

Cross-Border Road Accidents Claims (Monograph)

Angel Espiniella Menéndez, lecturer of Private International Law at the University of Oviedo, has just published the book “Las reclamaciones derivadas de accidentes de circulación por carretera transfronterizos” (Claims arising from Cross Border Road Accidents), which is number 185 in the Collection “Cuadernos de la Fundación Mapfre”. Based on the legal theory of obligations and addressed to the practitioners involved in this kind of litigation, the book aims to provide a comprehensive overview of a hypothetical complaint. To this end the monograph is divided into three sections: cross-border claims of injured parties against those allegedly liable; cross-border claims of injured parties against insurers; and cross-border claims for reimbursement among compensation duty bearers. Thus, the book analyzes the cross-border litigation against drivers, owners of vehicles, manufacturers of vehicles, persons claimed to be liable for the acts of others (employers, masters or principals), transferors of the vehicles, carriers, etc., and it also deals with the cross-border intervention of insurance companies, cross-border claim representatives, national funds of guarantees and compensation bodies, National Insurers’ Bureaux, and their correspondents.

After a thorough investigation the author concludes that the rules of the Rome II Regulation are more appropriate than those of the Convention of 4 May 1971 on the Law Applicable to Traffic Accidents, even though the Regulation does not contain specific rules on the subject matter; therefore, he recommends the denunciation of the Convention. He also suggests that the insurer coverage be governed by the law of the State where the accident occurs, regardless of the law of the State where the vehicle is normally based; and accordingly he prompts the amendment of the Directive 2009/103, Article 14. To conclude the author proposes separate, specific rules for claims among the entities providing coverage, including Bureaux, compensation bodies, guarantee funds, insurers, representatives and their correspondents.

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