of not producing a harmful or dangerous result is left on chance, on an event that might occur, but which in reality does not take place, in other words, hazard, we no longer find ourselves in the face of recklessness, but of indirect intent, representing the acceptance by the perpetrator of the risk of the result;

- in the case of traffic accidents, as a rule, such objective circumstances are based on the author's belief that the result will not occur, the vehicle's performance, the experience and driving ability of the driver, and the traffic conditions, etc., even if they are insufficiently revealed in an objective analysis;

- in some situations, due to the high-risk activity, these objective circumstances on which the author's belief regarding the non-occurrence of the result could be based, are considered *ab initio* as insufficient, whereas the created risk is manifestly too great to be reasonably covered by those circumstances.

By reference to the factual situation, the court, in order to establish the form of guilt, will mainly consider the moment immediately preceding the final result, in which the defendant triggered a state of imminent danger, analysing whether objective circumstances were sufficient to allow the defendant to appreciate that the accident may not occur.

It is noted that the defendant drove the car on August 20, the peak month of the summer season in Mamaia resort, at about 7.00 o'clock, time when the road and pedestrian traffic in this resort are crowded. It was found from the witness statement that there were people in the area of the accident, which strengthens the conclusion that at that time, the pedestrian traffic was crowded, too, being well known that at such a moment, the persons staying in the resort are heading towards the beach, or they leave the night spots or head for work, as it was in the case of the victim.

Regarding the driving ability of the defendant, who, although obtained a driving license, it is found that he was extremely affected, given the increased fatigue caused by the lack of sleep as well as alcohol and drug use that preceded the accident.

Thus, the court considers that in relation to the occurrence of the accident and the time, the speed with that the defendant was driving, as well as his physical condition couldn't have led to the conviction that the accident can be avoided and the defendant is guilty of committing the offense of murder and not the offence of manslaughter.

Having regard to these, the court changes the legal classification from manslaughter to murder.

2.15. Reflections on contexts that influence legal framing or changing it

In the following, I propose the following contexts in order to analyse the corresponding legal classification.

2.15.1. The exceeding of the legal speed limit followed by the victim's bodily injury or death

In such a context, a first aspect to consider is how far the legal speed limit has been exceeded. Thus, if we talk about an exceeding of the legal speed limit by a maximum of 10 km/h, and this results in the bodily injury of a person or the death of a person, I consider that, the legal classification of these facts as bodily harm with basic intent or manslaughter is reasoned, regardless of whether the person who caused this is a professional driver or not.

The exceeding of the legal speed limit by a maximum of 10 km/h may determine, even a beginner driver, to wrongly believe that he can easily master the vehicle, considering, without a concrete reason, that the final result will not occur, which is equivalent to retaining the offenses of bodily harm with basic intent or

manslaughter, except when the driver leaves the scene of the accident, that is equal with leaving the victims' rescue to chance.

If the legal speed is exceeded by more than 10 km/h, but not more than 20 km/h, a distinction must be made between the quality of the driver: professional or beginner driver and the behavior subsequent to the occurrence of the result.

Thus, in the case of a professional driver, having driving experience and never being punished by applying of contraventional sanctions, it can be more easily retained the offense of bodily harm with basic intent or manslaughter, given that his experience is a factor that favors the establishment of objective grounds in terms of considering, without reason, that the final result will not occur.

In the case of beginner drivers who exceeded the legal speed limit by more than 10 km/h, but not more than 20 km/h, it is necessary to analyse the context of the accident much more detailed than in the case of the professional drivers, by reference to visibility conditions, weather conditions, the history of contraventional sanctions, the date of obtaining the driving license etc.

Exceeding the speed limit by more than 20 km/h, I think it equates, both for professional drivers and for beginners, with creating a state of high danger that exceeds any objective ground to lead the driver in question to believe, without reason, that the final result will not occur. Therefore, in such a situation, I believe that indirect intent, and not recklessness, should be retained.

2.15.2. Driving a vehicle without a driving license followed by bodily injury or death of the victim

In such a context, driving a vehicle without a driving license, whether the driver has never obtained a driving license or whether the driving license has been suspended, it's the same with creating a state of high danger and the dismantling of any objective ground that leads the driver to believe that the foreseen final result will not occur, implicitly with the form of guilt of the indirect intent, especially if to this context is added the exceeding of the speed limits.

Thus, the fact that the person in case has never attended the courses of an accredited instructor in order to acquire the theoretical and practical notions for driving a vehicle, or, even if he attended these courses, but he has never passed the exam for obtaining the driving license, leads to the removal of the objective grounds that would determine him to erroneously think, the final result will not occur.

This is also available for those who have caused an accident with victims, and who at that time they have driven the vehicle with a suspended or withheld license.

The suspension or withholding of a driving license should be an alarm signal for drivers regarding their own behaviour on public roads, including the reflection of the need to improve their theoretical and practical knowledges to drive safely. Such behavior indicates indifference, a disregard for the occurrence of the final result, reflecting indirect intent as form of guilt.

2.15.3. Driving a vehicle under the influence of alcohol and/or other substances, followed by bodily injury or death of the victim.

Both driving a vehicle under the influence of alcohol, and driving a vehicle under the influence of psychoactive substances, are offenses, which regarding the subjective side, involve direct or indirect intent. Therefore, I believe that the statement according to the high degree of alcohol or the state of disorder caused by psychoactive substances would impede a correct assessment of the circumstances and, implicitly, would exclude the possibility of accepting the occurrence of the final result is not founded, since the driver, knowingly and in perfect lucidity, consumed alcohol or psychoactive substances before driving a vehicle. To consider that being under the influence of alcohol or psychoactive substances excludes the possibility of retaining the indirect intent as form of guilt is equivalent to considering these as a mitigating circumstance for the use of alcohol or psychoactive substances before getting behind the wheel and even with the encouragement of such behaviors. The acceptance of the occurrence of the final result materialised by the injury or death of a person is reflected precisely in the intention that was the basis of the consumption of alcohol or psychoactive substances preceding the moment of driving the vehicle. Moreover, the higher the concentration of alcohol in the blood is, or the more types of psychoactive substances in the blood are (including in this context the combination of alcohol and psychoactive substances, too), the greater the created state of danger is. As a result, these equates to dismantling the objective grounds designed to lead the driver to believe, without reason, that the final result will not occur.

I appreciate that it can be talked about the retaining of the offense of bodily injury or murder on the background of indirect intent, in the above-mentioned context, even in the case of professional drivers, a driver, it does not matter professional or not, having the responsibility to become conscious about the way alcohol or psychoactive substances affect the reaction capacity and the perception mode. This idea is demonstrated by the simple fact that, regarding the consumption of alcohol or psychoactive substances that the driver knows clearly that these will affect his reaction capacity in a way that he cannot control, the prevention of the final result being left to chance.

3. Conclusions

With regard to the correct legal classification of offenses against life and bodily integrity committed as a result of driving a vehicle without a driving license or under the influence of alcohol or other substances, or by exceeding the speed limits, it is essential to correctly define the form of guilt with which they were committed, respectively indirect intent or recklessness.

This delimitation is done by analysing the factors meant to create an objective ground that will lead the driver to erroneously believe that the final result will not occur.

I believe that we can talk about recklessness as form of guilt in situations where the driver caused the victim's injuries or death by exceeding the speed limits by no more than 10 km/h. However, this contour of reckless can be erased by the context in which, the author of the act leaves the scene of the accident, without showing any interest in alerting the competent authorities in order the victim to be rescued, showing that he leaves the victim's rescue to hazard, this aspect tilting the balance in the favor of indirect intent.

In case of exceeding the speed limits by more than 10 km/h, but not by more than 20 km/h, it is necessary to report in detail on all circumstances of the accident, especially on those that favor the shaping of objective grounds that would lead the driver to erroneously think that the final result will not occur. If there are enough elements meant to support these objective grounds, we can talk about recklessness as form of guilt.

Exceeding the speed limit by more than 20 km/h is equivalent to increasing the danger level, taking into account that such a speed delays the driver's reaction time. Therefore, in this context, denotes that only chance can prevent the occurrence of results as serious injuries or victim's death, and not the driver's experience in driving a car or his history of contraventions without deviations.

Driving a vehicle without a driving license also removes the objective grounds for determining the driver to erroneously think that the final result will not occur, respectively the retention of recklessness as form of guilt, since we are talking about a total lack of training or insufficient preparation for safe driving.

And, finally, driving a vehicle under the influence of alcohol and/or psychoactive substances, offenses that are committed from the subjective side with direct or indirect intent, have the effect of delaying the reaction capacity and influence negatively the perception, excluding the existence of an objective ground that could determine the erroneous assessment of the driver that the final result will not occur, given that the driving experience of a driver or the lack of contraventional sanctions cannot prevent the effects of alcohol or psychoactive substances and their intensity on his own body.

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