

GA_P HELPS SEGURCAIXA ADESLAS SECURE CRIMINAL COMPLIANCE CERTIFICATION

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Gómez-Acebo & Pombo has advised Segurcaixa Adeslas on the certification of its Criminal Risk Prevention System in the UNE 19601 Standard



UNE 19601 is a national standard that establishes the requirements for implementing, maintaining and continuously improving a Criminal Compliance management system in organisations with the aim of preventing the commission of crimes and reducing criminal risk.

Organic Law 5/2010 to reform the Spanish Penal Code introduced into Spanish criminal legislation one of the most substantial modifications in Corporate Criminal Law since the approval of said Code in 1995: the repeal of the old Roman aphorism «*societas delinquere non potest*» in the Spanish legal system, according to which a legal person

could not commit crimes. This new legislation was established and specified with the subsequent reform carried out by Organic Law 1/2015.

With this new regulation, legal persons became immediate subjects of Criminal Law, susceptible to committing crimes, regardless of the specific natural persons that comprise them. In this way, companies are responsible for the crimes committed by their members (administrators, attorneys, employees, collaborators ...), when those have been executed for their benefit -direct or indirect- and can be sanctioned with penalties ranging from large fines until its dissolution.

Article 31 bis of the Penal Code specifies, among other aspects, that said criminal responsibility may be exempted if the administrative body has adopted and executed effectively, before the commission of the crime, organisational and management models that include surveillance measures and suitable control to prevent crimes of the same nature or to significantly reduce the risk of their commission. According to the foregoing, there is only one way to avoid or lessen the penalty in the event of committing a crime: to demonstrate that the company has been diligent, adopting the necessary measures by implementing a model/system/program for the prevention of criminal risks, and proving that the crime has been perpetrated despite their diligence.

The UNE 19601: 2017 standard, the only certifiable in Spain in this field and applicable to all types of companies, provides a clear and objective criterion to establish the requirements that a Criminal Compliance management system must have in organisations. This system is subject to external and independent evaluation and certification, which allows entities to provide evidence of the existence and adequacy of the system.

Gómez-Acebo & Pombo's Corporate Compliance team was led by Criminal partner Vanessa Fernández Lledó (pictured left), along with Criminal senior associate Paloma de Carlos (pictured top right) and Criminal associate Claudia Gálvez (pictured bottom right).