

Protected or not? Criminal liability of managers in Qatar

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One significant concern arising from recent events is which parties may be held liable for damages, injuries and casualties that may result from such accidents. More specifically, a considerable concern has arisen as to whether a manager of a place of business or retail outlet may bear liability for the consequences arising from accidents occurring on the premises of the business or retail outlet, which liability could include imprisonment, fines and/or the imposition of travel bans.

In determining the possible liability of a manager, several factors must be considered including the nature of the accident that has occurred, the type of company involved (shareholding company, limited liability company, partnership, etc.) and whether or not the manager's name is listed on the company's commercial registration ("CR"). While the liability of managers should be determined on a case-by-case basis and would be dependent on the structure of the company as well as factors related to the accident or incident such as the damage, injuries and/or casualties caused, some general considerations apply in all cases. Broadly speaking, two types of liabilities affecting the manager may arise from an accident or incident occurring in connection with a business or retail outlet: civil liability and criminal liability. The focus in this article is on the possibility or extent of criminal liability faced by the manager of a business or retail outlet arising from an accident that has occurred in connection with or on the premises of the business or retail outlet.

A manager may feel insulated from criminal liability with regard to acts or omissions made on behalf of the company and undertaken in his or her capacity as manager. However, this assumption is not entirely correct. In accordance with the Qatar Law No. 11 of 2004 ("Qatar Penal Code"), managers may face criminal liability if their acts on behalf of the company would lead to consequences that would be considered criminal under the penal law. A manager may also face criminal liability for committing a private act that violates other laws in Qatar and results in the imposition of criminal penalties. Some relevant examples of laws under which criminal liability managers may arise include:

Commercial and Industrial Outlets Law (No. 3 of 1975)

Under Article 17, managers/supervisors are held jointly liable with the employer for breaching the law. Article 20 goes on to provide that the manager/supervisor may be punished by imprisonment and fined for such violation.

Consumer Protection Law (Law No. 8 of 2008)

Article 18 provides, "Without prejudice to any more severe sanctions provided for under any other law, the person who violates any of the provisions stipulated in the Articles of Chapter Three of the present law shall be sentenced to imprisonment for a period not exceeding two years and fined a sum . . . or sanctioned with one of the aforesaid sanctions."

Usage of Cameras and Security Surveillance Equipment Law (Law No. 9 of 2011)

In accordance with Article 2, "Owners of the facilities and those responsible for the management, must

install cameras and monitor security equipment which is operated around the clock, from a control room”.

Article 11 further states, “. . .each person who violates the provisions of Articles 2, 3(1), 4(2), 5 and 6 of this law, shall be punished by imprisonment for a term not exceeding more than one year and a fine of not more than 10,000 Riyals, or either of these penalties.”

Civil Defense Law (Law No. 13 of 1997)

Article 14 stipulates, “Persons in charge at the Public Utilities and Vital establishments, along with the owners of properties and owners of commercial and industrial activities shall carry out the measures of Civil Defense which are determined by the Directorate of Civil Defense on the respective expense and on the dates defined by the directorate.” Article 20 further provides, “Whoever violates any of the provisions of this Law or the Resolutions issued in execution thereof, shall be punished by imprisonment for a period not exceeding three years and shall be fined ... or shall be punished by either of these two punishments”.

With respect to corporate criminal liability, Article 37 of the Qatar Penal Code, is the general “catch-all” provision giving rise to the criminal liability of commercial entities. Under Article 37, with the exception of Ministries, governmental bodies, organisations and institutions, a Company is liable for the crimes committed by its representatives, managers and agents acting on its behalf. Therefore, the company will also be subject to the imposition of fines and other appropriate sub-penalties under the law. If the original penalty for the crime as determined by law differs from the imposition of fines, then the penalty will be limited to a fine not exceeding 500,000 Riyals. However, Article 37 goes on to provide, “This does not prevent punishment of the perpetrator by the penalty decided by law.” Under this general provision, managers may potentially be found criminally liable in addition to the company.

No clear standards or parameters establish when Article 37 will be applicable. In addition, no definition of “managers” has been provided in the said law. However, amongst other considerations, a manager would likely be implicated if his or her name appears on the company’s CR as an authorised signatory of the company. Managers may take certain steps to potentially mitigate the risk of liability:

1. The employment contract of the manager must precisely list the manager’s responsibilities and extent of liability.
2. The listing of the manager’s name on the CR must be seriously considered as such listing may lead to the imposition of criminal liability, which could include the imposition of a travel ban on the manager in the event of an accident.
3. Where an accident has occurred, a manager should consider contacting the company’s legal department or a lawyer prior to giving any statements or other evidence to public authorities.
4. Ignorance of the law is not a defence. Managers must take all steps necessary to understand and adhere to the applicable laws.

While this list provides some general guidelines, the criminal liability of a manager in a given situation can be comprehensively determined only on a case-by-case basis after consideration of all relevant factors. Accordingly, obtaining advice from legal professionals is highly recommended following, or ideally before, the occurrence of an accident.