

Les Dirigeants d'association sont-ils responsables ?

- Une association est responsable des dommages qu'elle cause dans le cadre de ses activités (responsabilité civile) et depuis 1994 lorsqu'elle viole la loi (responsabilité pénale). Cela n'exonère cependant pas la responsabilité des dirigeants de l'association lors de fautes commises par ceux-ci.
- La notion de dirigeants n'est pas exactement définie ; néanmoins est considérée comme dirigeant toute personne mandatée pour agir au nom de l'association, à savoir tout administrateur et de fait les salariés ayant des responsabilités (par mandat ou de fait). Cette responsabilité est :

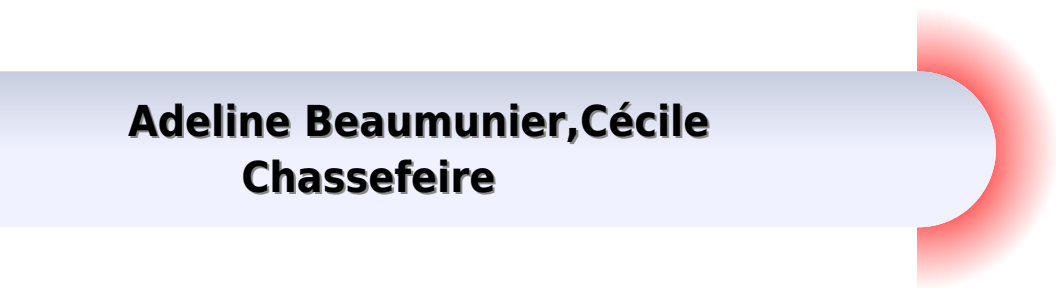
- **Financière** : en cas de faute de gestion ayant créé un préjudice, la responsabilité personnelle de celui qui a fait la faute est engagée (et donc le paiement sur ses propres ressources), celle du président n'étant engagée que si celui-ci, par sa négligence reconnue ou par complicité, a lui-même participé à la faute,
- **Pénale** : en cas d'infraction à la loi ou à un texte réglementaire, la responsabilité personnelle du dirigeant ne peut être mise en cause que s'il a lui-même commis une faute.

Il existe d'autres catégories de responsabilité, liées au fonctionnement interne de l'association comme celle des élus devant les membres ou celle des salariés devant les employeurs.

L'association doit être assurée dans de nombreux cas : garantie de responsabilité civile (elle doit garantir les diverses responsabilités et l'ensemble des acteurs intervenant dans les activités de l'association), assurances spécifiques (véhicules motorisés, locaux, matériel prêté, concerts, expositions, manifestations diverses, etc.)

La Responsabilité De L'association De Ses Dirigeants De Ses Membres

**Adeline Beaumunier, Cécile
Chassefeire**



La Responsabilité De L'association De Ses Dirigeants De Ses Membres:

La responsabilité de l'association, de ses dirigeants, de ses membres Paul Le Gall, 2016-05-12 L'association est responsable des dommages résultant de son activité tant vis-à-vis des membres qu'il garde des tiers Cette responsabilité peut être recherchée en cas d'accident mais également pour tout préjudice que peut causer son activité Il est donc très important de connaître les droits, devoirs et responsabilités d'une association responsabilité civile patrimoniale financière *La responsabilité pénale, civile et financière des associations et de leurs dirigeants* Adeline Beaumunier, Cécile Chassefeire, 2018-06-29 Les dirigeants d'association veulent pouvoir mettre en œuvre leur projet sans engager leur responsabilité personnelle Connaître le cadre juridique applicable leurs activités leur permet d'appréhender et de limiter les risques Cet ouvrage refondu en 2018 donne les règles juridiques fondamentales de la responsabilité sur les plans civil patrimonial financier et social A partir de l'identification des différentes sources de risques auxquels peuvent être exposés une association et ses dirigeants il décrit les lois applicables y compris dans le cas où vous devez saisir la justice Par ses recommandations pratiques il vise à vous permettre d'identifier en fonction de la nature des activités de votre association et des conditions dans lesquelles elles sont exercées les risques que votre association peut rencontrer et de mettre en œuvre au quotidien les moyens de prévention adéquats La rédaction de cet ouvrage s'est appuyée sur la pratique des auteurs du conseil aux associations depuis une vingtaine d'années et sur leur souci de rendre le droit accessible tous *La Responsabilité civile des dirigeants d'association* Renéta Marsin Rose, 2009 L'évolution du rôle des associations dans la sphère économique a conduit relativement à une complexification des fonctions de gestion exposant ainsi les dirigeants une possible mise en cause de leur responsabilité civile La question se pose de savoir comment cette responsabilité est appréhendée par le droit en l'absence de dispositions spécifiques prévues par la loi du 1er juillet 1901 En sa qualité de mandataire le dirigeant peut engager sa responsabilité civile contractuelle en cas de faute de gestion C. civ. art 1992 il garde de l'association et des sociétaires Toutefois si l'action peut être exercée par les représentants de l'association savoir les dirigeants se pose la question de l'admission en cas de carence de ces derniers de l'action sociale ut singuli exercée par un sociétaire A l'égard des tiers la mise en jeu de la responsabilité civile personnelle du dirigeant est l'exception puisqu'elle suppose la preuve d'une faute détachable des fonctions de celui-ci c'est donc en principe la responsabilité de l'association qui doit être engagée Pour répondre plus efficacement au comportement fautif du dirigeant et garantir une indemnisation aux tiers victimes tout en assurant une protection suffisante au dirigeant qui est très souvent un bénévole ne conviendrait-il pas de revoir le fondement de la responsabilité de celui-ci En cas de liquidation judiciaire de l'association le dirigeant peut faire l'objet d'une action en responsabilité pour insuffisance d'actif C. com. art L. 651-2 et depuis la loi du 26 juillet 2005 d'une mesure de faillite personnelle C. com. art L. 653-2 **La responsabilité des dirigeants d'associations** Institut international de droit d'expression et d'inspiration françaises, 1992

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