

On 13 June 2022, the Ministry of Commerce ("MC") of the Kingdom of Saudi Arabia ("KSA") announced that inspectors from the National Program for Combating Commercial Concealment conducted 58,000 visits to businesses suspected of engaging in concealment activities during a period of five months. The MC reported that data analysis and artificial intelligence of 20 government agencies were linked to facilitate such investigations. Focus sectors were contracting and construction, wholesale and retail fabrics and clothing transportation, logistics, car maintenance workshops, spare parts outlets and others. This legal briefing provides an overview of the anti-concealment legislation in Saudi Arabia and its impact on businesses.

I. Background

KSA has enacted anti-concealment legislation for considerable time. Its last major reform was the enactment of a new **Concealment-Combat Law** ("CCL") by virtue of Royal Decree M/4 dated 1/1/ 1442 H (corresponding to 20 August 2020), often referred to as the anti-concealment law.

Provisions of the CCL are further elaborated by the **Implementing Regulations** ("CCL-IR") issued by the MC's Ministerial Decision No. 00479 dated 20/ 07/ 1442 H (corresponding to 4 March 2022).

II. What is Concealment? Where is it found?

The **Definition of Concealment** as per the CCL is:

"An agreement or arrangement whereby a person enables a non-Saudi to practice an economic activity in KSA that he is not licensed to practice by using the license or approval issued in his favor."

Concealment hence comprises the following **elements**:

- An **economic activity reserved** to Saudis only,
- A **Saudi holding** the license/permit for this activity,
- A **Non-Saudi practicing** this activity on the license of the Saudi, and
- An **agreement or arrangement** of the Saud and Non-Saudi nationals regarding such practice.

Practically relevant cases of concealment can be found especially in the areas where the KSA authorities conducted their campaign, i.e.:

- contracting and construction,
- wholesale and retail,
- fabrics and clothing,
- transportation and logistics,
- car maintenance workshops and spare parts outlets.

One particular area of attention is **commercial agencies and distributorships**. The KSA Commercial Agencies Law enacted by Royal Decree No. 11 dated 20/02/1382 H (corresponding to 22 July 1962) which reserves the profession of a commercial agent (and in analogy a distributor) exclusively to KSA nationals.

III. What are Contraventions and their Consequences?

The CCL differentiates between **contraventions** pertaining to individuals and legal entities. On an **individual level** it incriminates especially:

- **Saudis** for their benefit enabling non-Saudis to practice an activity not licensed to the latter,
- **Non-Saudis** practicing such activities for their benefit,
- **Participation** in any of the two aforementioned, and/or
- **Obstructing or preventing** concerned officers from enforcing the CCL.

On a **corporate/entity level**, the CCL incriminates

- **Granting a non-Saudi control** over the entity,
- A **non-Saudi possessing** or using any means to acquire control over an entity, and
- An entity using a **bank account** other than its own for its economic activity transactions.

The CCL contains a multitude of **sanctions** related to the contravention of the CCL.

These include for e.g., imprisonment up to five years and a fine of 5 million Saudi Rials (exceeding one million EUR). In case of a repeated offense, these sanctions can double.

Proceeds of concealment transactions may be confiscated. Non-Saudis shall be deported from KSA after serving their sentence.

IV. How to react to Concealment cases?

Within the public discourse and opinion, concealment is widely regarded as a grave violation of KSA rules and values.

For years, the Kingdom tried to reduce the areas exclusively reserved for Saudis, e.g., by largely granting 100% foreign ownership on investment projects in KSA and by recently submitting a proposal for a new Distribution and Agency Law, where the Saudi requirement is expected to be dropped from the law – as is already the case for the franchise law.

All in all, KSA seems to move to a less restrictive legal landscape with regard to privileges for Saudis in the KSA.

On the other hand, it is to be expected that compliance with the remaining areas of potential concealment will increasingly be expected.

Hence, we would recommend checking for any potential cases of concealment structures in the Kingdom. These may exist in contexts of corporate sponsorship (to be differentiated from visa sponsorship) or beyond.

Such arrangements should be restructured into compliant arrangements.

V. Conclusion

Assessment and restructuring of concealment structures usually requires a profound knowledge of KSA legal structure and attention to detail as well as corresponding background knowledge to avoid impropriety.

The **dedicated KSA team** at **SCHLÜTER GRAF** can gladly assist you in connection with any topics relating to the CCL and any other Saudi legal matters..

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