

the business | year



65 _____

QATAR NATIONAL VISION
By 2030, Qatar plans to have shed its dependency on hydrocarbons

115 _____

IT & TELECOMS
ICT is as much of a game-changer as steam and electricity were before it

193 _____

HEALTH & EDUCATION
Preventative care is helping Qatar tackle its health challenges

223 _____

RETAIL & TOURISM
Qatar has seen a rapid increase in visitors, drawing record tourism numbers in 2019

WHERE LAW & BUSINESS MEET TOWARDS A PROMISING FUTURE

At Essa Al Sulaiti Law Firm, we consciously nurture and develop our legal services to stimulate growth and stay aligned with the changing social, economic and political landscapes of the State of Qatar. Client satisfaction is most vital to the philosophy and work culture of Essa Al Sulaiti Law Firm.



عيسى السليطي للمحاماة
ESSA AL SULAITI LAW FIRM

T: +974 4466 4606

E: info@eslaa.com

AREA OF *expertise*



Essa Al-Sulaiti Law Firm provides a broad range of corporate and commercial advisory services with a focus on dispute resolution, though it expects sports law to become a growing area with the upcoming World Cup.

Essa Mohammed Al Sulaiti
CHAIRMAN,
ESSA AL-SULAITI LAW FIRM

Qatar is working on new law for sports events

New law that allows 100% foreign ownership has positive impact

BIO
Essa Mohammed Al Sulaiti is a Qatari attorney and arbitrator, certified by the GCC Commercial Arbitration Centre and the Qatar International Centre for Conciliation and Arbitration. He is a member of the Qatar Lawyer's Association. In addition, Al Sulaiti has established an excellent working relationship with legal associations and entities such as the IBA, ICC, and Lexis Nexis. Drawing on prior experience under reputable Welsh and Qatari law firms, he founded the Essa Al-Sulaiti Law Firm in 2015 to effectively align his practice with a personal mission: addressing the emerging legal demands of Qatari and international businesses operating in his home country.

What is your expertise in sports legislation?

We also specialize in sports law, though we have not seen the same challenges in sports law; however, with the approach of the World Cup, we anticipate more points that will require legal action to settle. We will see legal changes emerging as sporting events start to take on increasing importance. We need to have enough legal practitioners in place to ensure we can satisfy growing demand. Qatar is preparing a specific law for the World Cup. This law will be applied for only a short period of time in order for Qatar to meet the specific challenges we might face in this area. This law will be for special occasions and applied only temporarily when such events take place. Eventually, we will take a few articles and make them permanent if it is determined that they are necessary on a longer-term basis. The main goal of this law is to take control and manage such events. Many people were treating this area in a laissez-faire manner, and the government wanted to take more control. It has done an excellent job in terms of sending legal practitioners to other major sporting events to understand how to navigate these issues.

What impact will the new foreign ownership law have on new companies in Qatar?

Qatar has been highly focused on trying to make things much easier. Foreign investors used to be allowed to have 100% ownership of companies, though there were certain procedures that had to be fulfilled to achieve this. It was difficult to reach this point. Now, however, certain sectors have 100% ownership without these requirements, which significantly helps the economy. Qatar has now allowed 100% ownership in areas where the country really needs international investment and experts. We have seen a great deal of improvements in these areas, and many companies are interested in en-

tering these markets with 100% ownership. This law, however, does not prevent foreign companies from engaging in partnerships with local companies. Many foreign companies are also interested in the partnership route. The real domestic expertise comes from those Qatari companies that have been here for years. We see many JVs being established.

What is the impact of the new exit visa law for improving the rights of employees in Qatar?

There are many changes and impacts in these areas right now. This law will definitely help competition. Whenever there is freer movement of people, the market improves. Additionally, this is a key human rights matter that has to be put into consideration. It helps build trust between employers and employees as well help Qatar build trust with the international community. I have written a book on labor law that will be a comprehensive resource in both Arabic and English.

Based on your experience, what legislation is currently lacking in Qatar?

The first thing we have to understand is what we are missing. This is the most important matter in terms of understanding what we need to do to improve. We have already begun implementing changes in order to tackle and improve these issues. As soon as a new law or procedure is implemented, we have to give it time to understand how it will develop and what the feedback will be. We have to make these changes in a deliberate and considered manner. Foreign investors appreciate seeing a market that moves in a steady and predictable way, and this is exactly what we offer. This is why we improved our arbitration law in 2017 to help foreign investors and to make them trust the market and the economy of Qatar. They now have broader freedom to choose how a dispute will be arbitrated. ✖

COMMUNIQUE

Regulating the World Cup


عيسى السليطي للمحاماة
 ESSA AL SULAITI LAW FIRM

A large-scale and wide-reaching event such as the World Cup necessitates not only amendments to existing laws but also looking into the areas of penal proceedings and protection of official sponsors.

PLAYING BY THE RULES

DECEMBER 2, 2010 was a historic day for Qatar, as it was on this date that FIFA announced Qatar would host the World Cup in 2022. Such a decision not only changed dramatically Qatar's landscape, but also impacted existing and future laws. Labor, immigration, and foreign investment, amongst other sectors of the law, are experiencing significant amendments. Such changes are being lauded internationally and are setting a new standard that will endure over time. History will undoubtedly remember HH Sheik Hamad Bin Khalifa Al Thani as the Father Amir and HH Sheik Tamim Bin Hamad Al Thani as the Amir behind these historic changes.

Despite these significant advances, when we take a detailed look into the legal framework put in place by previous countries organizing the World Cup, we can conclude that it seems there are areas that need to be considered, namely in the field of penal proceedings and protection of the official sponsors.

TIMELY PROCEEDINGS

As the entire world watched, UEFA Euro 2016, held in France, was the stage of violent confrontations between supporters, with dozens of them being arrested and presented in court to face criminal sanctions for such behaviors. If similar cases occur in Qatar, the public prosecution and the courts should have in place a particular procedure to bring such individuals to trial immediately and eventually proceed with repatriation, according to the severity of the crimes perpetrated.

Under the current penal proceedings, when a crime is committed, the matter is referred to the public prosecution. After an investigation, if sufficient evidence has been gathered against the accused, a charge is made, and the charged is referred to the criminal court before a judge

to await judgment. These proceedings can take some time, usually around a month. During the World Cup, however, it is impractical to drag out proceedings, mainly because some of the defendants may be foreigners. Therefore, not serving justice in a timely manner may trigger other problems.

To cope with this reality, other countries previously adopted penal summary proceedings during sport events and competitions to rapidly bring individuals accused of committed crimes before a judge. However, these summary proceedings cannot be used in 100% of the cases, for example, in the event of a homicide amongst supporters, though the vast majority of cases can be ruled via expedited proceedings.

It is also essential that, under the penal summary proceeding, judges have the authority to apply ancillary sanctions, such as banning an individual from certain sports premises or repatriation of foreigners, in some cases, as an inevitable effect of certain crimes. The implementation of such strategy requires a combined legislative effort between the Ministry of Justice and the Ministry of Interior.

This was the approach taken, for example, by Portugal when it organized Euro 2004. Portugal is a good case study because it is one of the smallest countries to have hosted major international football competitions in previous years. Also, Portugal's penal proceedings and judiciary organization has similarities with Qatar's proceedings, and, therefore, any successful solutions experimented can be easily replicated.

The Qatari justice system will also have to deal with hundreds of minor delicts, most of them associated with the abuse of alcoholic beverages. Regarding such circumstances, Qatari officials are considering introducing special courts during the

2022 FIFA World Cup to deal quickly with alcohol-related offences, following South Africa's example in 2010. In our opinion, this model should be considered not only for alcohol-related cases but also for other offences—crimes punished by a fine not exceeding QAR1,000—stated in Qatar's penal law.

Another question that needs thorough consideration is the legal representation of foreigners. Presently, Law No. 23/2004, on the issuance of the Criminal Procedure, states on Article 221 "Each person accused of a felony must have an advocate to defend him, and if the accused fails to appoint such attorney, the court shall assign one to defend him." According to Law No. 11/2004, on the Issuance of the Penal Code, felonies are crimes punished, at least, by imprisonment that exceeds three years. Most likely, the majority of the crimes committed during the World Cup will not face such severe consequences, and, therefore, the State of Qatar must decide on the best approach to legal representation during the World Cup concerning misdemeanours (crimes punishable by imprisonment for a period not exceeding three years) and offences. The question here is whether the individuals brought to justice have the right to present themselves solely before the court without having any legal support. The option is for the court to assign a lawyer when the defendant fails to appoint one. Both possibilities are perfectly admissible from a legal point of view since a defendant always has the power to appoint a lawyer. However, it would be a great achievement in regards to the defendant's rights if the court appointed a lawyer when the defendant opted not to do it by themselves.

AMBUSH MARKETING

Another challenge to Qatar's World Cup organization and FIFA will be matters related

to the so-called “ambush marketing.” This is the most common name given to practices of companies/individuals (though normally companies) to associate directly or indirectly to a specific event, with the purpose of gaining visibility, recognition, and the benefits arising from being associated or linked to such event.

Prestigious sports events like the World Cup attract the worldwide attention of millions and consequently are an excellent opportunity for advertising. Due to this interest, some brands pay millions to be an official sponsor and therefore associated with the event. However, other brands that cannot (most of the cases due to exclusivity reasons) or are not willing to spend such high sponsorship fees employ varied strategies, some of them successful, to create the idea of an association with the event.

There is no pattern regarding those who employ these tactics, since in the past they have been performed repeatedly by global or national brands making profit off the event, while not infringing on trademark laws. To give an example, during the 2010 World Cup in South Africa, a British optometry ran an advertisement campaign with the slogan “Goal-Line Technology for only £25,” a clear reference to Frank Lampard’s shot against Germany that was a goal but was not seen by the referee. Another well-known case occurred in Euro 2012, when after scoring a goal, Danish striker Nicklas Bendtner lowered his shorts showing his underwear branded with the name of an online betting company. These two companies were not an official sponsor of the sports competition and consequently used indirect ambush marketing techniques to

create an association with the event.

To tackle this issue, Brazil, the host of the 2014 World Cup, issued Law 12.633 regulating different matters in connection to the competition and its organization, like FIFA’s taxes exemptions, entry of foreigners to attend the event, and civil and criminal sanctions regarding ambush marketing practices. Pursuant to this law, the following ambush marketing methods were forbidden:

- Advertising activities offering food, drinks, or promotional materials in the official competition premises and within a 2-km perimeter;
- Advertising on cars, trucks, or other vehicles in movement or parked in the official competition premises and within a 2-km perimeter; and
- Advertising using boats, ships, balloons, or airplanes in the official competition premises and within a 2-km perimeter or any local visible from there.

Entities found to have breached these provisions were forced to pay a compensation calculated in way to include the damage caused to official sponsors, FIFA, and any benefit resulting from the illegal activity. If it were impossible to achieve the compensation calculation according to the previous conditions, then it would be an amount equal to the value paid by an official sponsor.

Additionally, in the same law, Brazil enacted criminal sanctions against ambush marketing strategies that go from a simple fine to imprisonment up to one year. Still, in the advertisement sector, there is also another problem that must be considered.

Under several combined laws (name-

ly Law No. 1/2012 on Advertising in Qatar and Law No. 11/2004 on the Issuance of the Penal Code), it is forbidden to advertise alcoholic beverages in the State of Qatar. If we review the names of the World Cup official sponsors over the last 20 years, we will always find an alcoholic beer amongst them.

Taking this into due consideration, we should discuss how the State of Qatar will deal with this matter. From the legal side there are two possibilities:

1. The law is upheld, and there will be no advertisement of alcoholic beer (or any other alcoholic beverage), and the World Cup official sponsor can advertise its non-alcoholic beer; or
2. The law is amended, and it is permitted to advertise alcoholic beverages during the tournament.

There is a third possibility that a sponsor could pursue using the same strategy followed in Euro 2016 by an alcoholic beer company. In France, the so-called “Loi Évin” forbids the advertisement of alcoholic beverages and tobacco in sporting events. Taking into due consideration such prohibition, a beer company decided to place advertisements in stadiums using only the word “Probably.” This was taken from its famous motto, “Probably the best beer in the world.” This strategy was extremely successful from a marketing point of view, since a large number of spectators automatically associated this word with the beer company. Considering the content of the Qatari laws, such an approach could be regarded as illegal, and therefore it will be essential to have a clear decision on this matter. ✖